United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 103d CONGRESS, SECOND SESSION

SENATE—*Friday, October 7, 1994*

(Legislative day of Monday, September 12, 1994)

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

PRAYER

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

Let us pray:

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

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

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

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

In the name of the Servant of servants we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

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

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

Mrs. BOXER thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:35 a.m.

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

The Senator from Pennsylvania.

Mr. SPECTER. I thank the Chair.

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

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

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

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

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

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

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

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

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

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

REV. RICHARD HALVERSON, SENATE CHAPLAIN

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

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

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

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

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

I yield the floor.

A CHANCE FOR PEACE IN NORTHERN IRELAND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TRIBUTE TO ERNEST J. GERMAN

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

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

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

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

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

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

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

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

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

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

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

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

TRIBUTE TO TENNESSEE GOVERNOR. NED McWHERTER

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

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

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

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

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

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

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

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

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

REMARKS TO RETIRING SENATORS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PRIVATE SECTOR INITIATIVES IN JOB TRAINING

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

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

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

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

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

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

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

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

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

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

HEALTH CARE REFORM

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[From Health & Healing, Sept. 1994]

HEALTH CARE REFORM: THE ONLY APPROACH THAT CAN WORK

(By Julian Whitaker, M.D.)

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

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

Folks, this is ludicrous.

THE KIND OF HUMAN INTERACTION THAT DREW ME TO MEDICINE

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

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

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

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

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

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

WHAT IS DRIVING UP THE COST OF MEDICAL CARE

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

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

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

THE GOVERNMENT

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

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

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

INSURANCE TO EAT WHEREVER YOU LIKE, WHATEVER YOU LIKE

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

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

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

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

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

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

THE GOVERNMENT ACTS: RESTACARE CARDS FOR ALL!

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

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

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

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

WHY I'M FOR GETTING RID OF MEDICARE AND MEDICAID

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

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

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

THE POOR WOULD BE BETTER OFF WITHOUT MEDICAID

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

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

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

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

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

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

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

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

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

NINETIETH BIRTHDAY TRIBUTE TO JOSEF MEIER

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

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

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

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

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

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

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

BANKRUPTCY REFORM ACT OF 1994

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

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

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

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

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

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

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

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

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

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

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

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

REGARDING THE HONORABLE F. TROY BRAILEY

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

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

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

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

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

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

HONORING SENATOR RIEGLE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

HONORING SENATOR MITCHELL

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

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

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

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

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

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

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

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

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

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

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

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

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

IN SUPPORT OF THE AFRICAN-AMERICAN ART MUSEUM

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EXPRESSION OF APPRECIATION TO THE SENATE FLOOR STAFF

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

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

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

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

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

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

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

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

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

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

HONORING SENATOR WALLOP

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

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

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

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

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

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

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

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

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

HONORING SENATOR BOREN

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

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

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

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

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

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

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

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

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

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

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

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

HONORING SENATOR DANFORTH

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

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

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

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

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

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

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

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

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

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

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

Do unto others as you yourself would be done.

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

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

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

HONORING SENATOR DECONCINI

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

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

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

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

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

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

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

HONORING SENATOR MATHEWS

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

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

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

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

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

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

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

HONORING SENATOR METZENBAUM

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

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

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

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

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

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

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

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

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

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

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

URUGUAY ROUND AGREEMENT

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

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

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

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

Section 116. Effective date.

Section 124. Annual report on the WTO.

Section 125. Review of participation in the WTO.

Section 126. Increased transparency.

Section 127. Access to the WTO dispute settlement process.

Section 128. Advisory committee participation.

Section 129. Administrative action following WTO panel reports.

Section 130. Effective Date.

Section 131. Working party on worker rights.

Section 133. Africa trade and development policy.

Section 135. Objectives for extended negotiations.

Section 218. Special rules for regional industries.

Section 226. Proprietary and nonproprietary information.

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

Section 228. Public notice and explanation of determinations.

Section 230. Anticircumvention.

Section 231. Evidence.

Section 234. Application to Canada and Mexico.

Section 281. Subsidies enforcement.

Section 282. Review of subsidies agreement.

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

Section 291. Effective date.

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

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

Section 333. Textile transshipments.

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

Section 335. Effective date.

Section 411. Export programs.

Section 412. Other conforming amendments.

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

Section 425. Study of milk marketing order system.

Section 426. Additional program funding.

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

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

Section 521. Definition of "abandoned."

All of title V, subtitle C—Patent provisions.

All of title VI—Related provisions.

All of title VII—Revenue provisions.

All of title VIII—Pioneer preferences.

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

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

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

To: Senator Levin.

From: Rufus Yerxa, Deputy USTR.

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

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

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

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

B. Consultation provisions.

C. Provisions relating to review of the WTO.

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

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

F. Trade negotiating objectives for future WTO negotiations.

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

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

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

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

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

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

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

KEN RUTHERFORD

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

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

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

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

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

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

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

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

MAN STANDS ON HIS OWN FOR WEDDING

(By Mary George)

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

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

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

He did just that.

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

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

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

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

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

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

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

Walking is not.

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

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

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

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

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

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

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

THE SOCIAL SECURITY DOMESTIC EMPLOYMENT ACT OF 1994

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DEDICATED PUBLIC EMPLOYEES IN ALASKA

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

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

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

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

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

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

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

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

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

Sincerely,

FRED B. THOMAS,
Resident Agent in Charge.

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

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

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

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

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

TRIBUTE TO SENATOR DONALD W. RIEGLE

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

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

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

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

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

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

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

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

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

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

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

REGARDING POSITIVE DEVELOPMENTS IN TUNISIA

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

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

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

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

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

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

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

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

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

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

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

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

STATEMENT ON THE APPROPRIATIONS PROCESS AND DEFICIT REDUCTION

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

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

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

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

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

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

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

Mr. President, consider the amendments I proposed:

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

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

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

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

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

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

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

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

LOBBYING DISCLOSURE ACT OF 1993—CONFERENCE REPORT

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

The legislative clerk read as follows:

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

The Senate resumed consideration of the conference report.

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

Who yields time?

Mr. COHEN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

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

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

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

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

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

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

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

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

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

Mr. NICKLES. I thank the Parliamentarian.

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

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

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

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

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

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

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

Mr. NICKLES. I am happy to yield.

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

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

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

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

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

Mr. LEVIN. I would be happy to.

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

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

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

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

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

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

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

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

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

Mr. LEVIN. It does indeed.

Mr. NICKLES. It is also amendable?

Mr. LEVIN. Of course.

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

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

Mr. NICKLES. I appreciate it.

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

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

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

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

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

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

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

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

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

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

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

Mr. NICKLES. I yield the floor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield myself an additional 5 minutes.

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

Mr. LEVIN. I thank the Chair.

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

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

Mr. NICKLES. Will the Senator yield?

Mr. LEVIN. I am happy to yield.

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

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

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

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

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

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

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

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

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

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

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

Mr. LEVIN. I thank the Chair.

I yield the floor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

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

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

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

Mr. LEVIN. I yield myself 1 minute.

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

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

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

The PRESIDING OFFICER. The Senator from Oklahoma.

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

I will yield a minute to the Senator from Maine.

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

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

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

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

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

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

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

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

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

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

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

I yield the remainder of my time.

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

Mr. LEVIN. I yield my colleague 1 minute.

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

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

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

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

The PRESIDING OFFICER. The Chair recognizes the majority leader.

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

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

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

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

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

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

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

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

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

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

MOTION TO PROCEED

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

Mr. NICKLES. Reserving the right to object.

Mr. WALLOP. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oklahoma.

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

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

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

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

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

Mr. MITCHELL addressed the Chair.

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

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

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

Mr. NICKLES. What time?

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

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

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

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

The PRESIDING OFFICER. Objection is heard.

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

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

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

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

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

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

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

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

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

Mr. LEVIN. I will be happy to.

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

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

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

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

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

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

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

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

Mr. MITCHELL. I thank the Senator.

Mr. LEVIN addressed the Chair.

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

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

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

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the minority leader.

Mr. DOLE. Was leader time reserved?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

We may have made the problem worse.

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

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

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

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

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

There may be.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

We cannot tell people not to write or call.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CLOTURE MOTION

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

The bill clerk read as follows:

CLOTURE MOTION

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

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

CALL OF THE ROLL

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

VOTE

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

The assistant legislative clerk called the roll.

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

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

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

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

[Rollcall Vote No. 325 Leg.]

YEAS—56

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

NAYS—41

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

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

NOT VOTING—3

Biden	Bradley	Stevens

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

CALIFORNIA DESERT PROTECTION ACT

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

The PRESIDING OFFICER. Is there objection?

Mr. WALLOP. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

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

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

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

The legislative clerk proceeded to read the conference report.

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

Mr. WALLOP. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to read the conference report.

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

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

Mr. SIMPSON. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue reading the conference report.

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

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

Mr. WALLOP. Mr. President, I object.

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

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

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

The PRESIDING OFFICER. Is there objection?

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

The PRESIDING OFFICER. Objection is heard.

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

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

The PRESIDING OFFICER. Is there objection?

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

Mr. PRYOR. I thank the Chair.

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

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

Mrs. FEINSTEIN addressed the Chair.

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

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

Mr. HATCH. I object.

The PRESIDING OFFICER. Objection is heard.

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

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

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

Is there further debate?

The Senator from Arizona is recognized.

Mr. MCCAIN. Thank you, Madam President.

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

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

The question is on agreeing to the motion to proceed.

The motion to proceed was agreed to.

CALIFORNIA DESERT PROTECTION ACT OF 1994—CONFERENCE REPORT

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

Conference report to accompany S. 21.

The Senate proceeded to consider the conference report.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Arizona is recognized.

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

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

Mr. MCCAIN. Thank you, Madam President.

THE NUCLEAR AMBITIONS OF NORTH KOREA

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Not dismayed by this remaining obstacle to a settlement, the administration pressed ahead with negotiations over economic and diplomatic carrots, even agreeing to discuss in Pyongyang the details of opening diplomatic liaison offices. Formal negotiations on the nuclear question resumed in September.

During this latest round of negotiations, to which Mr. Gallucci returned yesterday, North Korea's irritating habit of breaking its word manifested itself yet again. North Korean negotiators began making demands that Mr. Gallucci characterized as bizarre, including their insistence that Pyongyang select the countries which would provide them with the light water reactors and also outrageous demands for economic compensation that amounted to a $7 billion bribe. North Korea now insists that the construction and operation of the two new reactors should continue until the light water reactors are operational—some 8 to 10 years from now. Indeed, construction of the reactors, which our negotiators intimated was to be suspended last August, has continued to this day.

Last week, in the middle of these bizarre negotiations, what I believe was an unprecedented event occurred: The North Korean military issued a press release which stated emphatically that they would never allow special inspections of suspected nuclear sites—thereby rejecting Mr. Gallucci's apparent ultimatum that there would be no deal without access to the nuclear waste sites. Due to North Korea's intransigence, the negotiations were, in effect, suspended last week, and Mr. Gallucci returned to Washington for new instructions from his superiors.

Mr. Gallucci returned to Geneva yesterday and negotiations resumed earlier today. According to the Washington Post, the administration instructed Mr. Gallucci to remain firm in his negotiating position. Reportedly, the administration believes North Korea's recent hard line is only a temporary negotiating tactic which they will abandon if United States negotiators refuse to yield. Perhaps.

However, I cannot shake the suspicion that the administration's commitment to "staying the course" might be less steadfast than advertised. For over a year, North Korea's many broken promises have been mirrored by the administration's many abandoned negotiating principles. And I fear past trends are reasserting themselves in this instance. Adding to my concern, is the administration's apparent lack of any strategy to coerce the North Koreans' cooperation should they persist in making a mockery of these negotiations.

In the same Washington Post article, an anonymous administration official admitted that the administration's return to the bargaining table was intended to "avoid having this thing come to head" while the United States was busy running Haiti and the administration was busy trying to salvage the coming congressional elections. The source went on to observe that "Nobody is enthusiastic about Plan B," in other words, a return to the Security Council for sanctions.

What that sounds like to me, is that we may soon see previously nonnegotiable United States demands tossed out the window in Geneva, irrespective of the administration's publicly expressed determination to stand firm. Or we may see the administration acquiesce in prolonging these negotiations long past the point when they could have led to any acceptable resolution of this crisis. I assume they would participate in this increasingly obvious charade in the expectation that the dire economic circumstances in North Korea will force the regime's collapse before the United States has to face the very grave consequences of North Korea's arrival as a nuclear power.

However, there is a problem looming in the very near term which I believe will soon squarely confront the United States with the folly of its carrots-only approach to North Korea and prevent the administration from kicking this can much further down the road.

Let us take a look at the dimensions of the problem now that nearly four months have passed since President Carter declared that his visit with Kim Il Song had defused the crisis. The crisis has not improved. Indeed, for the most part, it has worsened.

The discharged fuel rods remain in their cooling pond still available for reprocessing. North Korea still denies IAEA inspectors access to suspected nuclear sites. Construction of the two new, much larger reactors and a new reprocessing facility continues. Ballistic missile development is further advanced. Our allies, the South Koreans, are still excluded from the negotiations. No one has even seen Kim Jong Il, much less observed him speaking to Kim Young Sam.

The military balance of power on the Korean peninsula has not changed significantly. North Korea's artillery advantage along the DMZ remains daunting. The Clinton administration fears that the deployment of desperately needed counter artillery batteries to South Korea would threaten the future of negotiations or even provoke the North Korean military to attack, thereby acquiescing in leaving Seoul a hostage to the North's future belligerence.

To the extent that I have just described the situation, it looks strikingly similar to the situation before the Carter visit. There are significant differences.

First, Kim Il Song died. Since his tearful appearance at his father's funeral, the Dear Leader has kept a rather low profile in public. Indeed, he has been virtually invisible. Earlier this week, Kim Jong Il's ascendancy to the status of Great Leader was proclaimed by his foreign minister at the United Nations. But his curious lack of public visibility; incidents like the unprecedented public intervention of the North Korean military in the negotiations in Geneva; and the occasional incoherence of the North Korean negotiating position indicates that either Kim has not consolidated power, or, if he has, he does not intend to seriously negotiate. In either case, the picture for a diplomatic resolution of the crisis while the Dear Leader purports to be the Great Leader is not bright.

The second change in the crisis concerns the status of the 8000 or more fuel rods. While they remain in the cooling pond, they long ago reached a point where they could be safely reprocessed. North Korea has refused every suggestion for ensuring that these rods not be reprocessed in a way that would easily permit the plutonium they hold to be diverted to weapons production. Dry storage—encasing the rods in steel and concrete where they could be easily monitored—was rejected. Transfering the rods to another country was rejected.

Now, Madam President, the rods' magnesium cladding is believed to have seriously corroded. The import of this development is that at any moment Pyongyang could credibly make the argument that the corrosion of the cladding is about to cause an ecological disaster of such immense proportions that the rods must be reprocessed immediately. Given the possibility that the rods could actually be very dangerous at that point, dry storage would no longer be an option. Nor would any other country likely welcome the arrival of an imminent ecological disaster.

Given the prevailing winds on the Korean peninsula, public alarm over the North Korean warning will be greatest in Seoul and Tokyo, thereby obliging our allies most directly affected by North Korea's nuclear ambitions to accept the warning as fact, and acquiesce to North Korea's insistence that it must reprocess. It is unlikely that the United States will have much of a say in the matter.

No doubt, North Korea will offer assurances that IAEA inspectors will be allowed to monitor the reprocessing to prevent the diversion of plutonium to other uses. But the unfortunate reality is that plutonium is often lost in reprocessing and cannot be accounted for. Plutonium is lost when reprocessed in the United States. If the North Koreans have a secret diversion line in their reprocessing plant—and I am certain they do—we will never detect it. If the Koreans claim that fuel which was diverted to weapons production was merely lost in reprocessing—we will never be able to prove the contrary. In short, we may have already lost our primary objective of preventing the North Koreans from obtaining the material to build four to six additional nuclear weapons.

Coupled with my suspicion that the administration may relent in its insistence that Pyongyang account for its 1989 diversion, this new concern leads me to believe that North Korea is on the verge of becoming a nuclear power. They will have enough plutonium to blackmail South Korea and Japan, and enough to export to Iran, Syria, and Libya. Such a development could undermine our most vital interests in Asia and beyond for a generation.

Let us not be mistaken about the cause of this calamity should it come to pass. The fault will lie with the Carter initiative and with the administration that allowed that initiative to deter it from dealing with this problem forcefully from a position of strength. By allowing ourselves to be drawn into extended and ultimately fruitless negotiations with North Korea, we let the clock run out, and allowed the crisis to become so acute that it lacks a remedy short of military action.

Of course, we have also avoided taking the necessary military precautions that would make a military option a less dangerous proposition than it is; no doubt ensuring that the administration will decline to take this step as well. And while we are still waiting for the bankrupt economy of North Korea to destroy the regime, North Korea will have changed the balance of power in Europe and the Middle East. That it will have changed for the worse is obvious. How bad it becomes will be determined by whether these new nuclear

79-059 O—97 Vol. 140 (Pt. 21) 2

powers use their weapons only to intimidate their neighbors or actually use them on their neighbors.

Madam President, I know that this very bleak scenario is not yet apparent. But I believe it is at least a 50-50 proposition that it will come to pass. I hope that I am as wrong about this as I have ever been wrong about anything. But in the event I am not wrong, I would suggest to the administration the following course of action.

The PRESIDING OFFICER. The time of the Senator from Arizona has expired.

Mr. MCCAIN. Madam President, I ask unanimous consent for 4 additional minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WALLOP. Madam President, parliamentary inquiry. It is my understanding that we are in general debate and there is no time allocation.

The PRESIDING OFFICER. The Senator from Arizona had requested 20 minutes in morning business.

Mr. MCCAIN. Thank you, Madam President.

Mr. Gallucci should address his North Korean counterpart at their next meeting and inform him that because Pyongyang is evidently not serious about a negotiated resolution to this crisis, these discussions have come to an end. There will be no diplomatic relations, no economic aid, no light-water reactors, and no further discussions until North Korea offers concrete evidence of its good faith—say, an immediate invitation to IAEA inspectors to visit two nuclear waste sites in North Korea, and an urgent request that another country relieve them of the burden of their discharged fuel rods.

In the meantime, the United States will seek in the Security Council a sanctions regime far more seriously than we sought it the last time. Simultaneously, we will seek an immediate interim agreement with Japan to curtail remittances to North Koreans from their relatives in Japan. Finally, Mr. Gallucci should inform the North Koreans that after consulting with President Kim Young Sam, President Clinton signed an order authorizing the dispatch of multiple rocket launch systems and various other artillery to South Korea. They will be in place within a few days.

Mr. Gallucci should then collect his papers, close his briefcase and return to the United States.

Short of persuading North Korea that they have reached the limit of our willingness to be played for fools, I am not sure there is anything else we can do to avert disaster. It is not a risk-free approach. I am not certain it will be successful. Whether we still possess sufficient influence and creditability to enlist other countries in this cause is uncertain. But since we have exhausted our supply of carrots without success, can't we at least make one attempt at pressuring the North Koreans to operate? Wasn't one of the rationales for occupying Haiti the restoration of credibility to the American threat of force?

Should this attempt to coerce North Korea into some semblance of responsible conduct prove unsuccessful we will at least have not made the situation any worse than it is already likely to become. Only the further reckless pursuit of accommodation with a regime that scorns our reasonableness and reviles our purpose could do that. Of that point, I am certain.

Mr. President, I yield the floor.

Mr. MITCHELL. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERRY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CALIFORNIA DESERT PROTECTION ACT—CLOTURE MOTION

Mr. MITCHELL. Mr. President, the Senate is now debating the conference report on the California Desert Protection Act. I have been advised that it will be necessary to file a cloture motion to bring that debate to an end. And, accordingly, I now send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the conference report to accompany S. 21, the California Desert Protection Act:

Barbara Boxer, Byron L. Dorgan, Paul Wellstone, Pat Leahy, George Mitchell, Paul Simon, Patty Murray, Tom Harkin, Richard Bryan, Barbara Mikulski, Jeff Bingaman, Don Riegle, Harris Wofford, John F. Kerry, Claiborne Pell, Joseph Lieberman, Carl Levin, Dianne Feinstein.

Mr. MITCHELL. Mr. President, I will return to this matter in just a moment, as I discussed the matter with the distinguished Senator from Wyoming, and we will have a colloquy on that in a moment.

In the meantime, however, I have also been advised by the Republican leader that it will be necessary to file cloture motions to bring to an end the debate on three nominations which are pending on the Executive Calendar. They all involve Air Force officers.

First is Calendar No. 1280, the nomination of Lt. Gen. Buster C. Glosson; Calendar No. 1281, the nomination of Col. Claude M. Bolton, Jr.; and Calendar No. 1282, the nomination of Lt. Gen. Edward P. Barry, Jr.

I note the presence on the floor of the distinguished Senator from Iowa, and I am advised that it will be necessary to file cloture motions to bring the debate on these nominations to an end, and I am prepared now to proceed to each of those nominations in order and file the cloture motions. Then I will be pleased to proceed to a colloquy with the Senator from Iowa immediately following my colloquy with the Senator from Wyoming, if that is agreeable to the Senator from Iowa.

Mr. GRASSLEY. Yes.

EXECUTIVE SESSION

AIR FORCE

Mr. MITCHELL. Mr. President, I move that the Senate proceed to executive session to consider the nomination of Lt. Gen. Buster Glosson, Executive Calendar No. 1280.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Lt. Gen. Buster C. Glosson, for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 1370.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Lt. General Buster C. Glosson, USAF, for appointment to the grade of lieutenant general on the retired list pursuant to the provisions to title 10, United States Code, section 1370:

Trent Lott, Thad Cochran, Malcolm Wallop, Bob Smith, Kay Bailey Hutchison, Lauch Faircloth, Orrin G. Hatch, Sam Nunn, Dan Coats, Strom Thurmond, John McCain, Hank Brown, Jesse Helms, Larry Craig, Paul Coverdell, Al D'Amato.

LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I move that the Senate return to legislative session.

The motion was agreed to.

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I move that the Senate proceed to executive session to consider the nomination of Col. Claude Bolton.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Col. Claude M. Bolton, Jr., regular Air Force, to be retired at brigadier general.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with provisions of rule XXII of the Standing Rules of the Senate hereby move to bring to a close the debate on Executive Calendar 1281, Col. Claude M. Bolton, Jr., to be Brigadier General:

Harry Reid, John Glenn, Sam Nunn, D. Inouye, Tom Harkin, Daniel K. Akaka, Richard Shelby, Carl Levin, Howard Metzenbaum, Paul Wellstone, Byron L. Dorgan, Paul Simon, Richard Bryan, Strom Thurmond, Trent Lott, Bob Smith, Dirk Kempthorne.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. I move that the Senate return to legislative session.

The motion was agreed to.

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I move that the Senate proceed to executive session to consider the nomination of Lt. Gen. Edward P. Barry, Jr.

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Lt. Gen. Edward P. Barry, Jr., United States Air Force, to be retired lieutenant general.

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk and I ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators in accordance with provisions of rule XXII of the Standing Rules of the Senate hereby move to bring to a close the debate on Executive Calendar 1282, Lt. Gen. Edward P. Barry to be Lieutenant General.

Harry Reid, John Glenn, Sam Nunn, D. Inouye, Tom Harkin, Daniel K. Akaka, Richard Shelby, Carl Levin, Howard Metzenbaum, Paul Wellstone, Byron L. Dorgan, Paul Simon, Richard Bryan, Strom Thurmond, Trent Lott, Bob Smith, Dirk Kempthorne.

LEGISLATIVE SESSION

Mr. MITCHELL. Mr. President, I move that the Senate return to legislative session.

The motion was agreed to.

Mr. MITCHELL. Mr. President and Members of the Senate, we are attempting to bring this session of the Senate to a conclusion but for the matter of the GATT implementing legislation, which we will take up on November 30 and December 1. There are a number of nominations remaining on the Executive Calendar on which we hope to complete action, and there are a number of other matters on which we hope to complete action by unanimous consent.

The four matters which remain at this time known to me to be in dispute are those on which we have just filed cloture motions. The first deals with the California Desert Protection Act, and the other three deal with Air Force nominations. I am advised that the Senator from Wyoming opposes the California Desert Protection Act and notified us of the necessity to file cloture on that.

I note the presence of the Senator in the Chamber. We have discussed this privately prior to this time. Under the Senate's rules, the vote on the cloture motion would ripen on the second day of session following the day on which the motion is filed.

It has been my hope that the Senate could complete this session today, and I inquire of the Senator from Wyoming whether he would be willing to permit a vote on that cloture motion, assuming all other Senators agreed, since it would take unanimous consent today so that we would not have to keep the Senate in session over that period.

I have indicated to the Senator it is my intention that the Senate will remain in session for so long as is necessary to deal with the subject, and we have discussed it as I noted previously privately. I wanted to take this opportunity to make my inquiry of the Senator.

Mr. WALLOP. I would say to the majority leader that this is clearly not the way I had anticipated closing my, nor his, Senate career. I cannot deliver to the Senator an answer on that question at this time and do not consider it out of the question, but it is clearly not part of my current plans. Should it be, I would be only too delighted to notify the majority leader of that.

Mr. MITCHELL. I thank my colleague.

Mr. President, I earlier noted the presence in the Chamber of the distinguished Senator from Iowa, who we were advised would require the filing of cloture motions on the nominations, and I would like to direct a similar inquiry to the Senator from Iowa.

The rules would apply with equal force to the three cloture motions on the nominations. If the Senator from Wyoming were later willing to agree to permit a vote on the cloture motion on the California Desert Protection Act, I inquire through the Chair of the Senator from Iowa whether he would then be willing to permit cloture votes to occur on the nominations at that time as opposed to waiting for the full time to expire.

Mr. GRASSLEY. I cannot answer the Senator's question, but if I could comment further. I would like to say that just as a matter of record, I had been prepared to debate the Bolton nomination since last year. I have been prepared to debate the Barry nomination since very early this year. And I have been prepared to debate the Glosson promotion since April. So I very much regret that these are being brought up at such a late moment.

But to speak directly to what the floor leader, the majority leader, has asked me, I have a lot of material I wish to discuss on this. I would not pretend—it would be dishonest for me to say to the Senator that I know it is going to take all the time between now and 12:01 on Sunday morning to do it, and I would be happy to have a dialog with the Senator at a future time if it could be done sooner. But I would only want to do that after the things I have been waiting to say for well over a year on some of these nominations are stated.

Mr. MITCHELL. I thank my colleague. As he knows, I do not know the details of these nominations, nor of the reasons for the Senator's objections, but I will be pleased to do all I can to ensure that the Senator has full opportunity to say whatever he wants about these or any other matters.

Mr. GRASSLEY. Will the Senator yield for just a second——

Mr. MITCHELL. Sure.

Mr. GRASSLEY. On the point that the Senator made about which he did not know the details?

I do not expect the Senator to listen to my extensive remarks, but just for a short version of it. If I could just say that in the case of Colonel Bolton, it deals with his being a program manager and involves the mismanagement of the advanced cruise missile program. In the case of General Barry, it deals with his being involved with the mismanagement of the C–17. In the case of General Glosson, it involves his influencing the promotion process within the Department of Defense.

In each of these instances, in each of these instances, these people have been disciplined one way or another, are moved from one position to another or

been reprimanded one way or another well in advance of their names coming to the Senate.

And so the point that I would make to the Senator from Maine, our distinguished leader, is that should these people be promoted and have the ratification of their mismanagement or their wrongdoing, have the stamp of approval of the Senate on those nominations, I presume, knowing how the political process works here, they will get that stamp of approval. But I wish to make sure that my colleagues in this body know fully what is at stake and my understanding is that some people in this body, some of my colleagues, disagree with me.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. I thank the Senator for his comments. I listened to them carefully. And, of course, they are very serious allegations, and I will inform myself, and I believe and hope all Senators will therefore fully inform themselves, on these matters before the votes are cast and will also listen carefully and with attention to the remarks of the Senator from Iowa as he addresses these subjects more fully prior to the time the Senate votes.

Mr. BYRD. Mr. President, will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. BYRD. Mr. President, I hope our friends will relent just a little bit because the way I hear this being played out, it means that the Senate will be in session on Sunday. It is my present inclination to vote against at least one of the nominations the Senator is talking about. But longer discussions concerning the nominations may not convince me any more than I might be convinced in 15 minutes or a half-hour.

I hope Senators will not prolong this situation so that we would have to be in on Sunday. There are some of us here who believe in trying to keep the Sabbath Day a little bit holy at least. We have other religious holidays around here. I have no objection to that. But there are some of us who feel Sundays ought to be a religious holiday. I hope our friends are not going to push us into Sunday and hold out that long. In my judgment, that is no way to pick up votes.

I just plead with my friends on the other side. Why hold out until 12:01 on Sunday morning? I am inclined to vote against cloture on some of these items, but not if we are going to do this. I can cast my vote right now on cloture. I can cast my vote right now on the nominations.

I hope Senators will not push us into Sunday, for Heaven's sake. And I am a leader who has had the Senate in on Sunday. But in those days I did not give the Senate entire days off for religious holidays. Lately, we have put the Senate out of session for religious holidays for other faiths. So why not those of us who would like to have Sunday as our Sabbath? Why not let us have that day off?

I hope our friends will not push the Senate like this. Let us have votes on cloture, and then vote up or down on nominations or on the California desert bill, or whatever.

Please consider what I am saying. In the long run, I do not think you will gain anything for your cause by pushing us into the Sabbath. The Senate looks bad enough as it is, without being in session on the Sabbath. We ought to get out and go to church on Sunday.

I thank the leader.

Mr. EXON. Mr. President, will the leader yield for a question?

Mr. MITCHELL. Yes, sir.

Mr. EXON. Mr. President, on another subject, while we are interrupting the business of the Senate, I would certainly advise the Senate and the majority leader that there are several measures that are going to have to be addressed early on today rather than midnight tonight that I think have the support and have been cleared on both sides of the aisle. The presumption is that the House of Representatives, as they have done before, are likely to adjourn sometime this afternoon or this evening and go home. I hope that there are a few matters that have been cleared on both sides so we could interrupt the proceedings at an early hour this afternoon to send those back to see if they could be acted upon. If not, they are going to die here by inaction. I just bring that to the attention of the leader. He may know about it. But I think he—and certainly the staff—knows there are some measures that I think, although there may not be total agreement, we have to move on.

Mr. MITCHELL. Mr. President, if I might respond, we are aware of it, and indeed a short time ago we requested that we be able to proceed with those. But we have been advised that they are not cleared by our colleagues. And, therefore, we have to wait until we get that clearance, which I hope will be coming soon.

Mr. EXON. Thank you.

Mr. MITCHELL. Mr. President, I yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

UNANIMOUS CONSENT TO CHANGE VOTE

Mr. BREAUX. Mr. President, I have a unanimous-consent request that has been cleared by the office of the distinguished Republican leader and the office of the distinguished majority leader; that on vote No. 325, the motion to invoke cloture on the conference report on S. 349, the Lobbying Disclosure Act, that I could be recorded as having voted "no." The change would not affect the outcome of the vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, if I could continue where our distinguished leader left off, and also because of the statements made by the Senator from West Virginia—obviously his opinions are important and carry a lot of weight with me, and I give them due consideration—but I do want to emphasize for every Member of this body that, once again, the nominations have been on the Hill, in the case of Colonel Bolton from last year; in the case of General Barry, late last year or early this year; in the case of General Glosson, late last year or early this year. I have been prepared to discuss the Bolton nomination since last year. I was prepared to discuss the Barry nomination last year. I was prepared to discuss the Glosson nomination earlier this year, in April.

The distinguished majority leader has stated that we will stay in session until we get the California desert bill out of the way and until we get these three nominations out of the way. I guess I feel badly, as a sponsor of legislation with Senator LIEBERMAN and myself, that somehow nominees from the Department of Defense—where there has been a tremendous mismanagement in the program, where people have already been disciplined for that mismanagement—that these nominations would have a higher priority than Congress being covered by the laws we have exempted ourselves from. That is the subject matter of the LIEBERMAN-GRASSLEY Congressional Accountability Act.

The people at the grassroots of America very much understand that we have exempted ourselves from a lot of major pieces of legislation. We are employers here in the Senate. Each individual Senator is an employer of staff with the right to hire and fire. The Senate as an institution has staff. A lot of subdivisions of Congress, like the Library of Congress and the General Accounting Office and other subagencies like that, are under Congress. They have been exempted from some of these laws, with 40,000 employees not having the protection of the law. There are two sets of laws in this country. One set is for Capitol Hill, the enclave here, and the other set of laws is for the rest of the Nation. There is one set of laws for Pennsylvania Avenue and another set of laws for Main Street America.

This is absolutely wrong. It comes up at every town meeting we have. A bill passed the House, 427 to 4, to end that last plantation mentality. It was brought up yesterday by the majority leader. There was an objection under a technicality that the report had not been filed on time. And so, now, it is not coming up.

Yet, we are told that the California desert and General Glosson, General

Barry, and Colonel Bolton—people who have been involved with mismanagement of programs or violations of rules on a promotion—are more important than to have Congress covered by the laws that cover the rest of the Nation, so that we have some appreciation of what the employers, particularly the small employers of America, go through. And they legitimately get very nervous that some bureaucrat might come into their place of business and, with the police power of the Federal Government, close them down. Those same people cannot come to our offices and close us down, because we are not covered by those laws.

How do we have an appreciation of the impact of Government regulation on the small businesses of America if we exempt ourselves? But somehow we are not going to go home until we do these other matters. Yet, congressional coverage, high on the list of our constituents, is held in abeyance. It is not so important. It may not be important at all.

We had a considerable debate last night on the unfunded liabilities bill that the Senator from Idaho, Mr. KEMPTHORNE, has put forth. When we pass regulations around this town, pass laws putting responsibilities on local government that cost local government money, we do not give them money. How terrible of a situation is that, that we are going to say that Butler County, IA, or Des Moines, IA, has to do something the Federal Government says they must do, which costs a lot of taxpayer money for the taxpayers of those States in the counties and cities? It is very easy and very irresponsible to pass laws that are applicable to the rest of the Nation and put the burden on the taxpayers at the local and State level and not give them money to do it.

So Senator KEMPTHORNE has come up with the legislation—I suppose he would describe it differently but, from my standpoint, it makes us either have the guts to pay something, put our money where our mouth is, put our checkbooks where our actions are, put our performance commensurate with our rhetoric, and either put up or shut up when we pass some sort of law applying to the rest of the Nation; and if we are not going to fund it, it is not going to apply. And the League of Cities; the Organization of Mayors; the Governors Association; the National Counties Association; the State Legislature Association, all these national organizations are pushing that legislation.

Yet, we are told that somehow the California desert and General Glosson and General Barry and Colonel Bolton, all people who have been involved in mismanagement of programs, and so cited by the General Accounting Office, or so cited by the inspector general, that these nominations are more important than the question of unfunded liability, or the question of the applicability of laws to the Congress of the United States so we have some appreciation of what other people are going through. I do not understand it.

I will bet if you go out even in downtown Washington, DC, as urban as that is, they would not understand it, and for sure, if you went to the grassroots of America, they would not understand it, because there is no justification for it. Yet, that is the situation we are in.

Do you think it is right for a general to unduly, or in any way, try to influence the promotion process within the Department of Defense? Why, that is such a serious challenge that our Armed Services Committee said in a report that we ought to make that a criminal offense. That legislation did not pass, but it is still contrary to the regulations of the department. We even had generals on the promotion board resign because of the undue influence. Yet, we are going to have debate on that subject at the last hour, when we could have had it last April.

I think we ought to have certain priorities, and those priorities ought to be not to wait until the midnight hour to bring up something that could have been brought up last year, in the case of Colonel Bolton; last year, in the case of General Barry; earlier this year, in the case of General Glosson—and then, legitimately, Senators plead with us not to debate these issues here at the last minute. And it is perfectly legitimate to plead that we not be in session on Sunday when, as Senator BYRD said, "We ought to be in church."

But it is not my side of the aisle that controls debate on these issues. It is the other side of the aisle. It is Senator BYRD's party that controls the agenda. There is nothing wrong with doing things more timely.

We are going to adjourn pretty soon, in a few days, and we will go home and come back with a new Congress on January 3. We will swear everybody in. And then we are so doggone tired from having 3 months at home that we will have to take a couple weeks off and rest up.

And then we will come back about January 20 or 25 to listen to the President's State of the Union message, and we will have one or two little minor items the first week in February, then we are going to be so tired that we are going to take the second week of February off. That ends on the President's holiday.

And then, around February 20, we are going to get serious about doing business. And then we are going to have Mondays and Fridays off through the month of March and probably April, and then in May and June and July, you can start not counting on having Mondays and Fridays out of session, but you will have several of them off. And then, all of a sudden, we will have late nights in July to get ready for the August recess. And we come back in September and work late nights in September because we have to finish up our appropriations bills by the end of the fiscal year.

So it seems to me like right now if you want to plan ahead the way to manage the business of the Senate, if you do not want to be in debating three generals who have already been reprimanded by their own superiors and debate whether or not they ought to have a promotion as a going away present, then we ought to be working harder during January, February, March, and April than what we generally do.

Then there will not be any problem that I am faced with now of having someone like Senator BYRD mad at me for the rest of my tenure in the Senate because I want to fully debate something that I have been waiting to debate for 12 months in some instances and at least 6 months in another instance.

Two years ago I think we adjourned on October 27. I think we are better off if we do adjourn and get out of here and go home. But the same leadership that kept us here until late October 2 years ago is now very anxious to get out of here very early now. I do not understand why, except just generally as a rule of thumb, the country is safer when we are not in session.

I hope that the discussion that occurred here in the last 48 hours about getting things done and doing them timely and not inconveniencing the entire institution, including a lot of people, more than the 100 Senators, will lead us to some thought about what we can do around here in the future to have better management of time so we do more in January, February, and March, and not have everything thrown into the last few days, particularly when the country is crying for us to do something about unfunded mandates, crying for us to do something about congressional accountability.

It seems to me like when more of our country was agrarian and there was a certain period of time to plant and there was a certain period of time to harvest, probably our forefathers who were a little closer to the soil had a much better outlook on the timeliness to do things.

The further you get away from the basics of nature, the more you get into a political environment that is separated from the realities of life, the more you become a society unto yourself as political leaders and public servants. The more you are losing touch with the grassroots, the more, it seems to me, these commonsense approaches to the running of an institution like this are left by the wayside.

The extent to which we can get back to the realities of life and put some of those simple principles into the formation of public policy, and we put those

principles into the actual mechanics of running a public institution, we would not have these situations, and we would have a situation in which things were done more timely, and we would not have to have these late weekend sessions and have tempers flair and have bitterness. It is a needless waste of energy. It is not something that we should have to have. It just does not need to be.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I have several things I want to say today before we wrap up this session of Congress. So if I may, I will just tick them off in fairly rapid succession.

TRIBUTE TO SENATOR GEORGE MITCHELL

Mr. GRAMM. Mr. President, the first thing I want to do is talk about the majority leader, GEORGE MITCHELL.

It has been my special privilege for the last few years to serve with majority leader GEORGE MITCHELL of Maine. I do not think it will come as a surprise to anybody who has followed debate in the Senate to learn that GEORGE MITCHELL and I have been on opposite sides on many issues. But I would just like to make a couple of observations about the majority leader since he is retiring at the end of this term.

No. 1, I doubt that we will have as able an adversary again, at least speaking for Republicans, as we have had in GEORGE MITCHELL.

No. 2, I have often sat during long and boring debates in the Senate and thought about if you were going to put together Members of the Senate in an historical context who ought to be in that Senate. I have thought about which Members of the Senate serving today would rank among the Members of the Senate who are worthy of being remembered.

Those of us who have the privilege to sit here at these ancient desks from time to time pull out the drawers and look at the names of those who have written or carved their name into a desk drawer, which is a tradition here. And I do it to keep myself humble, because when I open the desk drawer and look at these names very few of them are people that I have ever even heard of. The world forgets very quickly most of those who serve in the U.S. Senate.

I have asked myself on occasion who, of those now serving in this Senate is worthy of being remembered, and as I have sat through long debates, often late at night, with nothing better to do at the moment, I have often tried to select five Members of the Senate who I think stand out as people who are worthy of being remembered. I can say that in the last few years I have never put that list together that GEORGE MITCHELL's name has not been on the list.

Finally, let me say that, at a time when so many people think of Congress as an organization which is separated from America, when it is conventional wisdom to try to present Members of the Senate as being some elite and remote group, I would just like to say that it is reassuring to me to know that a person born in Maine of very humble beginnings can rise to be majority leader of the U.S. Senate.

So I will not miss our distinguished majority leader as a tough and competitive adversary, I will not miss many of the votes he has cast, often on the winning side on many issues that I care deeply about, but as a human being and as a born leader, GEORGE MITCHELL is very hard to match. And I will be very proud someday to tell my grandchildren that I served in the Senate with GEORGE MITCHELL.

THE CHARGE OF GRIDLOCK

Mr. GRAMM. Mr. President, I would like also to say a few words in response to our President.

Our President today held a press conference and we, as Members of Congress, were apparently very much on his mind. In fact, the AP story says:

> President Clinton today ridiculed Republicans in Congress for blocking his legislative agenda, accusing them of embracing a policy of stop it, slow it, kill it, or just talk it to death.

He then accuses Republicans of wanting to take America back to the Reagan-Bush years.

Mr. President, I want to thank President Clinton for that advertisement. In truth, I would like to take America further than Presidents Reagan and Bush ever took it, but I think most Americans would like to go back to the Reagan years. I think if they had a choice between the Reagan years and the direction of the Clinton years they would choose the Reagan years.

And our President notes that his contract is with the American people for the future. I would say, Mr. President, not very long into the future.

I would like to respond very briefly to this charge of gridlock. I find it absolutely astounding that, in Washington, DC, progress is measured by how many bills you pass, by how many taxes you raise, by how much money you spend, by how many new agencies and bureaucracies you create.

I would imagine that if we could go out into America on Main Street in Mexia, Texas, that we would find that their idea of progress is exactly the opposite.

I hope that someday we have a Congress where a President will stand up and say: This Congress repealed 641 laws; this Congress terminated so many agencies; this Congress closed so many departments; this Congress cut so much spending; this Congress cut so much in the way of taxes.

I believe that this idea that seems fixed in the minds of Washington and, quite frankly, in the national media, that to say "no" is a bad thing is out of touch with reality.

I believe more than anything else that this Congress will be remembered for having killed the President's health care plan. I would like to remind my colleagues that the President's health care plan did not die because the President was not a great salesman. The President is a great salesman. The First Lady is even a better salesman. The President has the biggest megaphone in history.

The President's health care plan died because, try as he did, the President could never convince the American people that we ought to tear down the greatest health care system in history and rebuild it in the image of the Post Office. The American people wanted the President's health care plan stopped.

In my opinion, when this Congress is remembered—and I believe some elements of it will be—it is going to be remembered most as the Congress that, at the critical moment, when we were going down the wrong road at 100 miles an hour headed towards socialized medicine, we had a few Members who were willing to stand up and say "no."

I remember vividly 13 months ago we had a bunch of Republican pollsters come to Capitol Hill and say, "It's political suicide to stand up and say you're opposed to the President's health care plan. You can't take this thing on head-on. In some form it is going to pass and what you have got to try to do is to make marginal changes."

All three of the major auto makers were for the President's health care plan because they were being bought off by the taxpayer picking up health care for their early retirees. The American Medical Association could not make up its mind where it stood on a fundamental issue of our time: Do you believe in private medicine? The American Hospital Association was going to have the Government come in and solve all its problems. Big business was, at best, not helpful and in many cases was neutral in the whole debate.

But an interesting thing happened on the way to a Government takeover of the health care system. And the interesting thing that happened is the average American citizen got involved in the debate. People all over America

started to think about what it was going to be like when Government made health care decisions for them.

At the peak of that debate, I got 7,000 first-class letters a day. At the peak of that debate, from 6 in the morning to midnight, every phone in my office and every other office on Capitol Hill rang off the hook and people basically had one message—stop the Clinton health care plan.

And I am happy to say, Mr. President, that we stopped the President's health care plan.

So when the President is standing up and lamenting the death of his health care plan as being an evidence of lack of progress in this Congress, I do not believe that Bill Clinton is speaking for the American people. I believe when Americans go to bed at night and they get down on their knees and they thank the good Lord for good things that have happened to them, one of the things they thank him for is that we defeated the President's health care bill.

I can remember vividly, Mr. President, when President Clinton gave the speech that we all saw on television where he pounded the podium and said, "Whenever I want something done, all the Republicans can say is no, no, no, no, no."

Well, I think when the American people on November 8 go back and look at the list the President wanted us to say yes to—whether you are talking about taxing Social Security or taxing gasoline or taxing small business or a so-called stimulus package that would have built ice-skating rink warming huts in Connecticut and alpine slides in Puerto Rico, or whether you are talking about U.N. control of U.S. troops or invading Haiti—I think, when the American people look at that list of items, that their answer is remarkably similar to the answer that the President accuses Republicans of having given, and that answer is no, no, no, no, no.

We are going to have a vote on health care, but not in this Congress. In fact, yesterday, when we had the adoption of a motion to proceed, it formally killed the President's health care plan by taking it off the agenda of this Congress. But it had died a long time ago.

But the President is going to get his vote on health care and he is going to get that vote on November 8, because I think the American people understand that the President has not changed his mind and the President has not changed his heart on health care. The President still wants a Government-dominated health care plan. He still has a dream of Government running the health care system. And in the next Congress he is going to make a proposal that is going to be remarkably similar in everything but its name to the proposal that he made in this Congress.

If people are opposed to that plan, they have an opportunity to go out and vote on November 8. They have an opportunity to vote for people who will not vote for the President's health care plan, and they have an opportunity, it seems to me, to vote for a new approach in health care reform.

This criticism that somehow saying no to the President's plan—whether that plan is a tax increase or spending increase or is Government-dominated health care—this idea that that is a negative thing, it seems to me, is out of touch with reality and with the American people.

When you are on the wrong road going in the wrong direction, speeding up does not help you. The only thing that helps you is to stop, get directions, turn around, and get on the right road going in the right direction.

I believe that this Congress, more than anything else, has done a good job in stopping the President's proposal, stopping the President's ability to have the Government take over and run the health care system, stopping the President's ability to spend money on programs that we do not need, that we cannot afford. And I believe when people look back at this Congress, the best things we did were the things where we said no.

The President says today, which I guess is a recognition on his part that we are about to have a lot more Republicans in Congress, that he wants to work with Republicans. Let me assure the President that we want to work with him.

When the President supported NAFTA—and might I say that it was a delayed, beleaguered support to begin with, until the issue built up a head of steam—I am proud to say that it was Republicans who stood up and first supported the President on NAFTA. If the President will start doing what he said he would do in the campaign, with programs like truly reinventing Government, reducing the bureaucracy, expanding the freedom of the people, letting working Americans keep more of what they earn by passing a middle-class tax cut, being a new kind of Democrat—when the President does the things he promised to do in the campaign he is going to have a lot more Republican support than he has had. But the President has not had Republican support and will not have Republican support so long as the President is trying to do things that he told the American people that he would not do.

I believe the American people have become convinced that the President was elected under false pretenses; that the President told the American people that he was a new kind of Democrat but he has turned out to be not a new kind of Democrat; that the President told the American people he was going to cut middle-class taxes but he raised taxes on middle-class retirees by taxing Social Security, when he taxed gasoline, when he taxed small business. When the President said he was going to cut wasteful spending I do not think the American people had the so-called stimulus package, or the so-called crime package in mind.

When the President said he was going to get tough on criminals, I do not think the American people conceived that as meaning $5 billion more social spending, nor do I believe the American people thought that entailed overturning mandatory minimum sentencing for drug felons who, in many cases, are trying to sell drugs at the door of every junior high school in America.

So, if the President wants to work with Congress and wants to work with Republicans, it seems to me that the President needs to get back to the agenda that he outlined in the campaign. I am happy to say that when the President has moved away from that agenda he has had strong Republican opposition. And as long as Bill Clinton is trying to raise taxes, increase spending, tear down defense, use the American military as a police force in a foreign land, and have the Government take over and run the health care system, he is going to face the strong opposition of Republicans, and more importantly he is going to face the strong opposition of the American people.

One final point. I know many of my colleagues want to speak. But let me make this point. When the President sent his health care bill to Congress he and members of his administration said: If Republicans oppose this bill they are going to be held accountable at the polls.

We opposed the bill and we killed the bill. Hold us accountable. But hold accountable the people who were for the bill. Hold accountable the Democrats who wanted the Government to take over and run the health care system. Hold accountable those people who signed on to the bill who, today, all over the country, are running away from it. Health care is an issue in this campaign. It is a dominant issue. Because the only time the American people are going to have a vote on health care directly is when they go to the polls on November 8. If they do not want the Clinton health care plan they have an opportunity to go to the polls and vote for the people who opposed it and vote against the people who were for it. I just have a feeling that is exactly what the American people are going to do.

So, I am delighted to have had an opportunity to come down and respond to the President. I always try to work with the President when I support what he is doing. But I do not support most of the things that the President is trying to do. But, more important, the American people do not support it. All the President has to do to get more support from the American people and

more support from Republicans is to do more of the things he said he would do in the election and fewer of the things that he has done since he has been President.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

CHANGE AND GRIDLOCK

Mr. BIDEN. Mr. President, I always enjoy hearing my friend from Texas. After listening to him, I sometimes wonder what Government he is talking about.

I just want to make one broad point and then I will yield the floor.

The Senator says two things that many of his colleagues say these days. That is, first he says: You know, we are a party that wants to repeal. We are a party that does not want to add—meaning Republican Party. He went through this thing about how he looks forward to the day when there are 640-something laws eliminated or whatever.

Then he says: But I want to cooperate with this President. I want to work with him. I do not understand why he does not come to me and say why do you not work with me? Why do you not cooperate with me?

The issue is not whether the Clinton health care plan failed or succeeded. Very seldom does any major initiative any President puts forward end up being what is in fact the law. It is always the case where the agenda is set by the President and they start the debate. So the issue is not whether you should hold someone accountable or not accountable for killing the health care plan. The issue is, if you like health care just the way it is—those millions of Americans who do not have any, those tens of millions who are about to lose it, the rest of them who cannot leave their job in order to keep health insurance—if you like it exactly the way it is then, fine, no problem. You should vote to give Senator GRAMM a full measure of credit.

But if you think the system is not working very well, if you think we should get together and cooperate and work on something that is going to provide health insurance for the people who do not have it, if you think we should get together and make sure people who worked like the devil all their lives, middle-class Americans who live in fear of losing their jobs, live in fear of what will happen to their families if they get ill—also look to Senator GRAMM. He is going to run for President, I think. Look to him. Look to him and say: PHIL, it is great that you made sure my sister, who is making $18,000 a year, with three kids, cannot have any health insurance. I am proud of you. It is a good thing you did. Keep the system just the way it is.

I also find it fascinating to listen and hear about what gridlock is. Let us talk about what gridlock is—my definition of gridlock. My definition of gridlock is when you have a clear majority of the elected representatives of the American people who work in the U.S. Congress—Democrat and Republican, House and Senate—when a clear, undisputed majority want to do something and a minority repeatedly comes along and says we are not going to even let you vote on whether or not we are going to do that—that seems to me to be gridlock, or obstruction. The irony is, the things that have been opposed are things that I do not even understand why they opposed them, because they have voted for them in the past. I mean, it is like the crime bill. A vast majority voted for it. And when it came back from the House essentially the same bill, all of a sudden it was a bad bill, because some pollster said "By the way, if the crime bill passes, the President will get credit, so don't let it pass."

Now, that is gridlock. I am not taking issue with anybody's views on the floor. I am not taking issue with their views, if they believe them as a matter of principle and that is the only reason. There are a lot of crazy ideas that are reflected in the American public and the American psyche and the U.S. Senate. I have been the father of some of those crazy ideas. So, I respect that. But the gridlock here—a case in point—is the California desert bill, and it is, by the way, within the rights of Senators under the rules. I want to make it clear.

But the American people do not understand, nor should they have to understand, the technicalities—such as with the legal system and the complexities of the operation of the fifth amendment and the fourth amendment and the second amendment and the first amendment. They look at it and say, "Wait a minute now, this is right and this is wrong. Why are we doing this?"

For example, I heard comments about the attempt of lawyers to suppress evidence in the *O.J. Simpson* case. "Well, if he is not guilty, why would they try to suppress?" They are complicated notions.

One of the things the American people, I think, also understand and view the same way is their Government. We all in this body know any Senator is within his rights to engage in a filibuster, to use the parliamentary rules to his or her advantage to keep a majority from prevailing—and there is an underlying, solid rationale for that having been put in the Senate rules. Notwithstanding that, I think the American people have had to wonder a little bit: Why is it that when repeatedly, time after time after time, an overwhelming majority of Members of both Houses of the U.S. Congress say they want to do something, our Republican friends stand up and just say no. The party of no.

Now, is campaign reform a bad idea? I want the American people to go out and judge. If they, in fact, use the same standard that Senator GRAMM said, if you like the way we finance our elections now, give Senator GRAMM credit. Give him credit. Election day, walk up and say, "I like this idea that you can go out to these super wealthy people and get large amounts of money. I like it. That's why I'm for you, Senator."

Now, if you also like the fact that we cannot reform the system whereby we require lobbyists to be what most Americans would say in a mode of full disclosure, you like the idea that lobbyists permeate this place and this town the way it is, with very little regulation, thank him, thank the Republicans. Go tell them, "I like it. I like it the way it is." Give them credit.

Do you like the way that we are allowed to, under the rules go play golf or all the stuff you read about in the paper, which we tried to change?. You like that? Give them credit for killing reform, they deserve it. They deserve the credit. I do not want to be the one to deny them the credit. They deserve every bit of the credit that they should be given, because he stands up and says, "Give us credit for stopping this stuff."

How about the California desert bill? I believe my friend from Wyoming feels very strongly about this. He does. Under the rules, he can do whatever he wants. But if we adjourn here without the California desert bill passing, the environment being protected, give them credit, give credit where credit is due.

They have been exceptionally—exceptionally—good at stopping things. I acknowledge that. I have been here 22 years. I have never seen a more adept—more adept—group of individuals able to stop campaign reform, any change at all in the health care system. We are not just arguing about whether or not we have the Clinton health care bill. That was dead when it came here. Guys like me never supported it. A lot of people did. But everybody knew it was a starting point. There were three, four, five, seven other plans. What did we do? Nothing. Nothing. Nothing.

Maybe the Senator is correct, that the American people do not like the Clinton health care plan. I did not like it. So maybe I am with the American people. But I did not think the alternative was if I did not like that, we were not going to cooperate and not going to deal with the health care problem in America. I thought that is what we were supposed to do. We disagree, we negotiate, we debate, we compromise and we act, when there is a majority that wishes to do that.

Mr. President, again, I will make it clear. I have been here long enough to know, and my colleagues who have worked with me long enough should know, I am in no way denigrating, in

no way casting aspersions on or questioning whether or not they have the right under the rules to do this. They clearly have the right under the rules to do what has been going on this last year.

I thought the beautiful one was what we did on education. This is what I think I mean by gridlock. This is what my wife means by gridlock. That is what my mom means by gridlock. That is, we have an education bill. We are required to get cloture on the bill.

First of all, there is this long, drawn-out process whether there is a hold on the bill, whether the bill can be brought up, what we will do if it is brought up, are we going to bring things to a halt and all this kind of thing. And then when we finally bring it up they insist on cloture. A fancy word. For people who are listening, that means we are going to cut off debate. We have to get 60 people to say, "Stop the malarkey, let us vote," and then we have to get 50 people to pass. But you have to get 60 just to stop it so we can vote.

So they said on the education bill, we are not going to let that go forward. They did not quite say it that way. Everything dragged along and sputtered along and finally the leader said, "We are going to file cloture," meaning we are going to see if we have 60 votes, if there is any support for this bill.

We went through all this, wasted 3, 4 days, got cloture and 35 people voted for it. They even tried to slow down things they are for. Now, that is an unusual development. I have not seen that before. I have always thought the purpose of the filibuster and the unstated filibuster was to stop things you were against. Well, my Lord, we stop things on this floor that we are for.

So, anyway, that is what gridlock is. That is the frustrating part, I think, for all of us. It is not that we are saying, "Well, if you really oppose this bill, you should not fight to the death to stop it and use everything you can to stop it." But everything? Everything? A vote on a fellow named Sarokin. We kept trying to get a time agreement. This was repeated 100 times this year. What ordinarily would have taken a debate that would last 3 or 4 hours took a week. And so finally, I went to the majority leader and said we have to file a cloture motion to force everybody to the issue. We got a cloture motion. We get cloture and then over 70 people vote for the guy.

Now, in the past, people did not come in here and filibuster on things that they did not think they had at least a remote possibility—a remote possibility—of stopping. I am never as sure as to what the American people think as some of my colleagues are. Everybody always tells me what the American people think. I have enough trouble figuring out what my family thinks, and I am not sure I am good enough to know what the American people think. I think I know what the people of Delaware think, but as the Senator points out, in 2 years we will know whether or not I know, because I am up for reelection, if I run again. But I think what people are frustrated about is that there does not seem to be any sense of comity or good will to deal with problems everyone believes exist.

I did not sign on to any one of the health care bills because I was not enamored with any one of them, but I believe we have to have health care reform. I was ready to participate in the process of negotiation, compromise, and debate, in order to do something about the health care system.

I think the way we finance our campaigns is a disgrace. I have a way I think we should do it. Back as far as 1973, I introduced a bill saying we should publicly finance our campaigns so we are beholden to no one but our constituency. I do not expect people to accept my view, but I do expect us to say we should do something about the way we finance our campaigns.

I do not suggest that my way on how to deal with and reform the system of lobbying in this place is the only way, but I do think that most Americans and most people in this body think we should do something about it.

What has happened in the last couple of years is an all-or-nothing attitude; you do it exactly my way or it is not going to get done. And usually doing it exactly my way means you cannot get this done because, if you get it done, somebody is going to get credit for it and that will hurt my party.

That is a bad deal. That may be a short-term prescription for winning, but I truly believe it is a long-term prescription for disaster for a participatory democracy.

I truly believe that we are running ourselves into a circumstance where there is no win for any political party because the American people conclude that we cannot as institutions deal with things they know have to be fixed—campaign funding, gift bans, lobbying reform, health care, crime, which we finally did do after 6 years. It is no wonder people are frustrated.

I know that my friend from Texas is an able, able Senator. I know that he has a very coherent, cogent philosophy. I wish we could just debate straight up, his philosophy versus mine, how we should govern ourselves as people, the Democrats' versus the Republicans' philosophy on how to proceed. But then ultimately come to a resolution. When a majority of people in this body, in a representative Government, feel we should move in one direction, we should be allowed to move.

(Mrs. FEINSTEIN assumed the chair.)

Mr. BIDEN. Democracy is a very fragile thing, Madam President. It rests ultimately on the instinctive trust of the people—that the system that is designed to facilitate democratic principles is one that can work. My friends are going a long way to accomplish what some have publicly stated, that the only way to repair the system is to tear it down. If that is the objective, they are succeeding, I am afraid. If the objective is to see that there are fewer Democratic desks on this side of the aisle next time and the time after, and more Republican desks, that may be a very Pyrrhic victory, if it occurs, because ultimately what happens is fewer and fewer Americans believe any of us here make any difference in their lives.

I do not know how, in the most heterogeneous democracy in the history of mankind, you are able to make it function long term without instinctive trust in the institutions that are designed to allow it to function.

I think we are doing a great disservice to this country by refusing to act. I am optimistic, Madam President. For all of us, Democrats and Republicans, it is an occupational requirement. You must be an optimist to be in this business. I am optimistic that although there may be momentary lapses, the American people pretty well understand what is starting to happen.

I noticed a shift just in the last 3 days, Madam President. I am no political commentator, and I am not an analyst who has any claim on being able to tell you what trends are going on in the Nation. But I noticed one thing, just a very simple proposition. I commute back and forth to my home State every single day. I get on the train at 7:30 in the morning, thereabouts, 7:36, and I usually leave here at 8 o'clock at night and get home at 10. I do it every single day the Senate is in session.

It is my choice to do it that way. A lot of my colleagues would like to do it, too, but they live in Arkansas, California, Massachusetts, and Wyoming. There is no trick. I am just lucky. But it is an interesting thing. I do not want to make more of this than it is. But during the summer, no one had any appreciation or thought about anything having to do with gridlock. It was not that. The Democrats just could not get their act together. That is what this was all about. That is what I would hear on the platform. That is what I would hear when I would stop at the 7-Eleven, or when I would stop at a little pizza place—the best pizza in the country, Girardo's Pizza. I stop in there and they ask me—the woman who runs Girardo's Pizza—"Joe, why can't you get this going? What's the matter?"

Now what I am starting to hear is, "Why don't Republicans want anything to happen?" I may be wrong. We are going to find out soon. But I notice a shift in the paper in the last 3 or 4 days. For the first time, the papers are starting to write flat out what, as

Barry Goldwater would say, in their hearts they have known all along but have not written. That is, stopping everything between now and election day is part of a broad strategy. Whether it is good, bad, or indifferent, anything that passes is viewed as a success. Anything that is a success is viewed as a credit to a Democrat.

I do not believe that is how it works, by the way. But that is how I think they think. And any success diminishes the possibility of winning and increasing Republican majorities or minorities, and therefore they are shutting it all down.

Well, they may end with the result that is being sought. I have never been that good of a political prognosticator. So I cannot tell you what is going to happen. All I can tell you is that I truly believe it is not good for this country, for the political parties, either one, to decide that the road to success is to stop action on the problems that face America. I do not think that is a good thing.

I might conclude, Madam President, by pointing out how much I absolutely admire your forbearance. You have been working since you got here in the Senate to pass a bill that 73 U.S. Senators think is important, that Democrats and Republicans in your State think is critical—the California desert bill. She continues to evidence the grace and patience that she is known for. I admire it. But I would be mildly frustrated. That is not to suggest that my friend from Wyoming and others do not have a right to try to stop it. But I think that is what the American people mean by gridlock when 73 U.S. Senators and the House of Representatives have already acted on a matter that relates to putting aside a chunk of America into a system that guarantees its continued existence—and it is imperiled.

This is not a great ideological debate about whether or not we are going to have the Government run the health care system or whether or not we are going to invade Xanadu. There is no such country, I might add. This is about what an overwhelming number of people want in the region of the Senator from California. What an overwhelming number of U.S. Senators want, and what the House of Representatives already decided they want. And because we are getting down to the wire in time, it is imperiled. I think that is what people think gridlock is. At least that is what I think it is.

But then again, as I said, I am not nearly as certain as others what the American people think and know. All I know is that I think it is a shame the way in which we have operated over the last 9 months. We have been kept from being able to arrive at intelligent compromises on matters that are of great concern to me, my mother, my father, my wife, my family, the citizens of my State and I think the vast majority of Americans—reforming our campaign system, reforming the gift system, reforming the lobbying system, putting Americans back in control rather than special interests in control.

I cannot believe that they do not want us to do anything about those things. But, if they do, the real stark choice here is not whether you want the Clinton health care bill or any particular bill. At issue is, do you want anything done about these issues or do you want nothing done? If you want nothing done, give the Republicans credit because they have succeeded. Even though we have had a majority of people on almost all of these issues, they have succeeded. If you want something done and you believe there is a need for constructive change, then also give them the blame.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Madam President, I would like to congratulate and thank the Senator from Delaware for his comments. He has been here longer than many of us on our side of the aisle. He and I actually began our political careers from different angles some 20 or so years ago. But it is interesting. I think that both of us came into this process with the view that it was an honorable profession that people ought to aspire to, and with the goal of trying to do what is in the best interests of the country.

I have been sitting in the Chair presiding for the last hour, and had the opportunity, like my colleague from Delaware, to think about the U.S. Senate while I listened to my colleague from the other side of the aisle. During this time, I was reminded of the great story by Harry Truman who once, during the early years of his service in the U.S. Senate, used to at times sit over there in the back of this Chamber, and write letters home to his mother. One time he wrote her late at night during a debate. It was late at night and he was barely a freshman. He looked across this great Chamber, he pondered for a moment, and then he wrote.

Dearest Mother: It is another late night in the Senate, and we are debating the great issues of our time. And I look across this great Chamber. And I look across the aisle, and I see the ghosts of great Senators past, and I pinch myself. And I say, "How the hell did I get here anyway?"

And then about 4 months later he was again on another late night debate out on the Senate floor and again he wrote a letter to his mother. He said:

Dearest Mother: Again a late night in the Senate. Again, we are debating great issues of war and peace, and here I am in this night looking across this great Chamber. And I look across the aisle at my colleagues, and I pinch myself. And I say, "How the hell did they get here anyway?"

There really is, it seems to me, a very, very serious problem brewing in this institution—not just on the House side but on this side of the Capitol; if we do not understand that, if we really do not understand and connect to what the American people want us to do relative to and compared to what we are doing, then I suppose the American people are absolutely correct in saying "throw them out." It is our actions in the U.S. Senate and in the Congress that are fueling a term limit revolution in this country, which is rather silly when you think about it because we already have term limits. The last time I looked, the Constitution said our term was 6 years. The last time I looked at the Constitution it said the term limit in the House was 2 years.

But everybody suddenly is saying, my God, we have to have term limits. The reason is that the average person cannot connect to the American political process. The reason is that there is so much money in American politics that the average person cannot run for the U.S. Senate or Congress. You have to be like this fellow out in California who can pour millions and millions of dollars of his own money into his. Even Senator DOLE said the other day that the race in California is a strange one, because when he goes to one of Mr. HUFFINGTON's fundraisers, it is Mr. HUFFINGTON who gives him money.

I mean, this is out of proportion to anything that the Founding Fathers ever dreamed of. Money is separating the American people from their politicians, from the people who are supposed to represent them. I think most Americans understand that. Most Americans have said they want us to change that. Sixty-three U.S. Senators voted to change that. We passed legislation. But because you have to jump through hoops several times in this institution to get something done, when what had already passed came back to be passed again, a few, a very few Senators decided not to let the public have its way. And once again the filibuster reared its ugly head.

Our friend from Texas came to the floor and talked about health care and tried to pretend that what the Republicans have been doing is in fact preventing Americans from the harm that is going to be done to them by overzealous legislators, by a Congress that keeps mucking up their lives.

But when you measure that very appealing rhetoric, when you measure that against the reality of what we were in fact trying to do for people, it does not stand up. And he knows it. That is why he wants to dwell on health care because he wants all of these good people who listen to these debates and who try to analyze what is happening in Washington to say that what this election really ought to be framed on is the failure of the President and the Democrats to get health care. And that somehow the failure is due to those who worked for health

care reform, and not to those who prevented it.

What the Senator from Texas also wants to do is prevent America from understanding the real record of accomplishment of this Congress and of the President. And the truth sometimes is inescapable, even considering the power of negative media and advertisements. As Bobby Kennedy said, "It is the truth that sets us free."

The truth, Madam President, is that the record is inescapable on what has happened to this Congress and this Senate because of filibusters, obstructionism, and gridlock. And I know that some of my colleagues on other side of the aisle have raised this issue in caucuses and are nervous about the potential of this strategy because that is what it is—a conscious Republican strategy to benefit their party at the expense of the people. It is a strategy to forsake America just to impact the elections so that one political party can win; not so that America can win, not so that kids in our schools can win, not so that people who are subjected to violence in too many communities can win, but that one side, one party, can win.

And as we all know, one party has become particularly adept at holding onto the White House; one party always has a White House strategy. That, to them, is the only prize—not a good piece of legislation, not something better for the country, not to change something, improve something, to better the way we provide services, not to reduce the size of Government; but simply the ability to be able to destroy a sitting President and win back the White House.

Let the truth speak for itself. In 34 Congresses, from 1919 until 1986, there were a total of 217 votes on cloture motions. That is an average of three per year. From 1919 until 1986, an average of approximately three per year. Between 1987—when the politics of this country began to radically change in the 1980's—and 1992, there were 115 votes on cloture motions, which is an average of 19 votes per year. Suddenly, a meteoric rise in filibusters.

In the 100th Congress, there were 43 votes on cloture motions. In the 101st, there were 24; in the 102d, 48. And now we come to the grand 103d session. In the the 103d, there have been 72 cloture motions filed and 41 recorded cloture votes. A grand record number of cloture votes and cloture motions, a proud, recordbreaking amount of obstructionism.

What does that mean? What does it mean to an American when you translate that into what really goes on around here? It means that campaign finance reform, the effort to get the money out of American politics, was killed by filibuster. I will agree with my colleagues, sure, there were some problems in the bill. But Republicans didn't even let us get to a conference committee where you are supposed to work these problems out. They prevented the U.S. Senate from even doing its basic work of reaching a compromise. They simply killed it by filibuster.

The huge number of filibusters mean that health care dies. Stall tactics killed the Telecommunications Act. I serve on the Commerce Committee, and I know the effort Senator HOLLINGS, Senator DANFORTH, Senator PACKWOOD, and others—a bipartisan group—put into the effort to get a telecommunications bill. And we did it with good reason, because the communications industry is going crazy in development. This country has cable, video, and telephone systems, all of them struggling to be able to compete in an increasingly competitive world, and they are forced to operate under a system designed 60 years ago.

So you have a bipartisan bill that came out of committee, that came out of committee with a bipartisan vote of 18 to 2. It would have passed on the floor of the Senate. But at the last minute, in order to prevent another success, in order to stop another change, another piece of progress, it was killed by a demand for changes that were so onerous and contrary to the compromise that had been worked out, it augured filibuster. So it was a silent filibuster in effect. We never even had to file a cloture motion. It was just killed.

The clean water reauthorization. And the lobbying disclosure bill. We just had another vote on that here today. The Senator from Delaware was absolutely correct. I hope Americans will measure what those who stop things have accomplished versus what those who want to change things accomplish. Some people in the U.S. Senate—the majority until just recently—felt that in order to establish trust with the American people, it was our obligation to try to reduce the perception that everybody around here can get a free gift, free tickets, free everything simply because we are Senators and we vote on legislation. So there was a feeling that to try to reestablish trust that ought to be eliminated. But what happens?

There appears a phony kind of grassroots movement at the last moment, because some people just did not want a good bill to pass. So now, America, this system continues even though everybody in the country knows it stinks. So I hope, as the Senator from Delaware said, people will measure who is responsible for that.

The Safe Drinking Water Act. Most people here don't want our kids drinking lead or toxics and chemicals that seep into our drinking water. We want to do something about the quality of drinking water and continue helping communities that are hard pressed to be able to afford clean water. But, no, that too was killed.

Maritime reform. We are losing our maritime industry. We desperately need to help our ships, to keep them flying American flags, and keep shipbuilders in business in America. This is good for our future. But a few Republicans didn't care, so they killed it. It is not as if they came in and said: Hey, let's work this out. Here is a compromise, or here is a problem in your legislation that really makes a difference to my community, and if we were to approach it this way or that way—that is the normal thing you're supposed to do around here. But normality is not the order of the day here.

I have said it before and I say it again: There is a scorched Earth policy underway to try to prevent anything from happening in Congress so that the Congress will look bad so that, hopefully, the Republicans will be the beneficiaries, because they can go out to the country and they can say: You see, those Democrats are in the majority and they cannot run the show. Frankly, Republicans get away with this strategy because America does not understand that you have seven different cloture opportunities just to get one piece of legislation through here. And America does not understand that it takes 60 votes in order to break the logjam every time—not just a majority, which the Democrats have; not just 51, which the Democrats have—America just doesn't understand that a very few people can kill any bill in the Chamber. And Republicans can make people look silly and foul the whole process up and go out and claim victory.

The Roman historian Tacitus wrote about this when Carthage was pillaged. He said: "You know, they made a desert and they called it peace."

That is what is happening here—just ravaging this process, and when it is finished, we are going to call it peace, constructive, or something positive. I think America knows differently, I really do. I trust that and I hope it is true.

Let me tell you the other reason why the Senator from Texas spent so much time on health care. The Senator from Texas is the same Senator who came to the floor and told America that the Omnibus Budget Reconciliation Act—the budget, as we know it, or as Americans know it—was going to cost Americans jobs, put us into a depression, and was not going to lower the deficit, and was one of the worst economic programs in history. That is the same person America just heard telling you about gridlock. What is the truth of what happened when we passed the budget?

Well, they do not want to tell you, America, that for the first time in 3 years the deficit of the United States of America is going down, and this is the first time since Harry Truman was President of the United States that

you can say that in America. They do not want to tell you that.

So the Senator from Texas comes out here and he talks about health care. Republicans do not want to tell you what a great success it was for the President to pass NAFTA, to pass the Brady bill, to pass the crime bill, to pass interstate banking, to pass the Community Development Financial Institutions Act, to pass an increase in student loans, to get Goals 2000 through here so we finally begin to elevate the standards of our schools, to get the Elementary and Secondary Education Act through here so we are finally going to redress the impoverishment of many of our inner cities and try to equalize education for kids in America.

We hear a lot of talk about values from the very people who are stopping these very programs from going through here, and they just do not want to acknowledge to Americans that values are not transferred by rhetoric, values are not transferred by political party platforms, values are not transferred by speeches on the floor of the U.S. Senate. Values are taught. Values and morals are passed on by teachers in one form or another, a teacher as a parent, a teacher as a Sunday school instructor or synagogue instructor, a teacher in the context of life in a boys and girls school.

And our friends have filibustered us on every single effort, including the crime bill, that tries to deal with those kinds of problems, that tries to avoid rhetoric and instead to provide opportunities for kids to have prolonged exposure to responsible adults with values.

So, Madam President, that is why they talk about health care. I think, as the Senator from Delaware said, they have adopted a very, very dangerous strategy indeed, if not dangerous for them personally or politically or for a party, certainly dangerous for the country, because the bottom line is that we are on the same path today as a consequence of this avoidance of decisionmaking as we were a number of years ago when everything was avoidance and we were having happy talk for politics and no effort to try to choose a realistic set of choices for the problems of this country.

I am like my colleague from Delaware; I did not sign onto a health care bill. I thought there were problems in most of them. But I certainly was willing to sit down at anybody's table at any time to work them out. And the record is also very clear about the number of times the President of the United States met with our friends on the other side of the aisle, the number of times that Hillary Rodham Clinton met with the leadership or individually with Senators on the other side of the aisle. And every time Democrats got closer, Republicans moved away, moving away even from the very legislation that they themselves had introduced and had at one time championed.

So I think the record is about as clear as you can make a record. But for some reason it does not get through very easily in this country today.

The fact is we have created more jobs in the last 2 years than were created in the entire Bush administration. Republicans do not like to talk about that. The fact is that the deficit of this country has gone from 4.5 percent of gross domestic product down to 2.4 percent, one-half. They do not like to talk about that. The fact is that inflation remains low, unemployment is coming down, and we are on a deficit-reduction line. They do not want to talk about that.

Then you look at the record of their avoidance—filibustering the crime bill; filibustering the national service bill to put young people to work for their country; filibustering the Family and Medical Leave Act which we finally passed; filibustering the motor-voter bill, which we finally passed; trying to stop the Interior appropriations bill, which protects parks and forests, which we passed; trying to kill the Brady bill which makes it tougher for criminals to buy a gun; trying to halt the assault weapons ban which the distinguished Presiding Officer, the Senator from California, fought so hard and offered leadership here to get through. They filibustered that, too.

So America has a choice, and my prayer is that the truth is going to begin to get out in this country and people will begin to understand what the real choices are, and I hope in the next 4 weeks of this election people will really tell the true story of what has happened in the U.S. Senate in the course of this Congress.

I am not suggesting that there is not culpability to go around on some of the issues. There was procrastination in the House of Representatives. There was procrastination on our side of the aisle for months about proceeding forward with campaign finance reform. So there is certainly a share of blame to spread there, and there have been other individualistic efforts and lack of cohesion that we can certainly take some credit for.

But the bottom line is this: almost every Senator on this side of the aisle certainly is prepared to vote today, now, and usually has been prepared to vote almost immediately on most measures—not always, but usually. But on the other side, they'd rather make us look bad than vote on anything.

It is clear to me that if we do not break this process and prove to Americans we are willing to be adults and act a little more maturely in this process and come together and look for a larger legislative product and not just a political one, we are all going to suffer the results as a consequence.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

DEDUCTION FOR HEALTH CARE INSURANCE

Mr. DORGAN. Madam President, I wanted to make a couple of observations on this subject that has just been discussed, but I came to the floor really to discuss a colloquy that is being put in the RECORD between myself and Senator MOYNIHAN.

One of the issues that is left unresolved in this Congress is the tax deduction for health insurance costs for sole proprietors and other self-employed individuals in this country. Until last year, they were allowed to deduct 25-percent of their health insurance costs. Yet, across the street an incorporated business can deduct 100 percent of their health costs. In fact, the 25-percent deduction for the self-employed expired December 31, 1993, and must be extended. In my judgment, it must be increased to 100 percent.

Fairness would dictate that for every farmer, rancher, and self-employed small business owner in America be allowed to deduct 100 percent of their health costs just as large corporations are now allowed to do. To do otherwise, is a disincentive for them to acquire health coverage and is moving us in exactly the wrong direction.

This Congress will not have extended the 25-percent health insurance tax deduction. The chairman of the Finance Committee has indicated, in a colloquy that will be in the RECORD, the following. He said:

> I intend to work expeditiously next year to bring legislation to the Senate floor that would extend, on a retroactive basis, the 25-percent health insurance tax deduction that expired on December 31, 1993. In other words, I intend to make sure that the legislation reaches back to protect the deduction for all of 1993.

He continued:

> We have been working to solve the tax inequity for self-employed individuals for many years. The Finance Committee passed a bill in July of this year that would have raised the deduction from 25 percent to 100 percent of the health insurance costs of the self-employed. That continues to be my goal.

The chairman of the Finance Committee continues to say:

> Early next year I will work to reinstate the 25-percent deduction as a starting point to getting the full deduction for these costs.

"I consider this an urgent priority," he said. And he says "I want Senator DORGAN to know that I support the 25-percent deduction and support expanding it to 100 percent."

The reason this is important to say at this point is as Congress adjourns without extending this, small businesses should know, farmers should know, and self-employed individuals should know that the Congress will, in my judgment, and will at least by the commitment of the chairman of the

Senate Finance Committee, extend the 25-percent health insurance tax deduction retroactively back to January 1, 1994.

We need to do much more than that. This needs to be a 100-percent deduction. A health insurance deduction for the self-employed should be identical to the health insurance deduction for the incorporated businesses in this country and this must be a priority.

This is not some idle issue or unimportant issue. This is an issue about health care coverage for farmers and unincorporated businesses and the current disincentive for them to have that coverage; and we must not only extend the 25 percent, we must extend that to 100 percent permanently.

RESTORING THE 25-PERCENT HEALTH INSURANCE TAX DEDUCTION FOR THE SELF-EMPLOYED

Mr. DORGAN. Madam President, I would like to make a statement and ask the distinguished chairman of the Finance Committee a question regarding the 25-percent tax deduction for the health insurance costs of the self-employed.

I believe that saving and expanding the 25-percent deduction is critical to small business owners who conduct their businesses as sole proprietors. Their competitors, who are organized as C corporations, are still able to take advantage of full, 100 percent deductibility of these same health expenditures.

The health of a farm family or small business owner is no less important than the health of the president of a large corporation, and the Internal Revenue Code should reflect this simple fact. We cannot afford to wait while Washington debates broader health care reform to save this provision.

The outcry from small businesses will be deafening next April unless we move quickly next year to extend this provision. It is indefensible that our tax laws tell some businesses that they can deduct 100 percent of their health costs, while others, mostly smaller businesses, are told they can deduct none of their health care costs.

Madam President, my question to the distinguished chairman of the Finance Committee is: Are you prepared to work quickly next year to reinstate the health insurance tax deduction for our farmers, ranchers and other self-employed business owners.

Mr. MOYNIHAN. Madam President, I am pleased to assure the Senator from North Dakota that I intend to work expeditiously next year to bring legislation to the Senate floor that would extend, on a retroactive basis, the 25-percent health insurance tax deduction that expired on December 31, 1993. In other words, I intend to make sure that the legislation reaches back to protect the deduction for all of 1993.

We have been working to solve the tax inequity for self-employed individuals for many years. The Finance Committee passed a bill in July of this year that would have raised the deduction from 25 to 100 percent of the health insurance costs of the self-employed. That continues to be my goal. Early next year I will work to reinstate the 25-percent deduction as a starting point to getting a full deduction for these costs.

I consider this an urgent priority. I want Senator DORGAN to know that I support the 25-percent deduction and I support expanding it to 100 percent.

ON THE ISSUE OF GRIDLOCK

Mr. DORGAN. Madam President, I want to make a couple observations about what has just been discussed.

I, too, listened to my friend, the Senator from Texas, and I am always interested and sometimes probably even often entertained by the Senator from Texas. He certainly does not pull any punches. I sometimes think this is a rehearsal. These discussions on the floor of the Senate are sort of a rehearsal for a wider audience that he will take on the road in New Hampshire or Iowa, or wherever he may travel, and they are always interesting, always interesting discussions.

The thing that bothers me, the thing that continues to bother me is the caricature of those discussions about us as a political body and about politicians, especially politicians on the Democratic side of the aisle.

The suggestion is, and a frontal suggestion, that those on this side of the aisle and, incidentally, the occupant of the White House, have really a couple of goals. One, get as much money as you can from people in the form of taxes because Democrats like to do that, he seems to assert, and then spend it and preferably spend it unwisely if you get half a chance.

That is the caricature that is given by the Senator from Texas. He knows better than that.

Last year, we had a vote here in the U.S. Senate. It was a vote on a budget. It prevailed by one vote—one. It was not an easy vote. In fact, not one Member of the minority in the Senate voted yes—not even one. The vote was to try to reduce the Federal budget deficit, because we are mortgaging our kids' future. We are $4.5 trillion in debt. It is ratcheting up, largely because of health care, of course, and a number of other things.

The question is, are we going to do something? Are we going to try to deal with this deficit problem?

So constructed was a budget package that did a lot of things, some of them very unpopular. Yes, it raised some taxes, it raised gasoline taxes, did a number of things to cut some spending, for example, in areas that were not very popular. But in that combination of budget proposals, in taxes and spending, were some very tough choices.

Now, I wonder if the Senator from Texas or others thought it would be fun for anybody to vote yes for that. No. I would think everybody here would sooner vote against anything that is as difficult to swallow as were some of those proposals. But the question that confronted us was not: Is this a tough vote? Of course, it is a tough vote. The question is, are we going to do something? Are we going to address this deficit or not?

Yes, the possible judgment and, incidentally, the political judgment would have been for every single one of us to say, "Not me. I'm sorry. Just count me out. I can find two dozen things I don't like about this, so I vote no. And I will be popular back home. Nobody likes taxes. They do not like the deficit, but increased taxes, no one would want that. They want all the spending. So just count me out. I'm not going to vote for this sort of thing."

But enough people, fortunately, voted for that package to reduce the deficit and it passed. And the deficit was reduced not by a little, but by a lot. That deficit is coming down.

Now, did we do the right thing? Well, I think we did. Was it the popular thing? Of course not. Can we be attacked for it? I suppose.

I mean, that is what politics has become these days—draw a caricature, say those who voted for that are people who are gleeful at raising taxes or who love to take from the taxpayers and spend on some nonsensical thing. That is a caricature that I reject.

I did not get involved in public service because I want to have public debates that were thoughtless. I mean, there are plenty of things that we can debate in a thoughtful way between people here of differing philosophies and probably could come to a conclusion that strengthens the sides that are represented in the debate on both sides. But instead, we tend to lower the bar and lower the standard lower and lower and lower and lower.

In fact, I have mentioned on the floor before and I think I will mention again, there is one set of instructions that has been spread around Capitol Hill here by a prominent politician on Capitol Hill that says:

> Here is an instruction manual on how you should be involved in politics. When you talk about your opponent, use these words—these are the words you ought to use—use "liar." Use "pathetic." Use the word "sick." Yes, even use the word "treason."

And the list goes on and on and on. I am serious. I could bring it to the floor and read the whole thing. That is what politics, unfortunately, for some has become.

It is kind of a wrecking crew operation. Anybody that has ever watched a building crew and a wrecking crew knows that it takes eminently more skill to construct than it does to tear down. It takes more time, more skill.

And, it seems to me, the same is true in politics. The easiest thing in the world is to oppose and to obstruct.

Now this country faces some enormous challenges. We have accomplished some significant things in this country's history, but we face now some enormous challenges, as well.

It seems to me that we can dwell on the negative. And I certainly have talked about the negative in this country—23,000 murders, murder capital of the world; cocaine capital of the world; 110,000 rapes every year; 1.1 million aggravated assaults; one-quarter million babies born every year without a father; we have 9 million people out of work; we have 25 million people on food stamps; we have 40 million people living in poverty. I mean, we could talk about some pretty tough statistics about where this country is and all that relates to human misery.

It seems to me we can also talk in these contexts about what we can do together to try to address some of these things.

The fact is, some things that are wrong in this country cannot be addressed in the Congress, cannot be solved by Government, can only be solved at home, can only be solved by parents, and can only be solved in the neighborhood and in the community by people who care. So some things we cannot do much about.

And the American people who complain about those things have to decide that this is a matter of self-responsibility. We have to roll up our own sleeves and look in our own home and our own neighborhoods and figure out how they can help themselves.

There are other things that we can and we must address. Does anyone think that our education system is just fine? It is not fine. We have enormous challenges. The question is not whether, the question is how do we fix them.

Does anybody here really believe that our health care system is just fine the way it is? Well, if you believe that, then you also believe we ought to have a higher Federal deficit because, I guarantee you, next year the Federal deficit will be higher than this year—well, not next year.

My point is, health care spending as a part of the Federal budget will be higher than this year, not because some here said let us charge more for health care but because health care prices are rising and rising too fast and it costs not just us, not just the Federal Government, not just Medicaid and Medicare, not just State governments, but especially the American family and especially businesses, more and more and more for health care.

Now if we say that does not matter, that is one thing. Then let us do nothing. But if we believe it matters, if we believe it matters that this is going to increase Federal spending and put the pressure on the family structure, then let us try to construct a method by which we achieve quality health care and try to control in some responsible way the costs.

You know, it is interesting, when you look at health care, with the combination of disgruntlement these days about Government and the disconnection in our country with Government. I was in a town meeting one time and a fellow who was there was just awfully crabby. Nothing was right. He hated Government; the Government was awful. He was in his mid-seventies, I guess. During the whole town meeting, he was berating Government—Government was spending too much; the Government is just a wasteful spending institution.

Then I discovered this fellow had recently had open heart surgery, paid for with Medicare. I am thinking to myself: how was there a disconnect here? How would a person that just went through open heart surgery, paid for by Medicare, think that the program, which was a Government program, was such an awful system?

Is there not some connection by which we can look thoughtfully at these things and decide that, you know, there are some things we do well, let us keep doing them; some things we can do better, let us improve them.

But the point that I wanted to make that I think the Senator from Delaware and the Senator from Massachusetts have made better than I is that you really face a couple of choices. You can decide that none of these things matter.

Crime. Does anyone think that we do not have a problem with crime? The debate really ought to be over the solution, not whether there is a problem. Crime and schools and a whole range of those issues.

The question is not whether we do something in these areas. The question is, what do we do?

And what we have is a circumstance today where some people feel very self-fulfilled by virtue of being able to prevent anybody from doing anything, and then blaming later the institution because nothing got done. It might be self-fulfilling for some but it is very frustrating for others who feel we should make some progress.

I come from a town of about 300 people. In my hometown, like the hometown of virtually everyone here, we had some folks who would sit around and play cards every day. They were retired, and basically were commentators on what was going on in town, and also critics of what was going on in town, and, really, never wanted to do very much of anything. Every time somebody else would start something, they would look at it and say, "Oh, look at those people over there. This makes no sense."

While they were playing cards and criticizing all the things that were going on in town, the other folks in town were rolling up their sleeves and paving the main streets and doing the things that were important to do to build our hometown. I tell you, this institution is not very much different than my hometown. There are some powerful influences here who kind of like to sit around and bring everything to a halt. There are some others who get a lot done—probably too much, in some cases. And there maybe is a broad middle in which we ought to decide there is a whole range of good ideas between both sides of this aisle, and instead of preventing either from winning we ought to get the best of what each can give. Somehow, we just miss that connection.

I understand some others want to speak and are probably waiting for other business. Let me just finish by telling a story about one of the folks I served with in the U.S. House of Representatives that my colleagues will remember, a fellow named Claude Pepper. Claude was a wonderful man in a lot of ways. He served in the Senate and then served in the House. Claude was in his eighties when, one day, outside of the Cannon Office Building, he and Congressman JIMMY HAYES, who still serves over in the House, were standing visiting. And this fellow in his eighties, Congressman Pepper, and young JIMMY HAYES, a freshman Congressman, were just talking and apparently a Boy Scout leader with several scouts bustled up the sidewalk. He did not know who these two fellows were, and he stopped and said say, "Could you tell me where the Jefferson Monument is?"

Claude says, "Why, of course. You go right across the Capitol Plaza to the building with the flag on top and then go down one block to the second building, it will be right there."

And young JIMMY HAYES, freshman Congressman, after the Boy Scout leader profusely thanked them and rustled off with his Boy Scouts in tow, JIMMY looked with sort of a strange look on his face at Claude Pepper, this 84-year-old Congressman.

Claude said, "JIMMY, I see you think I have sent them in the wrong direction. I see you think that I have given them bad directions."

He said, "You know, that fellow asked where the Jefferson Monument was. Of course I know the Jefferson Memorial is down near the 14th Street Bridge, everyone knows that. He was asking where the Jefferson Monument was. Of course, Jefferson was not in the United States when the U.S. Constitution was written, he was in Europe, but he contributed much through writings, especially to the principle of the Bill of Rights and especially the principle of free speech."

He said, "I figured if they wanted to see a monument to Jefferson this morning, I would send them over to the

front of the Dirksen Building where there is a demonstration going on on the subject of abortion. Nowhere is there a better monument to free speech in Washington, DC than that monument to Jefferson's work."

All of us revere the ability of free speech and free exchange of ideas and the kind of political combat that we do on the floor of the Senate, the House, and in this country in elections. But I do worry, as others have suggested, that the engine of disaffection runs so deep and is so relentless these days, and the new language of politics crosses a threshold that is lower than in the past. And it does fray, I think, the trust of representative government.

One day, one way, soon we need to decide how we construct together the kinds of real solutions that address the real problems that people in this country know exist and know threaten their future. When we do that, I think we will once again restore trust. But as we do that, all of us, Republicans and Democrats, need to start using the language of debate that is thoughtful rather than thoughtless, and encouraging our constituents to do the same.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. REID). The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, this is one of the more successful beginnings of a filibuster in my experience. Those of us who have an opposition to the bill in front of us have now spent a little better than 2 hours without hearing a word spoken on it—other than a peripheral patter from time to time from the Senator from Delaware. What we have heard is all the evening news speeches. All the politics are coming out. Certainly, I do not have any objection to all the politics. But it is interesting, one thing keeps raining in on me is I cannot figure out what it is that is on the Democratic Party's mind. Half the time you hear monumental speeches of all the successes of this Congress. They prattle on about NAFTA and the crime bill and everything else. The other half of the time you would think nothing had happened.

What is most interesting, I think, from the standpoint of the evening news, is that what has not happened may be more beneficial to Americans than what has happened. Nobody will know that until time proves it. But I would just say, those who have been prattling on cannot have it both ways. It either was a good Congress or it was not a good Congress; it was not both a good one and a bad one.

I think I also heard the Senator from Delaware make mention of the fact that the purpose of this filibuster was to make Congress look bad. I have not found that to be a challenge that anybody in the Senate had to rise to.

Let us, though, pay some attention to the issue before us. It has been said that the reason for the opposition to it is, somehow or another, a political argument that must be settled against the Senator from California. If it is the cause for some, it is not the cause of the Senator from Wyoming. It is of no concern to me that a bill of this nature costs jobs in the Senator from California's State. It is no concern to me that 12 percent of her State ends up in a no use land classification. And it is no concern to me that 15 percent of her State ends up in restricted use. That is an issue for California, and that does not trouble me.

What is not an issue for California, but is an issue for me, is what this does to the National Park Service and the National Park System. I have said before, there is not a Senator in here who would admit to reducing the budget of any park in America. There is not a Senator in here who would admit to reducing the personnel of the park system and the parks in America. Yet, practically speaking, there is not a Senator in here who has not done just that by adding parks without adding resources—but with obligations beyond comprehension and condemnations of private property beyond comprehension. And with chores for the National Park Service for which it has no resources whatsoever to deal with—just new tasks. New tasks.

Here we are considering putting in a park that is twice the size of Yellowstone Park without putting in the necessary resources. The Senator from California is saying that money is being assigned to it—but, from what? And she says personnel are being assigned to it—but from where?

The Secretary of the Interior, who goes around the country boasting of his commitment to the parks and the environment and everything else, stands in California and looks out over the ocean and says, "Before I leave as the Secretary, I am going to put another $4 billion worth of land at Point Reyes National Seashore into the park system."

In the land to be added to the park system in this bill is the property of a number of Americans whose property titles will be clouded for the rest of their living days because there is not money to take their land and pay for it. So we just take it by putting it under park management, and by making it certain that there are no other options available for that land. And we have done it all over America. In fact we even passed a law requiring the Park Service to come in and report to us their priorities. We asked them what they thought was the outstanding debt of America to buy from Americans that which we have placed in the hands of the National Park Service.

And this administration blithely ignores the law. They did not reply last Congress when we were doing the energy bill and they did not follow it this Congress. They refuse to give us this information. When I came to the Senate, the backlog was said to be around $2 billion. And every year for 18 years we have added and added and added to the backlog of Americans whose property has been put into the park system but for whom no money has been set aside.

Uncle Sam has become the worst kind of neighbor. And those of us who come from land backgrounds—I come from a ranching background—know precisely what kind of a neighbor that is. That is a land hungry, money grubbing neighbor who sees land and acquires it and leaves it for his neighbors to fix the fences and leaves his neighbors to look after his livestock because they do not have money enough to keep up their buildings or keep up their fences.

They just acquire more and more land. But in the instance of Uncle Sam, it is worse yet. Uncle Sam takes the land and does not pay for it. All over this country, there are backlogs. That figure must now be close to $6 billion or $7 billion worth of Americans' lands that have been put in the parks for which no money has been set aside and for which no intention to pay has ever been exhibited.

This is not the kind of country that I thought we grew up in. Most of us do not believe that it is the appropriate thing for the Government of the United States to condemn people's property and then not pay for it. We have no money to do it, even if we wanted to.

In this bill before us, I think the figure is something in the neighborhood of 500,000 acres of private and State land. Some of this will be traded for other public land in California. The most important of the private landowners will be accommodated, but the little people will not be. Those titles are going to be clouded. They will try to sell a piece of property. And the reason people will do it is because they cannot do anything with their own property. The Park Service will come along and deny them the ability to build on it or change the use of it or do anything else because it will spoil the park.

The people will say, "Pay me," and the reply will be there is no money. Who can they sell it to? Nobody. But they have the privilege of paying taxes to the Government of the United States and to the State of California on property whose use has been absolutely squeezed down to its current, present use. Notwithstanding the fact that somebody may be going broke, notwithstanding the fact that somebody may have another idea as to how to use it, notwithstanding all of these things, that is going to be taken from them.

The impact of S. 21 on the integrity of the National Park System is substantial. The bill increases the National Park System by over 4 million

acres without, as I said, any new funding for these additions.

Put in simple terms, the legislation adds the equivalent of two new Yellowstone National Parks to the system and pays for it by taking away from each of the other 367 units of the National Park System.

My State of Wyoming has the original national park, Yellowstone. This country has allowed the rangeland in Yellowstone Park to degrade due to overgrazing by wildlife to where it is in essentially the worst condition of any rangeland in the State. This country allows the rangers in this National Park to spend their winters there helping and protecting Americans and guiding them to their enjoyment in temporary summer housing. This country has allowed the road system of that park to degrade to such a point where $300 million is essential, not to improve the roads but just to bring them up to standard. No new roads, no road expansions, nothing else.

This country has allowed that and it has done it in Yosemite and it has done it in the Redwoods, and it has done it at Point Reyes, so they want more. It has done it in Chattahoochee, in Indiana Dunes, up here on Skyline Drive, and it has done it, and done it, and done it. And it is allowing, day after day, each of these parks of this great system to degrade.

But does that stop its appetite for new parks? Certainly not. Does that stop the appetite of Members of the Senate for new parks? Certainly not. Everybody professes their admiration for the National Park System, and so they put in things that are of political satisfaction, but they have nothing but detrimental effects on the American National Park System.

Mr. President, you could not get a Senator to stand up in this body and say, "I advocate reduction of the funds for any park in America." "I advocate a reduction in the personnel of the parks in America." But that is what they are doing, and that is what the Senator from California is doing, and that is what the Secretary of Interior is doing, who not only did not request enough money to even fund the pension obligations of the National Park System, but is taking 3,700 people out of the National Park Service, curiously enough, I think over 700 of which are going into the Office of the Secretary.

It is clear the bureaucracy of the Department of Interior is more important to him than the parks of America. But my point is this: Here we have an enormous new park with no funds and no personnel.

I know that the two Senators from California would wage a battle royal on this floor if there was legislation to reduce the funding or the number of rangers at Yosemite or Point Reyes or Santa Monica. I know that they would tell the papers and the press in their States that they would not do that, but they are. That is precisely what they are doing.

Mr. President, we all know that there is no new money for this park and there are no new ranger positions. In order to maintain and operate the equivalent of two new Yellowstones, other parks in the system will be raided to fund and operate them.

The alternative—and there is one—is to let the California desert lands remain under BLM management, where they are currently under protective management, a plan created by a negotiated settlement with the environmentalists, the users, and the land managers of America, for which the environmentalists only a couple of years ago stood and patted themselves on the back for its completeness and ingenuity and its success.

So the BLM has it in its budget. They are talking about transferring personnel. But that does not answer the problems that are created by this park. California environmentalists were so proud of themselves. They praised themselves in the Los Angeles Times; they praised themselves on television; they praised themselves in their magazines. They said that this was the means by which the desert would be and could be adequately protected in its great beauty.

They now have forgotten that. They now refuse to admit that they once had in mind a plan that worked, and still works. Had it not worked, it would not even have been possible to consider this for park status. Had it been abused and had it been threatened, it would not have been in condition to be considered for this status.

According to the National Park Service itself, in its 1992 self-appraisal called the Vale Agenda, Park Service employees concluded, and I quote:

> There is a wide and discouraging gap between the Service's potential and its current state, and the Service has arrived at a crossroads in its history.

That was 1992. That crossroads in its history is that since 1992, the Senate of the United States and the Energy and Natural Resources Committee and Senators and Members of the House of Representatives have been adding, and adding, and adding, obligations in the form of new parks, and new acreage, and new dimensions, and new interpretive requirements, and new building requirements, to the inventory of America's national parks.

It was just reported the other day that the famous old fighting ship, the U.S.S. *Constitution*, now under the care of the National Park Service, requires another $25 million in repairs to prevent it from sinking. Can you believe, Mr. President; to prevent it from sinking. This is the kind of care that America gives its park assets.

From the Grand Canyon to Acadia, back across the country to the 22 existing parks in California; infrastructure decay, accelerated by deferred maintenance, is clearly punishing not only the park system's roads but its trails, its septic systems, its employees' housing and its visitors' facilities as well, and Americans deserve better.

The Congressman from Minnesota has determined, in his wisdom, that there is no need to provide ranger housing, and because the bill contains my name, he is holding it up, punishing not the Senator from Wyoming, who is leaving the Senate with certain tacit regret, but punishing the rangers, the personnel of the park system. And that is what this bill does, too. That is what the Senators from California are doing, too. They are punishing the rangers and they are degrading the system of America's national parks.

According to the most recent edition of the National Geographic, the superintendent of Great Smokey Mountains speaks of the park's 800 miles of erodible back country trails. "We just can't keep up with it," but we can add new parks with new trails that will have to be maintained and kept up, new roads that will have to be maintained and kept up, and new obligations for personnel and new buildings and new interpretive centers and other things when we cannot keep up with 800 miles of trails in the Great Smokies.

The superintendent at Sleepy Bear Dunes states in the same article, "We have scores of 19th century buildings here and they're all just moldering into the ground." But we can add a new park, twice the size of Yellowstone.

Mr. President, the U.S.S. *Constitution*, the Great Smokey Mountains, Sleeping Bear Dunes, none of these is unique. The problem is nationwide. According to GAO, 60 percent of National Park Service housing, employee housing, needs repair at an estimated cost of $500 million. And we do not have it. But we are saying here that we have money enough for a new park, and we have money enough to load new obligations.

Now, if we cannot properly house rangers in the parks that we have because we do not have the money, how is it possible to stand here in any kind of good conscience and authorize millions of dollars for a new park? It is not right. Our priorities are completely out of order. The political benefit is what is sought and not the benefit to the park system of America.

According to information supplied to Congress by the National Park Service, the agency currently faces a 37-year backlog in construction funding and a 25-year backlog for land acquisition. But according to this bill, we have money enough to require 500,000 additional acres of private lands to be acquired and enough for a new park to be established. This is when that park is already under competent, negotiated management. Thirty-seven years backlog of funding, but we have money

enough to do this. Twenty-five years to acquire Americans' lands that we have condemned for our personal privileges to their detriment, but we have money enough and time enough to add to that backlog.

Mr. President, it is disgraceful. And no one argues, certainly not this Senator, that the cost of existing infrastructure repair is literally in the billions of dollars while the cost of authorized but unacquired land acquisition seems to mimic the national debt.

This bill adds another 500,000 acres to the list of the private property that the Federal Government must acquire. We do not have money enough to buy it from Americans who have been condemned to live in that State.

I see my friend and colleague from the Energy Committee here. We have talked about this problem, but we have done nothing.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. WALLOP. I will be happy to yield for a question.

Mr. JOHNSTON. Mr. President, I simply want to say, although the Senator from Wyoming and I happen to disagree on this particular bill, we do agree very much with one of the points that the Senator from Wyoming is strongly making, and that is that the National Park Service is being starved in its revenues; that we are, indeed, adding additional burdens on the Park Service and are not, in fact, giving the Park Service the sustenance, the increases which they need.

I would simply like to say to the Senator from Wyoming, who is, of course, my dear friend and for whom I have the highest regard, and whose service in this Senate, I think, has been really exemplary for this country, for what he has produced, for what he has done—and he knows I feel that way—I would simply like to say his point is a proper one. It is not a new one. It is not a point that he makes for the first time on this Desert Protection Act. He has made the point repeatedly not just in this Congress but in previous Congresses, and I hope, as he goes into retirement in some new incarnation, in which I know he will be extremely successful, I hope upon his departure that in the next Congress we will find a way to deal with this problem.

As he knows, the solution which I have had in the past is to increase the revenue stream of the Park Service. I believe even in a time of short resources this country is big enough, strong enough, rich enough, and that its citizenry is in favor of increasing the resources for the Park Service, which is the solution not only I have—after all, it is a very small amount percentagewise of the Federal budget. It is on the order of one-tenth of 1 percent, as I recall, the amount of money going to the Park Service.

So I say to the Senator from Wyoming that I commend him for raising the issue of starving the parks. I commend him for being consistent in that concern. Not just on this Desert Protection Act, but on a host of other bills and in other years and in other Congresses he has raised that question.

So while I disagree with him on this Desert Protection Act, I very much agree with his point, and he has, I think, spurred and pricked the conscience of at least this Senator, and I think the whole Committee on Energy and Natural Resources.

I hope, having made this point so eloquently, so strongly, and so consistently, we will rise to the occasion and find a solution for it. I guess my question is, does the Senator not agree?

I guess that would be an unfair question because, really, what I have is a commendation for the Senator for the contribution he has made on this issue, as well as others in this Senate. So in this what I hope will be our last evening—I do not wish it to be the last day of the Senator's service because, as he knows, I would like for him to have stayed on in the Senate because of my regard for him personally and for what he has contributed to this Senate. But I hope that it will be the last day of our service other than the lame duck in this session, and so in what I hope will be his last day, I simply did not want the day to go by without giving my personal salute to the Senator from Wyoming for what he has done and to say that in the next Congress we will be aware of this issue.

Speaking at least for the senior Senator from Louisiana, we will search for solutions to this question of starvation of the Park Service in terms of revenues. Even if we created no new park in this Congress, that issue would be with us because we have already starved the Park Service. And I wish to tell the Senator from Wyoming I will be searching for ways to help solve that problem. And I know he knows that I am aware of that, and so I salute him for his service and for what he has done on this issue as well.

I thank the Senator for yielding.

Mr. WALLOP. Mr. President, I thank the Senator from Louisiana for pointing out—and I hope the Senator from California heard—that this is not a new issue with us. Nor have I singled out her park. I have stood in the breach over the course of half a dozen years on this issue.

My problem is that we have developed a fine stream of rhetoric but no priorities. If we honestly believe what the Senator from Louisiana said, we would not make it partisan. It is not threatened land. It is under good and competent management under an agreement that was negotiated by California environmentalists. We cannot gain the attention of this body if there is no penalty for proposing a park except that you have a few extra hours at the end of a closing session by the Senator from Wyoming, or somebody like that, and the rhetoric gets well placed and ever more eloquent to no avail, to no end.

I have been doing this for 16 of my 18 years, and since the backlog is 37 years, I have been here while half of that backlog has been developed. We have been doing it more and more in recent years because everybody seems to think that it is politically important for them to go home with a park.

I say to my friend from Louisiana, who would remember, that there have been a number of parks that were critical to people's reelection which we have authorized, and they get reelected—the Senator from Illinois, Mr. Percy, on the Illinois Canal and a couple of other ones come to mind. It has not been a great success as a tool. But it does not stop the erosion of the capacity of the Nation to deal with its problems. If this were terribly threatened, it would be a different story, but it is not. It is not threatened. It can be made a park anyway. The land is not going to go to Japan or Mexico or to Argentina. The land is there under a management plan that people have found sufficiently good to praise themselves and it innumerable times. They have said how good they were in the negotiation of it.

As I said, there is now another 500,000 acres that we have to acquire; that the Federal Government must acquire. But to add insult to injury, the House added yet another 6,000 acres of private property when they included the Bodie Bowl provisions in their version of it.

So, Mr. President, many of America's national parks are—many of them are—and indeed, the National Park Service itself is now in serious trouble. There is no money to repair or replace the broken pieces. There is certainly no money to add huge new units to the System without further raiding and in the process degrading the existing units.

This measure, many Senators may not realize, constitutes the largest land withdrawal since the Alaska National Interest Lands Conservation Act of 1980. If this becomes law, California will have the most wilderness ever designated in any State except Alaska. So much of California will be designated Federal parks and wilderness that there is not enough public land in that State left to trade off for the private inholdings created by this bill. There is not enough left, so much of it is condemned. And if there is not enough money and not enough land to trade, what will happen to the private property condemned by the Federal Government? They simply have to wait in line for the $3 billion to $4 billion to $6 billion backlog of authorized, but not acquired, inholdings throughout the Nation. And the private citizens of America will be the ones who wait while we and those with the political whimsy

create a park that is not necessary to protect it, and certainly is detrimental to the service to which it is added.

Our appetite for parks is absolutely boundless. But our stomach for paying for them is nonexistent. That is why the backlog grows every year. In addition to our refusing to pay, and in addition to our adding to the obligations, the price of land generally rises and we still do not do anything with it.

So to live up to its promise to restore the original vision of the parks which Congress makes routinely, annually—this is not the first time the Senator from Wyoming has been on the floor doing this—Congress needs to act in a responsible fashion, and it has not. And it will not.

California has a tremendous appetite for parks. We have yet to pay for Santa Monica Mountains National Recreation Area. Members of the California congressional delegation have legislation referred to here as the "Headwater bill," the buyout of private landowners in northern California to the tune of $1.5 billion. This is not the 500,000 acres that are new into this bill. This is yet another piece of California's desire to spend Americans' money to protect its land.

They have also introduced legislation which would extend Point Reyes National Seashore to Bodega Bay; cost, $4 billion. This is not the 500,000 acres that we have added. These are new acquisitions. These bills were introduced before we have even disposed of this very expensive piece of business.

It is not only irresponsible, Mr. President, it is outrageous. It is unfair to say that anybody has affection for or admiration for the National Park Service or System and do this. It is simply not honest to say that you have an affection for this kind of service and this kind of tradition in America, and then do this to it.

I am disturbed, I am even angry, that we are apparently willing to assist in the destruction—this body is about to—of what used to be described as the best National Park System in the world. It was the model for the world. It was designed and invented here. It was the place where the rest of the world visited. Now some of the parks we would rather not show because of the condition into which they have fallen.

Throughout my Senate career, I have been one of the strongest advocates for the System. There have been times when I have disagreed with certain actions taken by the Service because I have been supportive of the concept and the vision that was created back in 1872.

This year, I tried to worked with the Senators from California—sad to say, because of problems on their side of the aisle—in advancing the Presidio legislation, not because it adds a new park to an overburdened System, but because the legislation, with the cooperation of the Senator from California, as we wrote it, would reduce the expenditures that would have otherwise been required of the National Park Service and given us a model by which we might have traveled and to which we might yet travel in future years. But, unfortunately, this piece of legislation, S. 21, serves only to increase the National Park Service's expenditures of funds and increase demands on its personnel. But it does nothing to enhance the System.

I am further troubled by the fact that Secretary Babbitt, who explained to us during his confirmation hearing that he was going to listen to the professionals in the field, has not. When you ask the professionals in the field privately, they will tell you that the Park Service cannot afford legislation of this magnitude. The Secretary may be listening, but he does not hear. We have had that trouble with him in other instances. He has ignored the advice of his professionals.

The bill places the National Park Service in the position of managing a multiple-use unit. Think of that, managing a multiple-use unit. The park personnel are not prepared to do that. That is not their order. That is not their mission. That is not what they were trained to do. But in our rush to do this, we are providing them with a series of obligations that are not in any way consistent with the obligations of the National Park Service.

Given our experience in another Park Service-managed preserve, the Big Cypress Reserve, the Park Service has had just a terrible time. They are incompetent at managing such an area. They simply cannot philosophically adjust to multiple-use activities. In a way, there is no reason why they should, except that we are obliging them knowing that they cannot, and knowing it is inconsistent with the philosophy and mission of the National Park Service. The Secretary knows this. Secretary Babbitt knows this and has chosen to ignore the advice.

This legislation is unfortunate for the National Park Service, for the Bureau of Land Management and, I might say, for the people of California, who believe that being in a preserve will protect their property rights and lifestyles.

Mr. President, mark my words now: The opposite will be true. Every instance in which the National Park Service has had such a challenge, they have gone back on their word to America, every single instance. The National Park Service will impose all sorts of limits on the multiple-use activities. They always have. There is no instance in which they have not. The National Park Service does not like multiple use and, in fact, there is a growing cadre within them that does not like human use. It wants these all to be put into some sort of far-off viewing bowl. The limitation on the inholders will place the service—I promise you, Senators from California—in constant conflict with its neighbors, and they will have been placed in that conflict by this action.

The administration's agenda is clear, and only the users of the public lands will become endangered in this administration's war on the West. The California desert consists of about 12 million acres of public lands, of which more than 7 million—12 percent of California—will be made into parks and wilderness. Over 3 million other acres will be set aside as critical desert tortoise habitat, which leaves but 1 million acres available for multiple use activity. And over 25 percent of California will have constrained activity on it as a result of this legislation.

I have to ask the indulgence of my colleagues on all these acreage figures. The truth is that nobody knows how many acres are involved. We know that the totals are huge, even beyond simple comprehension. When my staff approached the majority and the California Senators' staffs for exact figures, they were told that the numbers might be available later but, for now, they were still adding them up. We have the bill on the floor, but they are still adding them up.

We do know that the 1 million acres is all that remains of multiple-use land, and those acres are not contiguous. They are scattered throughout the world of the desert. Most are surrounded by wilderness, making those parcels of land inaccessible anyway. Furthermore, thousands of miles of established roadways have been included in wilderness, and they will be closed. The people of California are thinking they are having protection, and they will find they are the ones that are protected out of the traditional uses that they thought they had and that they thought would be protected.

The Federal Government currently owns more than half the land in the 12 western States. Unfortunately, the actions taken by the Clinton administration have made it clear that the Federal Government is managing these lands for the specific political interest groups, with little regard for the legitimate interests of western citizens and their businesses.

The Secretary has said as much—that multiple use is a concept whose time has passed. The Secretary now believes that there are only two fundamental uses—wildlife and watershed. And America's citizens in the West be damned. As a result, our citizens in the western States have increasingly less control over the vast land areas that at the time of statehood were contemplated to be available as a source of their livelihoods. In effect, another 12

million acres will be added to the Federal Reserve if this legislation is enacted. I say this because this legislation takes so much of the five-county area into the most restrictive forms of Federal control that the whole area will be considered a Federal reserve. The people of Inyo, San Bernardino, Kern, Riverside, and Imperial Counties must be thrilled to death. The bill will withdraw over 8 million acres of land from any further mineral exploration and development, affecting the jobs and future economy of California forever—not for the moment, but forever.

While the senior Senator from California eliminated a few of the larger mining companies from getting entrapped in the wilderness, hundreds of other businesses were less fortunate. Golden Quail Resources, for example, is just one. According to their prospectus, they have proven reserves of approximately 200,000 ounces of gold, having a market value of $80 million—pretty small peanuts for the Secretary of the Interior. To date, they have spent over $3 million on their project, including over $200,000 in claim fees to the BLM. They also pay local taxes.

Mr. President, if this bill passes, that is all gone; it is simply taken from them—their investment, their resources, their ingenuity, and their future. The company has 2,000 American stockholders, 500 of whom are Californians. All of them invested in the project with certain ground rules, and now their Government is changing those rules to their detriment. That project will close. Their Government has walked out on its ground rules.

There are many other similar cases in the parade of horribles, and they all have the same bottom line. They will be out of business. After all, the California desert produces 97 percent of America's rare Earth metals—97 percent; 43 percent of the Nation's pumice; 11 percent of its gold; 100 percent of borates; 12 percent of the sand and gravel. The existing mineral rights that would have to be purchased by the United States runs into billions and billions of dollars. The 1992 Bureau of Mines study estimated that the value of 701 mines and mineral prospects in private ownership in the Mojave National Preserve alone is $7.7 billion. There are 10,000 mining claims in the Mojave. Each will have to be reviewed, evaluated, and resolved with the owner. At what cost?

It is not just California's business. It is the business of the taxpayers of the United States, I say to my friends, ordinarily knowing that the tradition of this body has been that when two people agree on the land use treatment of their State, the rest of us agree. And I would, but the rest of us are going to be faced with paying this bill and having our park systems taxed and our park personnel reduced.

So in enacting it, we would be handing the National Park Service a one-way ticket to further mediocrity, and sentencing thousands of private landowners to a generation of injustice. If we continue these ill-considered ideas, historians will look back at these days as the demise of this great park system and characterize it as the death by a thousand hugs, all of us professing our admiration and affection, each of us contributing to its demise.

It will be reported that everyone loved it and wanted more of it but would not and could not pay for it. No Senator will admit to having done that, but each Senator who supports this bill is guilty.

(Mr. MATHEWS assumed the chair.)

Mr. WALLOP. Mr. President, we are today discussing the California desert issue and its implications to public land emancipation and management. What do I mean by emancipation? I mean the realization that there is an overwhelming Federal influence in the West and the need to greatly limit the ponderous Federal influence on the West exists. We are not diminishing it, but we are adding to it should we pass this bill.

In the West today, we are faced with an administration that is reaching unprecedented levels of Government intervention into every single aspect of each of our lives, using the terms "ecosystems," "environmentalism" and "fair market value" as spears which they chuck at every perceived public resource management problem.

Increasingly, the role of the Federal Government has become one of ruling Americans, not serving them. They are the masters, and we have become their servants. And if you listen to the rhetoric of the Secretary of the Interior, you have to know that that is what is on his mind when he said "the worst mistake that this country ever made was giving the States control over their own waters." Guess what? Because if you control the water of California, or of Wyoming, or of any State, you control that economy and its people. They are subservient. And he wishes to have us be just that, subservient. The Secretary of the Interior wishes to be king of the West, the emperor of all of us that we have to pay to and say, "Can I have my water, sir? Can I use this piece of land, sir, for just one more day?

"No, I am sorry. We have a better use for it than your traditional use."

I do not often agree with the Clinton administration, nor its spokesmen, but no one has expressed the problem in a more articulate manner than the man who I just quoted, Secretary Babbitt.

But the quotes I am about to give now were when he was a Governor, when he actually was not the emperor but when he was one of us, before he assumed this mantle of power that is so heavily resting on his shoulders that he thinks he must control and rule us. Let me quote to you what he said when he was one of us.

I share the concerns of my fellow Governors. My sense of alarm is perhaps a little more extreme. A lot of observers in this country feel that, taken on a historic scale, the States are obsolete, they are headed the way of the passenger pigeon and the Edsel.

Even the optimist, I think, would say the States at best are in dire danger of becoming administrative agents of Washington * * * it didn't begin that way.

He went on to say.

The proper role between the States and the Federal Government * * * was the centerpiece * * * of the most brilliant debate in the history of western institutions.

That debate * * * has gone neglected. The result is a Federal system * * * in total disarray.

The United States Congress has lost all sense of restraint. It no longer asks the question that Hamilton, Madison, and Jefferson considered to be the central question * * * Is this an appropriate function of the Federal system?

* * * Hamilton and Jefferson would certainly ask * * * how have we allowed their creation, a carefully layered construction of Federal, State, and local responsibilities, to become scrambled into one great undifferentiated, amorphous omelet by a cook in Washington?

Mr. President, that cook in Washington was a pale, pale, pale chef when Babbitt spoke those words compared to the Julia Childs the Government is now that Babbitt rules. What he once fretted over as a Governor, he now recklessly imposes as an emperor.

Fourteen years have passed since Bruce Babbitt spoke those words in the last year of the Carter administration. Today the current administration's concept of the "New West" has rapidly degenerated into a war on the West. Government officials have been transformed from environmental problem solvers to environmental storm troopers with the power to punish, to prohibit and to take.

Virtually all Federal agencies are making decisions on the use of land and resources in unquestioning response to an ill-conceived environmental agenda which ignores the human side of the equation and disregards the concept of private property rights. In this instance, we are disregarding the concept of private property rights. Worse still, it ignores Governor Babbitt's concern that the Federal Government, as Governor Babbitt—note I did not say Secretary Babbitt—his concern that the Federal Government has lost all sense of restraint and the concepts of Jefferson and Madison.

Listen to how different this man has become, I say to my friend from California.

In 1994, this year, in a speech to the Sierra Club's annual dinner, Bruce Babbitt, now Secretary Babbitt, said:

We need a new western land ethic for nonwilderness. The old concept of multiple use no longer fits the reality of the new West.

Let me inject here to my friends from California when they are making the National Park Service a multiple

use management area that is contrary to its mission and its philosophy, and they have this man as their Secretary. The Senator's plans, however honorable those intentions may be, will not be delivered to her or her citizens. They will not.

Let me go back to Babbitt's words.

The old concept of multiple use no longer fits the reality of the new West. It must be a concept of public use. From this day on, we must recognize the new reality that the highest and best, most productive use, of western land will usually be for public purposes, watershed, wildlife, and recreation.

Typically, this man made no distinction in this speech between public and private land, because he does not believe in private property.

Unlike his views in 1980 as a western Governor, he now feels that the Federal Government deserves to be omnipotent, and he deserves to be the plenipotentiary of the operation.

The Clinton administration's agenda is clear, and only the users of the public lands will become endangered in the war on the West. Citizens have been threatened with rules and regulations denying them access to guns, rock collecting, and other forms of recreation. And now the chief of the Forest Service is talking about having a Federal hunting license when the Federal Government takes over the management of the game that the States once felt was not only their obligation but which they have done better at managing than has the Federal Government.

In order to pay for increased control by that big Government, we see increasingly the proposals to increase our fees. Hunters, outfitters, radio broadcast users, commercial air tour operators, ski area operators, concessioners, and any other use that requires a Federal permit are being asked to shoulder a bigger and bigger burden. Not all these permit holders will be able to stay in business after paying the new fees on top of their existing expenses, and their existing expenses are being daily added to by an administration which provides for them obligations of compliance that they never had before. So not only do they have new fees, but they have new compliance obligations, and these will all be part, I say to my friend, the Senator from California, of the obligations of the citizens whose lives are encompassed by these areas.

In addition, many of us have traditionally enjoyed a cooperative partnership with the Federal Government over the years, including counties and municipalities, and they are now being asked to help pay the costs for more Federal control. In a conversation with the Senator from California a little while ago, she said "Why do they increase?" I reply that one of the reasons why is to try to keep up with the new demands that the Federal Government is putting on our local communities to exist not cooperatively but subjectively to the Federal Government. So what we might have once had where we private lands as taxable resources, we are now begrudged the payment in lieu of taxes to them and yet we are having new obligations daily descending upon our local areas of government to try to live with and under the Federal Government.

Have we forgotten in this Senate that the original concepts of Jefferson and Madison were really very simple, that the Federal Government derived its power from the States. And guess what? The States are now begging the Federal Government for the authority to exist.

It has taken power from the States, taken power from its citizens. This bill S. 21 takes power from citizens to own property and rights to which their Government had promised them. This bill by producing the National Park Service as the administrative agency will take rights of usage that the Senators believe they have assured but will not be there when the administration is in place and fully operational.

Recently, the Secretary of the Interior was forced by the courts to obey the law. What a terrible statement that is on the arrogance of power that has become Washington—forced by the courts to obey the law. He had to issue patents on a Nevada gold mine. He had the nerve to characterize this as a steal and giveaway of land and minerals.

He had the nerve to characterize obeying the law as a giveaway of land and minerals. And it made good press for the uninformed, and the press is uninformed and it used it as good press.

But the Secretary failed to state that the Barrick Goldstrike Mines in Nevada have developed over 1,700 jobs that did not exist before. They were not there. The Federal Government did not provide those jobs. Those jobs would not have existed had it not been for the steal that he was required by law to accomplish. It means millions of dollars in tax revenues to the counties and States and, yes, even the Federal Government. But it is a steal because he was forced to obey the law.

The Secretary failed to mention $1 billion, Mr. President, that that company spent on developing the technologies to extract that mineral. The Federal Government would not have spent $1 billion. Can you imagine? We cannot even buy the land that is going into inholdings under S. 21 or any other lands. Can you imagine us spending $1 billion to develop an unknown technology on a gold mine? Who would appropriate it? The Senator from California sits on the Appropriations Committee; never would she do that. And should she do it, she would be criticized by the press. Nobody would know there was an outside edge.

So Government could not have done any of this that Secretary Babbitt calls a steal—could not have done it, would not have done it. The jobs would not have existed. The $1 billion that was spent and provided other jobs in upstream technology—science and technology and other kinds of things—would never have been spent, but it is a steal. The taxes that the Federal Government now receives in income taxes from those 1,700 high-paying jobs, and the counties and cities of Nevada, never would have existed. But that is a steal, according to the Secretary of the Interior.

He also forgot to mention that the land he was conveying was worth nothing. They could not sell it. It was the private sector, by settling it, that gave the Nation wealth and gave the Nation revenue. Washington does not know how to mine a damn thing, Mr. President; never will know how to mine minerals. And Congress will not ever pay $1 billion. And you know it and I know it and America knows it.

What was created from these lands was wealth and jobs for Americans. And it was realized by the private sector's willingness to commit capital and technology to a plan that it had no way of knowing was going to be successful.

And now I refer you back to the acreage that is withdrawn forever from access to this kind of creativity and wealth and jobs and future for America.

The battle in the war on the West, if won by this administration, will only serve to send the private mining sector to foreign countries—the jobs Americans might have had—to Colombia, to Uruguay, to the Pacific rim, to Russia. And the wealth that was derived from it will also be in Uruguay and Colombia and Chile, and the Pacific rim. Those riches will not belong to Americans, nor will the environment have been taken care of in anything like the detail and care that would be taken care of were it possible in this country. But here we are taking 7 million acres forever out of America's riches or ability to do it.

So, Mr. President, this is an example of the arrogance of which I speak. During the grazing debate, for example, we were told by the then Director of the Bureau of Land Management: It does not matter if Congress acts. If they do, well and good; if they do not, we will do it administratively.

Democracy is an inconvenience for this Secretary of the Interior. And democracy, I suggest, is an inconvenience for those who live on this land whose lives, livelihood, and flexibility will be greatly constrained by it.

Mr. President, this arrogance continues unabated. More recently, the Secretary seriously missed the point when he claimed that a Federal judge's recent decision to take the gnatcatcher off the endangered species list—again in the Senator's State—was a procedural error. This man does not wish to

follow the law. This man mocks the law. And when he is called to account, he calls it a steal or a procedural error.

Any observer can see that Judge Stanley Sporkin's detailed analysis of that case of administrative arrogance on the part of the Secretary and the administration is a road map to the serious shortcomings of environmental actions under the Endangered Species Act and under other pieces of management legislation. It highlights abuses that Emperor Babbitt has tolerated in his eagerness to show that he can make the Endangered Species Act work and his reluctance to follow the law of the land in other areas.

How different from the man of 1980 when he was a Governor and one of us, a citizen of the West, not its new ruling master. How sad that this man does not view his job as Secretary of the Interior, but as the water master, the land master of the West and still the advocate of the League of Conservation Voters.

Mr. President, this bill is a travesty.

I do not quarrel with the interests of the two California Senators in protecting that land. I make the case to the Senate that the land is protected. And to put this further protection on it, Mr. President, I am saying that the rights of Americans are being simply ignored; that jobs will be lost in California, revenues will be lost to America; obligations to the taxpayers of the United States that we have no means of or intention of shouldering will be laid in place, 500,000 new acres, billions of dollars of new obligations. And nowhere, nowhere, nowhere has there been even the most remote attempt to identify where these revenues would come from. To do what?

It will not be to save it—it is saved; not to manage it better—it is going to be managed worse. The Park Service does not know how to do multiple use management. It will not be to protect it forever—because it has been protected and it can be protected. It is not going to go overseas. It is not going to go to Japan or Hong Kong.

This is being done for political purposes. It is not for the land. The land is well taken care of. But the problem is that the taxpayer of America will be the one whose obligation it is to pick up the bill for this exercise. And rights in the Constitution of America will be flouted under this exercise. And the people of America whose lives and property will be affected will be the ones who bear the brunt of this exercise. But not for a new and protected piece of property; quite the contrary. The property will be the same property and the protection will be less. Just the new obligations to the taxpayer and new constraints on the citizens of California who reside in that area.

I say again, California does not now have the land to trade for what it is taking in this. It does not exist in that State. And we do not have the money. We have already been through that. Even the Senator from Louisiana, the chairman of the committee, and on the Appropriations Committee, has said the same thing.

There can be only one conclusion out of that and that is citizens' property is going to be taken to satisfy a need that does not exist. I hope that Senators join me in voting against cloture on this legislation and putting the priorities of this Congress where they belong.

It is one thing to say we will do it next year. But it is a statement that has been made annually for at least the 16 years upon which I have sat on that committee.

It is one thing to say that we will just add this one and we understand there is a problem—but we will add to the problem. You do not begin to solve a problem by constantly adding to it and never addressing it, and that is what this exercise is all about.

It is not about people's elections. It is nothing new to the Senator from Wyoming. It is my deep concern that this Congress, this Senate, those two Senators from California are degrading a park system beyond the point at which we can go back and rescue it.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise to respond to the distinguished Senator from Wyoming and I accept his remarks at face value. I think our citizens should really feel fortunate to have an advocate for our parks like the Senator from Wyoming.

As a matter of fact, I had the opportunity not very long ago to fly over Wyoming. And what I saw was a magnificent State where about a half a million people can live in the outdoors with freedom, with beauty, with mountains, with grass, with pasture—an incredible State. And I go home to my State, also a beautiful State, but instead of a half a million people, there are almost 32 million people.

I was thinking, as I was listening to the Senator from Wyoming, about just the city, San Francisco, which has about 750,000 people in it. I grew up in a park there called Golden Gate Park, one of our great municipal parks. When I was young there were very few people in the park. It was something you looked at and that was all. Today, they have to close the drives, there are so many people.

I will never forget walking in that park one day and I saw a small youngster bending over a daffodil. And the child was in wonder. I asked the mother, and the mother said, "My son has never seen a daffodil, and that is why we come to the park."

Well, our national parks are truly the jewels in the crown of America. It is difficult because there are many great national parks—the Senator from Wyoming has at least two of them in his State, the Grand Tetons and Yellowstone—magnificent parks.

In this situation it is a different situation than Yosemite or Yellowstone or any other park. It is a desert unlike any desert—not like the Sahara, where winds blow and there are huge dunes. This is a desert where there are precious resources: extinct volcanoes, cinder cones, Indian hieroglyphics on the walls, and 90 mountain ranges. It is also a desert which has been scarred by mining operations that have left open pits and sheds and broken-down equipment just there. It is also a desert where tens of thousands of people come.

Mrs. BOXER. Mr. President, the Senate is really not in order. I think the Senator from California, who has worked so long on this, deserves to have the Senate in order.

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

Mrs. FEINSTEIN. Mr. President, it is also a desert where literally tens of thousands of people come with off-road vehicles and motorbikes and ride across the dunes. I have flown over every part of it at low altitude and the soil does not replace itself. The scaring is enormous.

I have seen petroglyphs where people come and chip out of canyon walls with Indian hieroglyphics to take them home and put them on their coffee table. I have seen the carcasses of desert tortoises, just unnecessarily shot. I have seen the herds of wild burros as they move through the desert, and bighorn sheep. It is an unusual place. And the largest number of people who view it today are wildlife viewers and those who want to see an incredible sunset and incredible carpet of flowers of all colors that bloom in the spring.

I have tried very hard with this bill to make it a bipartisan bill. I knew it had been gridlocked in the Senate long before I got here. I knew that my predecessors, as Senators, had problems with it, so I tried to find out what those problems were. And in many respects I went to the other side of the aisle to find out what people's concerns were about the bill, because I had a deep feeling that the resources somehow, some way, had to be protected and yet the private property owners, who are sparse, who are very rural, also have to be protected. This is not the traditional national park.

In the course of making amendments, 19 of the amendments in this bill have been offered by Republican Senators and Congressmen and incorporated in the bill. From the Argus Range; Bright Star; Piper Mountain; law enforcement; wildlife management; water, the Wallop amendment, the Death Valley

Advisory Commission, the Joshua Tree Advisory Commission, hunting, the Mojave Advisory Commission, a general management plan, no adverse effect on private property; Volco mining claims, the Quillen amendment, the Death Valley Wilderness, the Craig amendment, access to private property, the Wallop amendment, State exchanges, military overflights, limitations on appropriations, and so on.

And I have worked with Democratic Members to see what it was they needed in the bill. About 60 amendments were made to the original legislation.

Every active mine is protected in this legislation. All law enforcement needs are protected in this legislation. We worked with the Armed Services Committee to see to it that all military rights, obligations, and needs are protected in this bill. And we drafted language to protect private property: No taking of private property.

Recently, I went back to Secretary Babbitt, because I was talking with some of the private property owners and they said to me: Well, we are concerned. We have a house. We are concerned that the Secretary, who would control rights of way for electrical power and water and utilities, might not allow us to string the necessary lines to develop our property.

And so I went to the Secretary and got a letter from him dated September 30, which I ask unanimous consent be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE INTERIOR,
Washington, September 30, 1994.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINSTEIN: Thank you for your call concerning rights-of-way for utility lines to private lands in the proposed Mojave unit of the National Park System.

We appreciate that private land owners in the East Mojave National Scenic Area may be apprehensive that the proposed transfer of federal lands to National Park Service (NPS) jurisdiction may limit their ability to obtain rights-of-way for utilities to their property. I want to assure you that if S. 21 is enacted, the Secretary still possesses the authority to grant rights-of-way across NPS administered lands to serve the utility needs of these property owners.

Currently, the Bureau of Land Management (BLM) has the discretion, under title 5 of the Federal Land Policy and Management Act, to grant rights of way for utility lines after considering congressionally prescribed standards. Like the BLM, the National Park Service has similar authorities, regulations and procedures for granting rights-of-way for utilities across federal lands. The issuance of rights-of-way over lands administered by the Park Service is governed by statutory authorities in 16 USC 5 (electrical power transmission and distribution, radio and TV, and other forms of communications facilities) and 16 USC 79 (certain other public utilities and water conduits).

Under 16 USC 5 and 79, the National Park Service regularly issues rights-of-way for utilities, such as electricity, water and telephone, necessary to serve the needs of private property owners. Issuance of a right-of-way under 16 USC 5 or 79 is discretionary and contingent upon a finding by the Park Service that the installation of such utility is compatible with the public interest.

I want to assure you that the Department understands the concerns of private land owners in the Mojave. Upon enactment of S. 21, the Department and the National Park Service will work closely with affected land owners to accommodate their utility rights-of-way needs.

Sincerely,

BRUCE BABBITT.

Mrs. FEINSTEIN. Mr. President, this letter says:

Thank you for your call concerning rights of way for utility lines to private lands in the proposed Mojave unit of the National Park System.

And it goes on to say that the park system will work with all private property owners to see to it that they are adequately served.

Mr. President, grazing is protected. It was not in the Cranston bill. I went out and visited with ranchers. I was on their ranches. I traveled around. I looked. One of these families drives their youngster to school 100 miles every day to the nearest school. It is fifty miles to the nearest store. This is the Blair family. Yet, they have an active grazing operation that they inherited from their parents, and their parents inherited from their parents. It was part of the Old West and it should continue. We provide for that right, as well.

We allow activities to maintain or restore fish and wildlife populations and their habitats, including the use of motorized vehicles. Senator MURKOWSKI indicated to me today that that was one of his concerns. We took that into consideration, and that is in this bill.

This bill was debated in April. We debated the concerns of the Senator from Wyoming about the National Park Service. In April, we pointed out and I introduced into the RECORD a letter from Secretary Babbitt on the financing of the park which points out that the lands were already targeted for acquisition in BLM plans; the land acquisition envisioned in this bill is less—is less—than that originally planned by the BLM. Thus, these acquisition costs are not new and the potential cost to the Federal Treasury will actually be less. They are discretionary to the extent that they can be spread over a long period of time.

The comment was made that there is a streamlining within the National Park Service, and 3,700 National Park Service personnel will be removed from parks and, therefore, to add a new park is wrong because it will stretch resources even thinner than thin.

I called Secretary Babbitt about this and put it in the RECORD in April. What he told me was all of these 3,700 people—Senator BOXER will be interested in this—are not coming from the parks. They are coming from the Washington office and they are going into the parks. So the streamlining that is being done will actually result in more park rangers and park personnel where they should be: In the national parks of this great country and not in the office buildings of Washington, DC.

I believe, and the Secretary has confirmed, that this present 1995 budget, if this bill is passed, has adequate resources in it to begin this park. As a matter of fact, in comparing it with the Presidio, the costs of operating this are less than one-fifth of what this body is willing to appropriate for the Presidio. It is not a high-cost national park. No taking of private property is required. No land acquisition is mandated.

It is a huge area which will simply change dimensions away from one where you can put mines anywhere, leave them to spoil the land, and chip out hieroglyphs. Do you know the last remaining dinosaur tracks in California have to be hidden because they are afraid that people are going to desecrate them? This bill protects those dinosaur tracks so that our children can come and look at where there was actually a dinosaur trackway, right through a certain area of this park.

The big issue of contention—the big issue of contention—was the East Mojave. As the bill left this Senate with 69 votes, the East Mojave was scheduled to be a national park. It went over to the House and the House saw differently, and the East Mojave became a preserve.

We have accepted the House language on the preserve. This was the major point of difference—the major point of difference—and we have accepted the language. The language in the conference bill provides a preserve in the East Mojave.

This was what, when I negotiated with the Republican Congressman from the district, he wanted and he won it in the House of Representatives, and the bill passed the House of Representatives handily.

When it came back, it survived a cloture motion in this body with 73 votes. I am very proud to say that there are a number of Republican Senators supporting this act. I am grateful to them. We have tried to work with them. I have tried to respect their needs. Senator HATFIELD in particular had certain concerns. We took care of those concerns. They are still in this bill, as he desired.

So I have tried to be true as the author of the bill to the needs of both sides of the aisle in crafting a bill. That is one of the reasons I find it so difficult to understand. If it is not politics, if it is not the fact that I am in a close election, what is it? Because we had 69 votes going out and we can have that many at this point in time.

Mrs. BOXER. Will the Senator yield on that point for a couple of questions?

Mrs. FEINSTEIN. I certainly will.

Mrs. BOXER. I do not want to interrupt the Senator because she is so eloquent on this. But I feel, sitting here listening to you, having listened to the Senator from Wyoming, I would just like to get some questions on the Record and answered.

Is the Senator aware that the San Diego Tribune says:

The bill achieves a balance between environmental and economic concerns.

That is a recent editorial on the bill in San Diego. Has the Senator seen that editorial?

Mrs. FEINSTEIN. Yes, I have, and I thank the Senator.

Mrs. BOXER. And has the Senator seen the San Diego Sun? These are newspapers that I would call conservative newspapers. They say about the bill: "It aims to protect jobs." Has the Senator seen that particular comment?

Mrs. FEINSTEIN. Yes, and I believe it protects every active job in the area, and I believe it will generate between 1,000 and 2,000 additional private-sector jobs, based on Park Service estimates.

Mrs. BOXER. I say to the Senator that I could not agree with her more. We know that this is going to become another jewel, and we know people are going to travel there, and that will create jobs.

I compliment my friend for her tenacity and her courage. I feel that if democracy is going to work, we are going to have a bill.

Let me ask a couple of questions.

How many years has it taken to bring this desert bill to this point?

Mrs. FEINSTEIN. Seven years.

Mrs. BOXER. Has it ever gotten this far before?

Mrs. FEINSTEIN. No; it has not.

Mrs. BOXER. And, again, what was the vote the last time this bill passed the U.S. Senate?

Mrs. FEINSTEIN. Sixty-nine to twenty-nine.

Mrs. BOXER. Sixty-nine votes in favor of the desert bill in this very body. I would say—the last question—I know that the Senator and I are very concerned about working here for the will of the people of California. In the last poll that was taken on this, what was the result of that poll? What percentage of the people of California supported this desert bill?

Mrs. FEINSTEIN. There was a California poll, which is an independent poll, conducted by Mervin Field, which said that 75 percent of the people in the area supported it and over 70 percent of the people up and down the State supported the bill.

Mrs. BOXER. I thank the senior Senator from California. I am very, very proud to be one of her helpers on this legislation, and I really appreciate her answers to these questions because I think these answers, the way that she answered the questions, would say to every Senator, please stick with us on this bill and on this vote.

Mrs. FEINSTEIN. I thank the Senator very much. She has been quite a helper and I am grateful for it. I thank the Senator.

While the Senator is on that point, I would also like to comment that this bill is supported by the southern California Association of Governments, which includes Los Angeles County, Riverside County, Orange, Ventura, San Bernardino, and Imperial Counties. It is supported by resolutions passed by 16 California boards of supervisors representing 16 counties, 36 city councils representing 36 cities, including the 8 largest cities in California; and 15 California newspapers have endorsed the bill, 118 conservation groups have endorsed the bill.

There are 47 cosponsors of the desert bill. When we came into this, we had 22. It built up in the course of the past 15 months to 47. I might say that the House version passed by a vote of 298 to 128. This is a balanced bill. It has Republican concerns as well as Democratic concerns met. I believe, given all of the accommodations that have been made and the breadth and depth of the support for the bill, Senators might ask the question: Why are we debating the bill again today?

I was somewhat chagrined to read this morning an editorial in the Los Angeles Times which began:

Beset by raw, mean-spirited politics, the proposed California Desert Protection Act stands at the precipice. Its fate now rests in the hands of Senator GEORGE MITCHELL of Maine.

It goes on to say:

The only way it can be law is for him to hold the Senate in session over the weekend to allow for a final cloture vote and passage.

Indeed, I am grateful to the leader for doing that. It goes on to say:

A few Republicans, motivated solely by the determination to undermine Senator DIANNE FEINSTEIN's bid for reelection, have resorted to every possible stalling tactic. By thwarting the clear bipartisan will of both Houses of Congress and the people of California, they hope to deny the California Democrat a key legislative victory to use in her race against Representative MIKE HUFFINGTON.

That is a direct quote. I ask unanimous consent that the entire editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Oct. 7, 1994]

CHANCE FOR A NOBLE FAREWELL

THE RETIRING MITCHELL CAN SAVE DESERT BILL BY DELAYING SENATE ADJOURNMENT

Beset by raw, mean-spirited politics, the proposed California Desert Protection Act stands at the precipice. Its fate now rests in the hands of Sen. George J. Mitchell of Maine, the Democratic majority leader. The only way it can become law is for him to hold the Senate in session over this weekend to allow for a final cloture vote and passage.

A few Republicans, motivated solely by the determination to undermine Sen. Dianne Feinstein's bid for reelection, have resorted to every possible stalling tactic. By thwarting the clear bipartisan will of both Houses of Congress and the people of California they hope to deny the California Democrat a key legislative victory to tout in her race against Rep. Mike Huffington. The House Rules Committee Thursday sent the final conference report on the bill to the House floor, and final passage there is assured.

However, a handful of Republicans in the Senate have filibustered the bill at every juncture. On the last vote, they lost 73 to 20, with 15 Republicans joining the majority. Only one more cloture vote remains. But Senate rules require a 24-hour notice before such a vote, meaning that the final ballot cannot come before Saturday or Sunday, depending on when the House votes.

The Senate is scheduled to adjourn today. Mitchell has the opportunity to perform one last, noble act before retiring from the Senate. He can keep that body in session for another day or two to salvage the eight years of work that have gone into preserving California's rich desert heritage.

The searing desert is far from the rocky down east coast of Maine, but it is important to all of the nation. We implore Mitchell to do what is right in his final days, by helping defeat the crude partisanship that has gridlocked Congress this year.

Mrs. FEINSTEIN. Mr. President, I have done everything one is supposed to do when one seeks legislation. There is a broad consensus of support for it by the people. It is supported by the administration. It is supported by both bodies of this Congress by a substantial majority. It is thoughtful. It is well crafted. It takes no one's private property. And I believe the Secretary of the Interior will sustain my concerns that the Interior Department worked with the private property owners to show that this is a bill that is not going to stultify. It is going to beautify and enrich and enable people to really utilize the desert. It will produce jobs. There will be more visitors. They will need overnight accommodations. They will need restaurants. They will need a place to stay because the area is large. And that development is all permitted within the confines of this bill.

Mr. President, this is the most important environmental and wilderness bill since the passage of the Alaska Lands Act. It is a bill that has a majority of support. I earnestly beseech the Members of this Senate to let it come into law. I won my victory. I got it through the Senate before. This bill now is a victory for the people of the State of California, 70 percent of whom, by independent poll, want this bill. They want this resource protected.

In a sense, it goes back to that small child I saw in Golden Gate Park while I was mayor who had no garden at home, had no ability to know what the outdoors looked like but could come to a public park and smell a flower. To those who will have no idea of the vast hidden treasures of the California desert, this will open that experience

to them. It will be an ennobling experience, an enriching experience, and I believe that every Member of these two bodies and every resident and worker within the desert community will be proud of the dream that can be built upon it and the lives that can be enriched.

I implore this body, let this bill come into law. Do not let a few people with their own agenda stop the overwhelming will of the people, of the National Government and of the State of California.

I thank the Chair. I yield the floor.

Mr. WALLOP. Will the Senator yield for a parliamentary inquiry, or point of order?

Mrs. FEINSTEIN. Yes, I will.

Mr. WALLOP. Mr. President, I make a point of order that there is a person on the floor not authorized to be here, not among the listed people authorized to be in the Chamber of the Senate.

I make a point of order that the Secretary of the Interior is not entitled to be in the Chamber.

The PRESIDING OFFICER. The Chair would instruct the Sergeant at Arms to follow out the Senator's point.

Mrs. BOXER. Mr. President, I rise today in strong support of the California Desert Protection Act. When we finally pass this bill, we will protect the California desert and prove once and for all that strong environmental policy makes good economic sense.

The Senate first passed this bill by an overwhelming majority last April. the House likewise passed very similar legislation in August. So why is the Senate only dealing with the conference of this important bill on the last scheduled day of the 103d Congress?

It is not because this bill is unpopular. Over three-quarters of the people of California support this legislation.

It is not because this bill will hurt California's economy. When passed, the California Desert Protection Act will bring in an estimated $200 million in new revenue to the Desert, and create up to 2,000 new jobs.

It's not because this bill is bad for California's environment. The California Desert Protection Act will protect a unique and magnificent desert landscape for my grandchildren's grandchildren's grandchildren.

And it is not because this bill lacks bipartisan support. When we voted in April 16 of my Republican colleagues joined 53 Democrats to pass this legislation by a vote of 69 to 29.

Mr. President, we are here on what was planned to be the last day of the session because there is a small minority of those who simply believe that new national parks have no value. Well, I am here to say that they do have value and that the arguments of delay; that the Desert Protection Act will harm California's economy; that we can't afford this bill, and that it will lock up the desert for the people of California and the Nation, are absolutely false.

They argue that this bill will cost California jobs. On the contrary, this bill will create jobs and help shatter a myth—the myth that says you can't have a healthy environment and a strong economy. This bill will protect current mining claims and allow all existing mining operations to continue. And as I said earlier, creating two new national parks and a new national preserve will help increase tourism, create roughly 2,000 new jobs and generate up to $200 million in revenue.

They argue that this bill will stretch the resources of the National Parks system to the breaking point. Nothing could be farther from the truth. The Joshua Tree and the Death Valley National Monuments, which will be elevated to national park status under the bill, are already managed by the National Parks Service. Likewise, the Mojave National Scenic Area, which will become a National Parks Service Preserve, is already federally managed by the Bureau of Land Management.

The CBO estimates that initial start up costs for this bill will run about $6–$9 million in each of the first 5 years of this bill. After that initial 5-year period, CBO estimates that increased Parks Service management costs under this bill at only $2.5 million per year. Since the lands encompassed by this bill are already under Federal management, much of these costs must already be met.

Finally, they argue that the California Desert Act will lock up the desert and that people will no longer have access. They say that this legislation will hurt the recreational vehicle users. This is untrue. Almost 500,000 acres of public land—an area ten times the size of Washington, DC—will remain open for trail bikes, for all-terrain vehicles and for other types of off-road vehicles. Likewise, as I noted above, existing mining claims and allow all existing mining operations to continue.

Mr. President, this legislation strikes the critical balance between protecting our fragile desert ecosystems, creating economic growth and preserving the legitimate uses of our public and private lands. Listen to the San Diego Union Tribune. They say that this bill achieves a "balance between environmental and economic concerns." The San Bernardino Sun agreed, explaining that the bill not only protects natural habitat, but "also aims to protect jobs."

After 8 years of hard work—first by Senator ALAN CRANSTON and now by my talented and hardworking colleague, Senator DIANNE FEINSTEIN—we finally have an opportunity to pass meaningful desert protection. When we pass the Desert Protection Act, we will give a healthy shot of adrenalin to the California economy and preserve our desert for generations to come. I urge my colleagues to support this important legislation and I yield the floor.

NOMINATION OF BUSTER C. GLOSSON

Mr. GRASSLEY. Mr. President, there is one advantage to being in the Chamber to listen to debate on other issues than on what a Member might be speaking because I probably had an opportunity to hear more of the pros and cons on the California desert issue than I would have watching it on television in my office. So I think that there have been good presentations on that issue.

Of course, I am not speaking on that issue. I wish to speak on these nominations, and to start out with I wish to concentrate on Lieutenant General Glosson.

Some of my colleagues have wondered why the Senate needs to be spending this weekend considering nominations of three Air Force officers, and I think it is very legitimate for that to be asked. Of course, I share their wonderment because in my view the Senate should not be considering these nominations at this very late date. Of course, the majority leader sets the agenda around here.

If he wanted to not bring these nominations up, he would not have to and we could all go home. Wasting the Senate's time on these tainted nominations is a very interesting reflection of the priorities that people have placed on this institution. Earlier I mentioned how we should be debating the issues that are important to the American people like congressional coverage or unfunded mandates. I only mentioned those two because those were the ones that we were dealing with last night as we closed business. Well, there are other items as well.

What about the 25-percent health care deduction for the self-employed? That deduction has been available to people for I believe 10 or more years and it ran out last year. We are going to have self-employed people of America who have traditionally wanted to deduct their health care from their taxes, their health care insurance from their taxes, or at least up to that 25-percent. They are not going to be able to do that. They are going to get hit with a big, huge tax increase this year because Congress has failed to act on that tax problem. But that is an issue that everyone agrees on. But for some reason or other, it is not the same priority as these tainted nominations that we are going to be dealing with. Just try to figure it out. It is very difficult to figure it out.

I along with many others have been pushing for renewing the 25 percent deduction ever since we failed on the health care reform issue. I have even offered an amendment in the Finance Committee that I serve on and was told

by Chairman MOYNIHAN that the issue was a priority. When asked yesterday if the Senate would deal with the health care deduction issue, apparently there was not enough time left to deal with that issue. But of course, we have 2 or 3 days here at the end of the session to spend time on tainted Air Force nominations. Just try to figure it out. I cannot.

This is a prime example of why Congress might be held in low esteem by the people when we could be dealing with the important issues of the day. In our limited time we fritter it away on tainted nominations that would never be approved if the American people were able to vote on them.

Well, I hope that will change in future years. I do not know whether it will or not. But people this November are going to have an opportunity to speak to that point.

As I said earlier in this day, there are games that can be played in this process of legislation. We have waited on these nominations which I am interested in speaking on until the 11th hour. I said on one of these how I was ready to speak last October, another one in January or February of this year, another one in April. But here they come at the 11th hour. There is some intimidation with that. I do not know whether it is meant or not, or maybe I am intimidated. I do not know. But it does seem like it is putting off to the last minute things that could have been done before. But I hope that I will not be intimidated in this process because I think that we need to explore these nominations very thoroughly. I think we need to get the entire record out on the table. We need to debate such matters at the 11th hour if that is the way the game is going to be played.

I would like to suggest to my colleagues why I am here today discussing the nomination of Gen. Buster Glosson, and that he should not be promoted by the U.S. Senate to retire with a third star. And I want my colleagues to understand that this is indeed a promotion. The general officer announcement put out by the Department of Defense on this nomination announces that Gen. Glosson has been nominated "for advancement." It is up to the Senate now to determine if General Glosson's record since his last promotion warrants one final promotion.

It has been our tradition here in the Senate to show deference to departments and administrations for nominations and for promotions. I am second to no one in showing such deference. My record squarely reflects that. When questions about nominees arise it is the burden of Senators or committees to persuade our colleagues that the nominee is not fit for confirmation. But all things being equal, the Senate does show deference in the confirmation process.

In this case, Mr. President, the case of General Buster Glosson, all things are not equal. The circumstances make this a unique case. There is a record on General Glosson resulting from a criminal investigation by the independent office of the inspector general of the Department of Defense. That record says the general tampered with the promotion board and that he lied under oath about what he did; period. That is potentially a court-martial offense. Subsequent panels examined the same evidence as the inspector general. These subsequent panels came away with the same conclusion for the same reasons.

Some who support General Glosson might have hoped that the panel's report would overturn what the IG said. But it did not. It actually reinforced the IG's conclusions. The panel concluded that General Glosson tampered with the promotion board. That in and of itself is potentially a court-martial offense under the Uniform Code of Military Justice. The only difference between the IG report and the panel's report was that the panel did not conclude that the general had lied. But the panel, Mr. President, is not persuasive on this issue.

First, the IG interviewed the general a couple of weeks after the alleged activity when his memory was and should have been very fresh. The panel did not interview him until an entire year after the fact. The panel is therefore in a weak position to be able to test the credibility of the IG's conclusions on this point.

In addition, the panel said that the three complainants against General Glosson had told the truth. While the panel said General Glosson did not lie, it said that he was mistaken. It also did not say that he was truthful. Let me emphasize that. It did not say that he was truthful. And it said that he was evasive and it said that he was misleading. It says that what he said versus what the three generals said were irreconcilable. In other words, the panel all but said the general lied.

Of course, this is a game of semantics. This panel made a political judgment, not an investigative one like the IG did. The IG did it like a criminal investigation. In my view, the panel "Steinerized" the investigation. Let me explain what that means. The "Steinerizing" of this investigation. You remember Josh Steiner, do you not? He is the young Treasury staffer who testified on the Whitewater matter before the committees of Congress. He was the one with the diary, if you remember. When he testified he denied, if you remember, what he had written in his very own diary. Instead, Josh Steiner danced and he bobbed and he weaved around the issue. In short, he denied the obvious. And that is what this panel did. It denied the obvious.

When the panel concludes that the general was evasive and that the general was misleading when it says that the three generals told the truth, when it says their testimony versus his are irreconcilable, when it never says that Buster Glosson told the truth, when it says he ultimately remembered a version of events that was favorable to him but substantially inaccurate, and when it resorts to saying "we believe he never deliberately lied but is simply mistaken," then, Mr. President, that panel is denying the obvious and so it "Steinerized" the issue.

There is an old Malaysian saying. "Anything with scales counts as a fish." Mr. President, what we have here is a fish.

Regardless of this game of semantics, the fact still remains that the panel agreed with the IG on virtually all accounts. In fact, in some instances it went even further. And so the panel does not overturn what the IG did, in which case deference must be shown to the independent IG's investigation. I will say more about that shortly.

Given the record on General Glosson, which is the result of a criminal investigation, and which criminal investigation was signed off on by the Air Force judge advocate and by the Air Force general counsel; and given, two, that the subsequent panel review substantiated the IG report and failed to sufficiently overturn the IG's findings of lying under oath, the burden of proof should be on those of my colleagues who are pushing this general's nomination.

A dark cloud still hangs over General Glosson's name. He tampered with a promotion board, and he was not truthful about what he did.

Let me, Mr. President, just go back a little bit and remind my colleagues that they will read letters from members of the Armed Services Committee that General Glosson should be promoted because he has had an outstanding military record as an F–4 pilot in Vietnam; had primary responsibility for planning and implementing an air campaign in Operation Desert Storm; had service as an Air Force Deputy Chief of Staff for plans and operations.

There is not a thing in this letter that is not absolutely true about General Glosson. General Glosson has a record as a military person that he can be proud of and that his backers can be proud of, and I do not want to detract from that. But we are talking about a General Glosson who, after this, after he had been promoted because of past service, was interfering with the promotion board for an Air Force promotion. That is so serious that three generals resigned from the promotion board. As I stated, what the DOD general counsel had to say about it, and what the Air Force judge advocate had to say about it—it was wrong. Also, the Secretary of the Air Force took action against General Glosson. These generals resigned because there was tampering by General Glosson with the

promotion board that was considering promotions of other people in the Air Force. That is a very, very serious offense.

The Senate Armed Services Committee found the Department of Defense's consideration of General Glosson so questionable in the first stage that they sent it back to the Department of Defense for reconsideration, and that is where this panel was set up. So you have the panel saying that he may have been mistaken. But the point is that the inspector general said that he lied. The inspector general said he lied under oath. The panel did not say that he did not lie. The panel did not say that he was truthful. The panel spoke about "mistake," or "mistaken notions," or maybe "too far away to understand." Now, you are comparing an inspector general's investigation and questioning of General Glosson 2 weeks after he supposedly tried to impact the decision of the promotion panel. And then you have the review of it a year later by a panel set up just to do that. And I would ask you, where should the most weight be? On what the IG says, or what the panel says?

I think the issue here, Mr. President, is all about integrity. Debating against General Glosson is not easy for me. I do not delight in this. But it is important enough that I cannot turn away from the obligation we have to all those who proudly wear the uniforms of each of our military services, and that obligation is to demand the preservation of integrity in the promotion process of military officers.

I would like to describe the importance of maintaining integrity in this process, Mr. President, and I begin with the most appropriate commentary on this issue that I have heard anywhere.

The distinguished President pro tempore of the Senate, ROBERT BYRD, recently spoke eloquently and persuasively about this issue. He was speaking at a hearing on February 3 of this year before the Armed Services Subcommittee of Force Requirement and Personnel. That was the hearing on the cheating scandal at the U.S. Naval Academy. Again, Senator BYRD was involved in a hearing about a cheating scandal at the U.S. Naval Academy. During the hearing, Senator BYRD spoke about the importance of leadership, of integrity. Every one of us Senators ought to be proud of the approach that Senator BYRD took. He spoke about setting a good example, and he spoke about sending the right signal. He said the following:

> A good commander must have two qualities: He or she must be able to direct the battle successfully. That is a requirement.

But a good commander must also have what Senator BYRD describes as "clean hands."

A commander must have clean hands or he or she should not pass.

Of course, the Senator from West Virginia credits this principle to a conversation between two soldier statesmen in ancient Athens as recounted by Plutarch. Mr. President, having clean hands is synonymous with honesty and with integrity. That should be as lucid to us today as it was to Greek statesmen 2,500 years ago.

Integrity is the foundation, integrity is the cornerstone of leadership.

When a military commander's integrity has been called into question, then those who would follow him or her into battle may not follow when the going gets rough and tough.

This issue and this nomination is all about integrity. Integrity as it applies to General Glosson and integrity as it relates to our responsibilities in the U.S. Senate. There is a saying about leadership, that a leader is only as good as the people he or she serves.

With that in mind, I suggest to my colleagues that we are in the leadership role on this nomination as Members of the U.S. Senate giving a stamp of approval to this nomination. If we are not in a leadership role in this decisionmaking process, I do not know who is or what our function is.

And, of course, then, we as leaders are only as good as those we confirm. If we confirm someone, especially a military officer, with a dark cloud still lingering, then that dark cloud reflects on us as well.

No doubt General Glosson deserves great credit for his outstanding achievements. Indeed, he has been rewarded for them over the years by a string of promotions. His performance during the gulf war earned him a second star.

But we are here, Mr. President, debating not that second star, or any of the general's previous promotions, we are debating his performance since his outstanding work in the Persian Gulf and after he was given a second star.

The findings of the IG—this cloud over the general's head —that he interfered with the promotion board, the findings of the IG that he lied under oath involves activity after his last promotion.

The question is does his recent record warrant this promotion? In my view, this confirmation comes down to one thing: it is an issue of integrity versus friendship. I know that he has made lots of friends here in the Senate. I know that he facilitated a tremendous amount of access for people up here while he was at the Pentagon and over at the Pentagon.

But friendship should not be the No. 1 concern of this body in carrying out its responsibilities in this confirmation process. If we are to be the leaders in the confirmation process, if we are to demand integrity in this process, if we are trying to change business as usual here in the Senate, and if we are trying to tell the voters every day that we are trying to do that and especially trying to tell them how we are going to change business as usual before the election, then we ourselves must put integrity at the top. Integrity is the cornerstone of leadership. Putting friendship above integrity is business as usual.

I am not going to sit idly by while this happens again and again. If there were ever a nominee who warrants a refusal by this body it is this one. This nomination is not being pushed even by the Air Force. The Secretary of the Air Force came to my office the other day and spoke on behalf of the other Air Force nominees, Colonel Bolton and General Barry, but she did not speak on behalf of General Glosson. Why?

You know why. Because this is an issue of integrity. Every single member of the U.S. Air Force, from the lowliest private to the highest general, is watching this vote.

Here is a general whose integrity is in question and they see a small group of Senators who are friends of his securing to protect him trying to whisk him through the confirmation process. The heck with demoralizing the troops. They are saying they are putting friendship over integrity without any consideration of the impact this will have throughout the ranks.

I have received countless letters and countless phone calls about this nomination from officers all around the country. They cannot believe the spectacle, believe me, Mr. President. What we do on this vote will send a powerful message to those men and women who serve our country.

It will tell our troops that having friends in high places is more important than having unquestioned integrity.

In Federalist Paper No. 77, Alexander Hamilton explained that to add advice-and-consent function was designed to maintain public accountability. Presidents have the sole power to nominate. Responsibility for poor nominees belongs solely to the White House.

But Alexander Hamilton said that the Senate was accountable for its role as well, that the Senate would have to answer to the public for rejecting good nominees or for passing bad ones.

Our function is to screen bad nominees or we will have to answer to the public. The more bad nominees we pass, the more cynical the public has become. And the result is not only taken out on us at the polling booths but our constituents' cynicism helps erode democracy detracting from the approximate process of representative government.

In the simplest terms, General Glosson monkeyed with the promotion process.

Now, you know there might be some things in this whole issue about lying or remembering or whether he was truthful or whether he was not that

might be in dispute. It is not, as far as I am concerned, but some people might legitimately dispute that. But there is no dispute that he monkeyed with the promotion process.

He was cited by the DOD and by the Air Force IG's—not one, two—as having lied about it. To confirm General Glosson with such a record still standing would set a terrible example. It would serve as a blemish on the military promotion process. It would demoralize the military men and women across America and it would give the U.S. Senate a blemish on its record.

Now, in regard to my position, first, let me state what my position is on this matter. Some in the press corps has chosen to characterize my position as opposition to the retirement of General Glosson. This is not correct. From the beginning, my position has been to resolve the questions raised by some in light of the findings of the joint DOD Air Force IG investigation.

Thus far, in my view, the findings of the joint IG report still stand on solid ground, and that being the case, then we cannot move ahead with this nomination.

If some new information were to be brought forth to question the IG finding with credibility, I would say fine. It would make a big difference to me.

No one has successfully done that. In seeking to resolve these questions, I have pursued numerous questions of my own about the underlying facts of this case with the Air Force and also with the Defense Department, also with the White House, and with the chairman of the Armed Services Committee. I have done this over an entire year. I have tried to ensure that the issues outlined in the IG report and any doubts about them be thoroughly addressed.

But, after all the investigating had been done, it turns out that the questions raised about the IG report are groundless. I will speak more about this in awhile. That conclusion, though, is inescapable. If all the documents are reviewed, you cannot come to any other conclusion. And yet, we are moving ahead with this nomination.

The DOD and the Air Force IGs found that General Glosson lied under oath and that he improperly tampered with the promotion board. The Air Force JAG and the Air Force general counsel reviewed the IG's findings and, based on the evidence of the record, concluded that there were problems.

Let me emphasize that both concurred with the report of the DOD and the Air Force IGs; not one position, two positions. In other words, these two Air Force counsels agreed, after thorough review of the case, that General Glosson lied under oath and that he improperly tampered with a promotion board. That is powerful stuff, Mr. President. That is indeed powerful stuff.

What is more compelling is the fact that this is the first time ever—let me emphasize ever—that the DOD IGs have accused a high-ranking official of lying under oath. This is the first time ever that DOD IGs have accused a high-ranking official of lying under oath.

So what that means, Mr. President, is that the IG cannot justly be accused of being overly aggressive on this point. It is perhaps an understatement to say that the IGs have been judicious in the past of making such accusations.

Again, Mr. President, it seems to me that these are powerful facts that cannot be denied and ought to be persuasive in and of themselves.

Now what is it that would cause the IG's findings to be superseded? Because if they could be superseded, all of us in the Senate should be open to that.

Well, the obvious answer is, if subsequent investigation turned up new facts that countervail the original investigation, then it would warrant a new look. But that has not been the case, Mr. President. The three-member panel confirmed the facts put forth by the joint IG report. Remember, that is the panel set up after the Armed Services Committee sent it back to the department for review. This three-member panel that met sometime during August and reported back to the Senate in early September, this panel confirmed these facts. These are facts that the IG found. In fact, in some areas, it went even further. It differed only in its judgment as to whether General Glosson lied under oath.

This panel, that met a year later trying to determine whether General Glosson lied, the only difference whether the interview was anything other than what the IG a year before found wrong with General Glosson tampering with the promotion process, it differed only whether General Glosson lied under oath. But, at the same time, Mr. President, it did not say that he told the truth. And it stated that the three members—now, these are the three generals who resigned from the promotion board when it is being tampered with—it stated that these three generals who testified against General Glosson, that these three generals all told the truth.

The result: One, there is no disputing that General Glosson tampered with the promotion board; and, two, the three-member panel has not been persuasive that the charge of lying leveled by the IGs is inaccurate.

I want to go into further depth about the IG report and the panel's report, on the issue of lying.

Mr. President, our distinguished President pro tempore would like to have the floor. I would like to yield him the floor at this point, without losing my right to the floor. He said he would take about 10 minutes. I would be very happy to yield that 10 minutes at this point.

Is that permissible under the rules?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The President pro tempore is recognized.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I will not consume more than 10 minutes, at least that is my intention.

THE 103D CONGRESS

Mr. BYRD. Mr. President, we verge toward the final moments of the 103d Congress. Our work here is nearly finished. The good that we have achieved, and the efforts that have failed, will both become paragraphs in the history of this institution and in the unfinished biographies of us all. Even with the sincerest of regrets, that which we have done, cannot be undone; and even with the most impassioned of yearnings, that which we have left undone, cannot now be accomplished.

For ere the glass that now begins to run
Finish the process of his sandy hour,
These eyes, that see thee now well coloured,
Shall see thee wither'd, bloody, pale, and dead.—

HAITI

Mr. BYRD. Mr. President, yesterday, the Congress voted for a nonbinding legislation that places no limits on the mission in Haiti. I know that nothing succeeds like success, and I acknowledge that there is no appetite in the Congress today for placing any limits on the thus far successful operation in Haiti. But although the Congress will return on November 30 and December 1, those days are dedicated to addressing only the GATT agreement. Therefore, there is no further opportunity to address the United States mission in Haiti until the 104th Congress convenes in January 1995. While I fervently hope that the operation in Haiti continues to be relatively trouble-free, remains limited in scope, and a downward glidepath is followed toward handing the operation over to the United Nations, I remain deeply concerned about the potential for the mission to balloon into nation-building and about the safety of our troops.

One drop of blood drawn from thy country's bosom, should grieve thee more than streams of foreign gore* * *

"PORK" FOR THE WASHINGTON POST?

Mr. BYRD. On another matter, Mr. President, I have been the object of some very derogatory editorial writing on the part of the Washington Post recently. On September 21, 1994, the editorial page of the Washington Post labeled as mere "pork" certain provisions in the fiscal year 1995 Transportation appropriations bill. In trying to

create a mountain out of a molehill, the Post's editors called me "the King of Pork." Now, the shoe is on the other foot, and dirt of another molehill is creating muddy going for the editors of the Post.

The Washington Post is now, apparently, guilty of using the same editorial page to urge the speedy passage of the GATT world trade agreement, although time for further inspection of this lengthy piece of legislation reveals a $900 million loophole that favors—whom? The Post's parent company, a fact that the Washington Post editorials failed to acknowledge. A provision inserted into the GATT implementing legislation—which is not subject to amendment or changes in conference, as are provisions in the appropriations bills—requires companies to pay only 85 percent of the average price of wireless telephone licenses in upcoming auctions, and no less than $400 million. But this is a far cry from the estimated $1.3 billion than those licenses might fetch in a free market. And the Washington Post was not even happy with that compromise. They had argued that those licenses should be given away, with no payment at all to the Government. Is this, then, "Pork" for the Post?

Mr. President, I ask unanimous consent that two articles from the Washington Post dated October 5 and October 7, 1994, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 5, 1994]

THE TRADE BILL * * * AND THE POST

The House remains scheduled to take up the trade bill today, and vote on it possibly tonight. That's what it ought to do. Some members have urged that the vote be put off until after the election, as was done in the Senate. They ask why the House should have to cast in advance a hard vote that the Senate won't cast until afterward. But the vote won't be any easier then. Nor will it be any less necessary.

The bill incorporates into U.S. law the terms of the new world trade agreement. Through worldwide tariff cuts—the largest tax cut in history—and various other means, the agreement is expected to generate a strong expansion of the U.S. and world economies. The fear among some is that it will cost the United States jobs; in fact it will have the opposite effect. Nor will it lead to the erosion of U.S. sovereignty they profess to foresee, a weakening of health and safety, labor or environmental standards or a higher deficit. In the long run, the growth will likely reduce the deficit.

This newspaper has been attacked in recent days from several quarters on grounds that our editorial support for the trade bill masks and is the result of a provision that would benefit The Washington Post Co. That's just plain false, as some of those making the charge best know. The paper has been a strong and tireless, if not actually tiresome, supporter through three administrations and eight years of the international negotiations that have now given rise to this bill. More than 400 editorials have been published in that period on the subject of trade. Virtually every one has been tilted in the direction of freer trade; many have endorsed provisions now part of the trade agreement; all but a few of these several hundred appeared before the bill and the revenue provision in question were even drafted.

We on the editorial page try to keep abreast of provisions in which The Post Co. has a commercial interest so that we can acknowledge them when they arise. Usually we do so and we failed to do so here; it was a mistake. What we should have known and said about the trade bill provision is as follows:

It involves the price that will have to be paid for a license to provide advanced cellular telephone service by a company in which The Post is a major investor and 70 percent limited partner. The critics describe the price as a deep discount; The Post Co. looks at it as anything but. The license was originally supposed to be free. It was one of three awarded by the Federal Communications Commission in a national competition meant to encourage companies to invest in new wireless technology. After the company in which The Post has its interest won the competition, the FCC changed its mind and said it would charge for the license. The possible proceeds were then seized upon by the administration and others looking for future revenues to offset the tariff losses under the trade bill. The license fee in the bill will be less than the fee would have been as proposed by the FCC. But the provision that officials of rival companies are calling a gift, Post company officials regard instead as a breaking of the government's word and a dunning.

But break or dunning, the revenue provision was not a basis for the editorial. Nor does it seem to us to be a basis for voting either way on the bill. We continue to think, as we have all along and for the same reasons, that the trade bill ought to pass.

[From the Washington Post, October 7, 1994]

POST TAKEN TO THE PILLORY—PAPER CRITICIZED ON TRADE PACT PROVISION

(By Howard Kurtz)

The Washington Post, which delights in exposing secret deals on Capitol Hill, suddenly finds itself accused of participating in one.

A media furor has developed over a provision involving the GATT world trade agreement that would provide what critics call a windfall for three firms, including a Post Co. subsidiary, that are seeking wireless telephone licenses from the government. The Post became the primary target of criticism after running editorials backing the trade pact without mentioning the company's financial interest.

"We did make a mistake and we really feel awful about it," Meg Greenfield, the paper's editorial page editor, said yesterday. "Of course we should have known. We wished we'd known. There's a system for information on these things, and it just broke down."

Opponents of the General Agreement on Tariffs and Trade have gleefully seized on the disclosure that The Post and the corporate parent of the Atlanta Constitution would benefit from the provision, which was inserted by the Clinton White House and House Energy and Commerce Chairman John Dingell (D-Mich.) into legislation implementing GATT. The ensuing controversy has helped temporarily derail a U.S. vote on GATT.

Former presidential candidate Ross Perot charged on "Larry King Live" that "the White House cut a deal with The Washington Post and the Atlanta Constitution that is going to cost the taxpayers $2 billion.

* * * It is the ultimate corruption of our system * * * the biggest piece of pork ever. * * * I mean this makes Whitewater look small."

Conservative commentator Pat Buchanan, also a former presidential contender, said on CNN's "Crossfire": "Somebody snuck that thing in there, and it is an outrage. . . .Let me give you a little sound bite: The Washington Post got a $200 million bailout in the GATT treaty. Did your congressman vote for it?

Executives at The Post Co. and American Personal Communications (APC), which is 70 percent owned by The Post, say the provision actually saves the taxpayers money and was hardly a back-room deal. In fact, they say, The Post disclosed the first legislative move in this direction last July, before it became part of the GATT bill.

"The idea that these terms would be put in GATT was emphatically not APC's idea," said Donald Graham, The Post's publisher and chief executive officer. "It was Chairman Dingell's idea."

Scott Schelle, APC vice president, said GATT opponents are using The Post's involvement as the "excuse dujour" to help sink the treaty. "There is no aspect of a give-away here at all," he said.

One man who helped broker the deal is former Democratic congressman Thomas Downey, now a lobbyist for APC. "My role has been useful but marginal," Downey said. "APC made their case both to Mr. Dingell and the White House. So did The Post. Both sides had big interests in explaining their side."

GOP critics take a more jaundiced view. "The Washington Post had no business editorializing and saying this was a good deal for the free world, and all of a sudden you see in the bowels of this legislation there's a little item they overlooked," said Rep. Robert Livingston (R-La). "That to me is appalling."

How a provision affecting The Post came to be added to the controversial GATT measure in the waning days of a congressional session is a tangled tale. In 1992, APC and two other firms won a federal competition to develop "pioneer" technology for wireless telephones. The licenses were awarded for free, which was standard practice at the time. The three companies spent tens of millions of dollars developing the technology, which is to compete with cellular phones.

Last year, however, Congress ordered the Federal Communications Commission to start auctioning off such licenses in the future. The chief rivals of the "pioneer" firms, Bell Atlantic and Pacific Telesis, argued vociferously that the newcomers should pay for their lucrative franchises.

PacTel, which tried to win one of the free licenses, is no slouch in the lobbying department. The company has contributed more than $1.3 million to congressional candidates over the past decade.

"Yes, we competed. Yes, we lost," said PacTel spokesman Robert Stewart. But he said the proposed deal is "too much of a give-away" and "would create a tremendous distortion in the marketplace."

In July, the FCC went further and decided to charge the three companies a total of more than $1 billion for their existing licenses. The Post subsidiary cried foul, suing the government for changing the rules in midstream.

Graham said, "There is no question whatsoever that the pioneer awards were supposed to be free of licenses. . . The pioneers

feel this promise is being broken because of ferocious and successful lobbying" by corporate rivals. Graham said he too had "done some lobbying" with the administration and Congress.

Dingell, for one, was persuaded. In a letter to colleagues, he said the FCC does not have the legal authority to charge for phone licenses and that its effort could be "quite possibly overturned in court," leaving the government with "nothing." So the White House and Dingell struck a deal with the companies that the congressman defended as "a good deal for the taxpayers."

The compromise requires the companies to pay 85 percent of the average price of licenses in upcoming auctions, and no less than $400 million. While this is far less than the estimated $1.3 billion the licenses might fetch today, Graham said it is "grossly worse" than the deal the companies originally struck. Had The Post known the eventual cost, he said, "we would not have competed."

The GATT legislation suddenly loomed as a very attractive vehicle. Not only was it on a "fast track," meaning it could not be amended, but the administration was required to find some money to offset the revenue lost by lowering tariffs. The pot of cash to be raised from the three companies was ideal for this purpose, and the Dingell language was quietly added to the thousands of pages of GATT legislation.

PacTel officials discovered the move Sept. 21, and in the next two days the Associated Press and Wall Street Journal carried stories on the deal. Still, the issue remained muted.

That changed on Tuesday, when PacTel bought full-page ads in The Post and Washington Times. "The Washington Post and two other corporations have slipped in a billion-dollar loophole—and the Post forgot to mention its own special interest in two editorials urging quick passage of the trade pact," the ad said.

"We ran the ads because we'd had no success getting the attention of the administration," Stewart said. Dingell dismissed the ad as "misleading" and part of a "corporate cat fight."

Asked why he sold space to a business rival, Graham said: "The Post tries to give extraordinary freedom to advertisers to say what they wish. We've run many ads criticizing the newspaper and its policies."

While acknowledging its mistake in an editorial Wednesday, The Post said it has run more than 400 editorials in favor of free trade. Greenfield said the notion that her editorial page was secretly trying to advance corporate interests was "a bit nutty." But the political damage had been done: House Republicans succeeded that day in delaying a scheduled vote on GATT until after the November elections.

The disclosure of The Post's role was "explosive" and "dynamited support within the Republican Party," Buchanan said. "It's an insider's deal, and the fact that it's The Washington Post is icing on the cake. The Washington Post is not a beloved institution in the Republican Party."

All this has left the paper in the awkward position of reporting on a Capitol Hill struggle in which it has become central player.

"It's always hard to make sure you're having the same arm's-length relationship that you have with any other story," said Executive Editor Leonard Downie Jr. "Probably it's difficult to convince readers that we are treating it the same way as any other institution."

FAREWELL TO A GREAT AMERICAN

Mr. BYRD. Mr. President, I was officially sworn in as a Member of the United States Senate in 1959, January—more than 35 years ago.

During these almost 36 years of service in this institution, I have been privileged to know, and to count as personal friends, many men and women who tread the pages of American history—brilliant Senators, dedicated Senators, patriotic Senators, prophetic Senators, and many Senators who might rank among some of the outstanding legislators of this or any country.

With some still serving here today, I can rightly say that I have suffered sincerely from the departures and retirements of many of those Senators from our past, and as long as I live, I shall never forget my personal association with the long parade of Senators who have served with me here and who have gone into retirement and some who have gone to await their summons to the Eternal Roll Call.

I was the 1,579th Senator to be sworn in. From the beginning in 1789 to the present, there have been 1,814 men and women, who have graced the Senate Chamber and who have answered the rollcalls of this body.

Having said that, Mr. President, I cannot recall the departure from the Senate of anyone whose departure I regret more than the impending departure of Senator GEORGE MITCHELL from Maine, our Majority Leader and a man whom I admire deeply and sincerely, both as a colleague and a friend.

As I contemplate Senator MITCHELL's retirement from our midst, my unstudied initial reaction is, "Say it is not so!"

Like so many of our colleagues, I have benefited by the brilliance of Senator MITCHELL's mind, and from Senator MITCHELL's leadership and comradeship here in our parliamentary struggles.

Indeed, when the 104th Congress assembles next year, no matter who among us is no longer here, the vacuum left by GEORGE MITCHELL will be difficult to fill.

The basic outlines of Senator MITCHELL's career are a matter of public record. I shall not revisit that record here.

But I do remind our colleagues that Senator MITCHELL is the son of an immigrant mother who worked in a textile factory and of a father who was the orphaned son of Irish immigrants and who worked as a laborer and a janitor.

I recount those realities in order to underline the higher reality of GEORGE MITCHELL's life and career.

Contemporaneously, some cynics find amusement in ridiculing the Horatio Alger story—in asserting that the classic "American Dream" is a fantasy fit only for the gullible and weak-minded—a fantasy with no foundation in life and no realization in human experience.

To such cynics, I say, "look at GEORGE MITCHELL!"

Both Senator MITCHELL and I rose from less than auspicious origins to find our places in the life of a nation that rewards hard work and real effort.

Senator MITCHELL and I have lived out biographies as dramatic, perhaps, as one could ever find—lives of Americans not born to privilege, but lives presented with opportunities and rewards undreamt of by most Americans and impossible to the people of most other lands around the world.

As I stand before you, Mr. President, in the recesses of my imagination, I entertain a genuine fantasy—a fantasy of the Founding Fathers—Washington, Jefferson, Madison, and others—beaming down on us from on high, as this Congress moves toward adjournment and as Senator MITCHELL steps down from his Majority Leadership position.

And in my imagination I can see those Founding Fathers congratulating one another and saying to one another, "See! It works! That is what we intended when we made merit and ability the keystones to our American system of Self-Government, instead of artificial pedigrees, titles, and rigid class origins!"

Mr. President, I commend Senator MITCHELL for the reasoned passion that he brought to his responsibilities as Senate Majority Leader. I commend him further for his infinite patience in helping to guide this mighty institution through the stormy straits of partisanship and wrangling for, lo, these several years. If he has a fault, it is the fault of being too accommodating. I have said that before to him personally, and I have stated it on the floor.

I commend Senator MITCHELL for the incomparable dignity that he has brought to his duties and the grace with which he has carried us so often through the legislative rapids. I commend him further for his keen and incisive and discerning intellect and the logic of his thinking—attributes at which I more than once have marveled as I have watched him pilot the Senate so often.

This past Wednesday evening, Senator MITCHELL delivered a speech at a fundraiser for the George J. Mitchell Scholarship Fund—an endeavor by Senator MITCHELL to encourage and undergird scholastic achievement and education—causes in which both Senator MITCHELL and I have matching concerns.

Senator MITCHELL's remarks on that occasion on this past Wednesday evening, are far more revealing than the comments on his life and career that another might make, even in the sincerest effort to capsulize the values of Senator GEORGE MITCHELL.

For the benefit of all of our colleagues, and for the benefit of posterity, those who will read the CONGRESSIONAL RECORD 100 years from now, I ask unanimous consent that Senator MITCHELL's remarks at his scholarship fund dinner be printed in the RECORD.

And to Senator MITCHELL, I say, fare thee well, colleague and friend. Depart if you must, but never forget your friends here in the Senate, and take with you into the years ahead and into Eternity the assurance that you have made a difference in our work together and the life of this country which we both love so dearly.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATE MAJORITY LEADER GEORGE J. MITCHELL—OCTOBER 5, 1994

GEORGE J. MITCHELL SCHOLARSHIP FUND DINNER

I'm grateful to President Clinton, to my colleagues from the Congress, and to all of you for your support for this scholarship fund. This is as important to me as anything I've done since I entered public service.

Before I entered the Senate, I had the privilege of serving as a Federal judge. In that position, I had great power. The one I most enjoyed exercising was when I presided over what are called naturalization ceremonies. They're citizenship ceremonies. A group of people gathered before me in a federal courtroom. They'd come from every part of the world. They'd gone through the required procedures.

Now in the final act, I administered to them the oath of allegiance to the United States. And then I made them Americans.

It was always emotional for me because my mother was an immigrant, my father the orphan son of immigrants. They had no education and they lived hard lives. But because of their efforts, and more importantly, because of the openness of American society, I, their son, am today the Majority Leader of the United States Senate.

After every ceremony I spoke personally with each of the new Americans. I asked where they came from, how they came, why they came. Their stories were as different as their countries of origin, but all were infused with a tangible and inspiring love for this, the country of their choice.

The answers of the new Americans to my question of why they came were different. But a common theme ran through them. It was best expressed by a young Asian man who replied, in slow, broken English: "I came because here in America everyone has a chance."

A young man who'd been an American for five minutes summed up the meaning of America in a single sentence. Here, everyone has a chance.

But in the twenty-first century, and the third century of American history, everyone will not have a chance to succeed unless they first have a chance to learn. The competition will be fierce and unforgiving. Those who lack knowledge and skill will not succeed.

I consider myself to be especially fortunate. I had a chance. I got an education.

My mother spent her entire working life on the night shift in textile mills. She was a woman of strength and substance, the most influential person in my life. My father was a laborer and a janitor. Like many in their generation, they devoted their lives to providing for their children the education they never had. They had a profound, perhaps even exaggerated sense of the value of formal education. Although they died without property of prominence, my parents had rich and fulfilling lives by their standards—and mine.

I experienced early in life the value of learning. In my junior year at High School, I met an English teacher named Elvira Whitten.

I was fifteen years old, naive, totally lacking in self awareness or self-confidence. I had never read a book, other than what was required to move from one grade in school to the next.

She was elderly, intelligent and kind. One day she asked me to come back to class after school. I did, not knowing what to expect. She talked for a few minutes, then she asked me what and how much I read. I told her. She picked a book up off her desk and handed it to me, and said she thought I would find it interesting.

She made it clear I didn't have to read it, but she asked if I would, for her, and, if I did, to come back and tell her what I though of it. I agreed to read the book because I respected her and knew that it would please her. That night, I got into bed, opened the book and began reading.

It was "The Moon is Down," a short novel by John Steinbeck about a wartime military occupation—presumably the Nazi occupation of Norway. I stayed up most of the night reading it, and could hardly wait to tell Mrs. Whitten about it. She smiled, handed me another book and said, "I thought you'd like it. Here's another one you might like."

It went that way for a few months, and then she gently suggested that I start picking out my own books. I did so, and felt the first stirring of self-worth. It was my exposure to the world of books, to the excitement of knowledge, and it was my first step to adulthood.

I've often wondered what would have become of me if I had not met Mrs. Whitten, or if she had not taken an interest in me. I will always regret that before her death I never went back to tell her what a difference she made in my life. This is my way of doing so, and through her, all of the other teachers who hold the wondrous power to open young minds and inspire young lives.

Earlier this year, when I announced that I would not seek reelection, I received hundreds of requests from groups who wanted to honor me in some way.

I asked that all such offers be concentrated into this one effort. The money raised tonight will be combined with the remainder of my campaign fund to set up a scholarship foundation to help needy and deserving students get a college education.

Nothing is more important to success in American life than a good education. I believe that, because of my own experience and because of what I expect to be the rising demands of the next century.

I once needed help and got it.

Now, fate has provided me the opportunity to help others. I'm grateful for that opportunity. And I'm grateful to you for helping to make it possible.

I've been proud to serve the people of Maine in the United States Senate. It's a great honor, the greatest of my life. But when the 104th Congress convenes in January, I will not be there to take the oath of office as a United States Senator.

My decision not to seek reelection was based solely on my personal concept of public service. I will miss the Senate. I will miss my colleagues. Most of all, I will miss public service.

I've been in the private sector and then in the public sector, and I'm now returning to the private sector. I take nothing away from private life when I say that nothing can ever give the deep and meaningful satisfaction that comes from public service.

Public service gives work a value and meaning greater than mere personal ambition and private goals.

Public service must be and is its own reward, for it does not guarantee wealth, popularity, or respect.

It's often frustrating. But when you do something that will change the lives of people for the better, then it's worth all the frustrations.

We are the most fortunate people ever to have lived, to be Americans, citizens of the most free, the most open, the most just society in human history. Ours is virtually the only government in history dedicated to opening doors, not closing them.

In America today, I believe anyone can go as far and reach as high as work, talent, and education allow. We can't equalize effort or talent and we shouldn't. But we can provide equal opportunity—the promise to everyone of a fair chance to succeed.

It's because of the promise of America that I was able to become the Majority Leader of the United States Senate.

Whatever new problems arise, whatever unforeseeable challenges come, if we can keep that promise alive for our children and theirs, America will never lose her way. For me, that's the purpose of public service, its inspiration and finally, its reward.

Thank you for your support, your trust, and your friendship.

Mr. BYRD. Mr. President, how many minutes do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed for perhaps 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

HIS MISSION IS COMPLETED * * *

Mr. BYRD. Mr. President, as we near the end of the work of the 103d Congress, I am mindful that a number of our colleagues are retiring from their responsibilities here in the Senate, and will not be regularly among us when the 104th Congress convenes in January.

But one among the United States Senate family deserves particular notice here as he retires from his responsibilities and departs for a new phase of his life.

In this instance, I have particularly in mind our incomparable Senate Chaplain, Dr. Richard C. Halverson.

Dr. Halverson came to his duties as Senate Chaplain from a distinguished career in the Presbyterian ministry—most recently, from the Fourth Presbyterian Church, on River Road, in nearby Bethesda, Maryland.

There, through a committed pastorate and an enviable and unpretentious pulpit style, Dr. Halverson had built up one of the Washington

area's most dynamic churches, with a vibrant and active congregation that is still, in itself, perhaps one of the most vivid monuments that any pastor might leave behind him.

Barely missing a beat, Dr. Halverson became a pastor to a new flock here in the Senate, and with touching dedication has moved among us as a living witness to his faith since he took up his duties in the Senate.

He has visited with us in the hospitals. He has visited with our wives and our families in their sick rooms. He has attended memorial services for our friends and our loved ones, and we shall never forget these good deeds.

I know that I speak for all of our colleagues as I express my own appreciation to Dr. Halverson for his ministry in the Senate, and as I voice my own admiration to him for the unquenched spirit and the deep compassion that he has shared with us over the years in the name of a common faith that cuts across the denominations and traditions represented among us.

We shall indeed miss Dr. Halverson, but we shall not soon forget the unequalled dedication that Dr. Halverson demonstrated as "a man of God among us" and as one who touched our lives with the Truth of Eternity.

Mr. President, I thank my friend, Mr. GRASSLEY, for his characteristic courtesy and kindness in yielding the floor temporarily. And now I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

NOMINATION OF BUSTER C. GLOSSON

The Senate continued with the consideration of the nomination.

Mr. GRASSLEY. Mr. President, as you know, I am discussing the reasons that I believe General Glosson should not be confirmed in his promotion recommended by the Department of Defense and by the President.

As I have tried to make clear, the sequence of events is that there was a panel, which is traditionally done in our military services for promotion, set up to promote some members of the Air Force. That promotion process is not to be interfered with. The integrity of it must be maintained.

The inspector general of the Air Force, backed up by the Department of Defense inspector general, said that General Glosson tampered with that process, and the evidence of it was given out by three generals who were on the board who knew that these communications by General Glosson were not only morally and ethically wrong, but they violated the regulations of the Air Force. They resigned. That was the basis for the inspector general investigation.

Those facts were supported by the investigations of the inspector general, and then further, when questioned about it, the inspector general said that General Glosson lied under oath. Made aware of this, the Secretary of the Air Force, although she would say it was on General Glosson's initiative, withdrew from consideration for other higher up positions within the Air Force.

Somehow it was surmised that a consolation prize for this process would be that General Glosson would retire at a three-star rank. So the nomination went through the Department of Defense, Secretary of Defense, the White House and came up here. It was up here for several months. Finally, the Armed Services Committee decided that it ought to go back to the Department of Defense for some review.

There was a special panel set up to go back and look at everything to see if General Glosson lied and these generals that resigned that said that General Glosson was tampering in the process, whether all that was accurate.

And so the panel reported back—and I discussed that—and that is why, because of the panel report, our own Armed Services Committee felt they could move ahead and bring General Glosson to the floor of the Senate for final confirmation at retirement rank of lieutenant general.

And so we are dealing with whether or not General Glosson, interfering in this process, should be rewarded by a three-star rank and the stamp of approval that Senate confirmation gives to that.

So I wish to speak a little about the inspector general's activity in this area versus what the panel had to say as it relates specifically to whether or not Glosson lied. As far as the panel is concerned, as far as the IG is concerned, there is no dispute that Glosson interfered in the process, and the three generals who resigned from the panel and said he did interfere, there is no dispute that they were telling the truth. The only dispute is did Glosson lie about it under oath.

But even if he only interfered in the process, that is a very, very serious matter and subject to all sorts of action that can be taken against anybody so doing.

But I want to just focus on this lying issue. Again, the joint IG investigation concurred in by the Air Force JAG and the Air Force general counsel found that General Glosson did lie under oath. The inspectors general conducted a criminal investigation into the allegations against General Glosson. It was conducted as a criminal investigation on the advice of the Air Force judge advocate after he was made aware of these allegations.

This was not an administrative inquiry. Had it been, the IG could have compelled General Glosson's testimony. But General Glosson did not fully cooperate in the way that reflected an administrative inquiry. For instance, he required the presence of a personal attorney, and he disallowed a transcript of the interview by the IG personnel. According even to the committee report, General Glosson was evasive and misleading in his responses.

The IG is duly authorized to conduct such investigations as was the case in this matter. It hires experienced investigators to conduct such investigations. These investigators make judgments based on weighing the facts against criminal standards. And when their judgments are signed off on by counsel, which it was in this case, it then makes a very powerful case.

The review panel, on the other hand—I am talking about the panel that was set up after the Armed Services Committee sent this back to the Defense Department for reconsideration—this review panel, on the other hand, made a political judgment about whether General Glosson lied, and it did not have criminal investigative expertise.

As a member of the Judiciary Committee, I have become familiar with the investigative process. In legal proceedings, facts are determined by skilled factfinders, the trial courts. In ensuing appeals, the appellate courts are to provide deference to the factfinding of the trial court. This deference is especially strong when the district court's factual findings were based on live testimony, where the district court was able to evaluate the credibility of the witnesses based on the testimony.

The IG's heard all the witnesses, and their findings on credibility should not be dismissed lightly. Because the parties often disagree about the facts and because anyone can testify in a self-serving way, the processes of cross-examination and observing credibility are extremely important in resolving the factual inconsistencies in litigation generally. The three-member panel, again, set up just a few weeks ago after the Armed Services Committee sent it back to DOD, did hear live testimony. They also concluded that the three generals testifying against General Glosson were telling the truth.

They did not say the same thing about General Glosson. However, the panel's live testimony was taken long after the IG's heard the testimony—nearly 1 year later, when witnesses' memories, except apparently General Glosson's, were fresher.

In my view, therefore, and for reasons I mentioned earlier, the three-member panel's review does little to persuade me that the finding of lying by the IG's on the part of General Glosson was wrong. This is especially true since the panel's factfinders said that General Glosson's testimony to them was evasive and misleading. Mind you, this is not the IG's talking. It is the review panel talking.

Couple this with the fact that the panel did not state that General Glosson told the truth. Let me repeat that: Couple that with the fact that the panel did not state that General Glosson told the truth and that is hardly, then, I think a ringing reversal of the findings of the IG's. So again, I say that that argument simply is not persuasive.

Mr. President, there are three main arguments used over the last year by those who want to push through the Glosson nomination. Each one of these arguments is flawed. I wish to review the three. The first argument is as follows: Yes, General Glosson improperly tried to influence the promotion board. However, you have to look at this in light of his entire military career.

General Glosson, indeed, had a distinguished military career.

It is punishment enough, the argument goes, that General Glosson's career was prematurely cut short. I wish to address this argument. First of all, General Glosson had been promoted often to reflect his distinguished career. He rose all the way to major general without a single blemish on his record. That was his last promotion. Since that promotion, General Glosson engaged in activity in question, and so this confirmation relates only to what he did since his last promotion.

The argument that he should get his promotion based on his entire career is simply not a persuasive one, particularly when you deal with something that is potentially a court martial offense, interfering with the promotions board processes and, for sure, lying under oath.

The second argument that I think can be discredited is that if the U.S. Senate confirms General Glosson, here is what it is saying, here is the signal we are sending, not just to other flag officers but the entire military and to cadets and to plebes and those who are at the bottom of the ladder. We are saying to them, you can have a distinguished military career, and near the end of that career, you can do something improper and we will overlook it. If you have an unblemished career, you are allowed one big foulup and we will look the other way, because one major foulup will be looked at in the context of your entire career.

That, Mr. President, is unacceptable because it is a political solution. It violates the very rigorous standards that we as an institution have fought hard to establish; namely, to make the promotion system like Tylenol—tamper proof.

A second argument I heard was the conspiracy argument. The conspiracy was that it was not General Glosson who lied, it was the other three generals who were influenced. They ganged up on General Glosson and conspired against him. It was they who lied to stop his career dead in its tracks.

Mr. President, none of the investigating bodies found one scintilla of evidence to support this conspiracy theory. To the contrary, at every turn, the three generals were found to be telling the truth—the Air Force IG, the DOD IG, the Air Force JAG, the Air Force general counsel, the Secretary of the Air Force, the three-member review panel, and the Armed Services Committee. Yet, this argument was used to get me to take a sympathetic view of General Glosson. Let me just say parenthetically the way to get me or anyone else to take a sympathetic view of General Glosson is to win the case on the merit of the findings in the joint IG report that these findings of the joint IG report are unfounded. So this argument of conspiracy is also a nonstart.

(Mr. AKAKA assumed the chair.)

Mr. GRASSLEY. Mr. President, a third key argument was that the joint IG report was biased. That argument said that the Air Force IG LTG Eugene H. Fischer held a bias against General Glosson and that, therefore, the joint IG report was tainted. This argument was not only wafting behind closed doors around here but the Armed Services Committee considered the issue in its deliberations as well.

In response to this argument, let me say first that the Air Force IG was merely a participant in the investigation invited by the DOD IG. It was the DOD IG that conducted the investigation and called all the shots.

Second, the three-member panel reviewed this allegation and found absolutely no basis for such allegations. In fact, the panel's findings even directly shot down these allegations. It said "We adduced no evidence establishing that Lieutenant General Fischer had serious personal conflicts with LTG Glosson." Again, this was one of those arguments wafting around the halls of this institution. Let me be very clear about it. There is no factual basis for these arguments.

I might say, Mr. President, at this point, all of these different arguments that I just alluded to were used back in the spring and the early summer of why this should go through. In recent weeks, I think that the people have come to the conclusion that these arguments do not hold water, and I have not been hearing them on the personal appeals that have been made to me by my friends in this body who have asked me to just look another way and let this go through.

Mr. President, the image and the integrity of the U.S. Navy has suffered greatly in recent years. Incidents like the Navy cheating scandal at the Naval Academy, also things like Tailhook, and other scandals have given the Navy much more than just a black eye. As a result of all of this, at the Naval Academy they talk about the new Navy—the new Navy now. What that means is that the Navy is trying to clean up its image. It is trying to instill in its lower ranks a new ethical standard. But if this new ethic is to take hold, what happens at the lower ranks must also take hold at the upper ranks. And the Senate is very much a part of that process.

It seems to me we need to follow the Navy's lead. We, in the Senate, have been trying to clean up our own act. We are passing laws restricting gifts and lobbying. We will soon pass a law to subject Congress to the new laws that we pass for the rest of the country that we have exempted ourselves from, although I doubt now if we are going to get this done this year. But this will be done by February next year. The new Senate needs to instill a new ethic. By eliminating the appearance of double standards, we build up our credibility and our integrity as an institution. We are trying to become the new Senate just like the Navy is trying to become the new Navy.

Mr. President, we would be taking a giant step backward if we let this nomination go forward having failed to resolve these very serious issues. There is no question that General Glosson tampered with the promotion board. And it is not disputed that he did not tell the truth about what he did. Meanwhile, all agree that the three generals who testified against General Glosson were truthful.

Advocates of General Glosson say the following: That despite this blemish, you have to look at his overall career. But the problem with this argument is, as I have said, that if we do that, it is business as usual. That certainly then would not be the new Senate speaking. That argument says it is all right to do something untoward at the end of a brilliant career and you will get away with it. What they are really doing is asking the entire Senate to just look the other way.

I do not know of one rule, I do not know of one guideline, one anything, Mr. President, that makes an exception for bad conduct if you have a brilliant career. That argument simply does not wash.

Do my colleagues really want to make that argument to the public? They look at that argument and they would say, yes, it is business as usual, business as usual here in the Nation's Capital. And I, for one, am just one Senator, but for one Senator, I would agree with that. This is such a clear case.

If we let this nominee go through, then who would ever stop? What would it take to put an end to business as usual? What would it take to put an end to placing political connections over integrity? What would it take for the U.S. Senate to rise up and finally say enough is enough?

The integrity of the nomination process is too important to be compromised for the benefit of one officer

regardless of his or her military achievements and his or her friends in Congress.

Unless and until some new evidence is brought forward to alter the unanimous conclusions regarding General Glosson's conduct, the Senate must reject his nomination. To do otherwise elevates form over substance.

We saw how the Navy cracked down on the Naval Academy at the time of cheating. In a large part, the Senate played a major role in that, and I think they did it under the leadership of Senator BYRD and others. I have already referred to the fine arguments that Senator BYRD made in those hearings. Are we going to discipline those at the bottom but not discipline those at the top? Are we going to discipline the plebes but not discipline the lieutenant generals who influence the process?

I want to borrow an analogy. In the 6th century B.C., the Athenian lawmaker Solon spoke about the sometimes selective effectiveness of law. His observation is on all fours with today's experience. Solon said, "Laws are like spider webs in that if anything small falls into them, they ensnare it. But large things break through and escape."

Mr. President, Solon in 6th century B.C. could easily have been describing our confirmation process rather than laws. But it applies to both.

In other words, this is business as usual. This is what we have had all too often in this body, and all too often in this town. That is what is involved in the Glosson case. It is all right to punish the plebes and the cadets, but do not hold the generals to the same tough standards.

We are the leaders in the confirmation process. Do you not know that every officer and every enlisted man and woman in the military is watching how we vote on this nomination? We are about to send a clarion signal to those military men and women watching. In the context of their culture, the outcome of this debate is as big a deal as the Gore/Perot debate on NAFTA and what it was to most of us on that issue. It is pivotal, defining, and it will greatly affect the morale at all ranks in the military if we turn our heads on this issue.

The question is: How will we in the U.S. Senate respond? I suggest to my colleagues, Mr. President, that the Senate is on the spot here, perhaps even more so than General Glosson. Will we set the example needed to reflect a new sentiment? Or will it be business as usual, and will we allow General Glosson to bust through the spider's web?

In my view, this is a key vote on the credibility of our institution. This integrity issue, I think, is central to a lot of people in the bureaucracy. I was asked to meet with the Secretary of the Air Force on these nominations. But, you know, when they came to talk to me, they said they came to talk about the Colonel Bolton promotion and the General Barry promotion. They did not want to visit about General Glosson. They did not say they did not want to visit about it; they just said they came to speak about those other two.

Why, in my suspicion, they do not want to talk about it is that this integrity issue is pretty doggone important and central to the whole issue, and people in the Air Force do not want to have to be dealing with that integrity issue because it is very difficult to support and justify.

Let me read now from a letter from the DOD inspector general to Deputy Secretary Deutch responding to the panel report. Again, remember, there are these promotion panels which the three generals resigned from when Glosson tried to influence them. But the panel report that I am talking about refers to the three-member panel that was set out to go over the Glosson nomination a second time after our Armed Services Committee sent it back to the Defense Department. And so when that panel report came back, the Armed Services Committee felt that it gave them enough room to bring this to the Senate floor.

The inspector general had an opportunity to respond to that, and so this letter is from the inspector general to Deputy Secretary of Defense Deutch. This letter addresses how the panel dealt with the issue of General Glosson's lying. It is entitled "Memorandum for Deputy Secretary of Defense. Subject: Nomination, Lieutenant General Buster Glosson:

I have reviewed the report on issues relating to the nomination of Lieutenant General Buster Glosson for retirement in grade, which was forwarded to this office by deputy general counsel on September 15, 1994. I believe the fact finders correctly concluded that Lieutenant General Fisher was not biased in any way with respect to his participation in the inquiry conducted by this office regarding the allegations against Lieutenant General Glosson.

Further, the fact finders and the investigators who conducted the inspector general inquiry reached the same conclusion, based on the same rationale, that the conversations between Lt. General Glosson and the three complainants conformed more closely to the recollections of the complainants and that Lt. General Glosson's communications were highly improper.

The inspector general says:

I disagree, however, with the fact finders' criticism of the manner in which the inspector general inquiry was conducted. The report asserts that the lead investigator concluded early in the investigation that Lt. General Glosson was lying and then attempted to gather evidence to prove that conclusion. However, the report cites not a single instance in which the investigators failed to pursue a material fact or were deficient in their evaluation or presentation of the evidence. In fact, the fact finders did not uncover any significant new information in the course of their own inquiry.

The report also characterizes the approach to the investigation as too prosecutorial and aggressive. That characterization is based on anecdotal examples that do not withstand scrutiny. For instance, the report contends that the interview of General McPeak was combative and contains a small excerpt from the transcript of the interview.

Then the inspector says:

I have reviewed the entire transcript and believe the investigators acted properly throughout the entire interview. The investigators did not badger the Air Force Chief of Staff. Rather, they brought him back to the issues when he sought to avoid tough questions by providing nonresponsive answers. Similarly, the report characterizes an interview by Major General

The name is redacted.

A "grilling" because of questions the investigator asked about the details surrounding the telephone conversation which Major General

So and so.

Overheard, including whether he recalled if Lt. General Glosson was wearing a long-sleeved or short-sleeved shirt that day, because the Air Force switches uniforms in the fall. The question was intended to help fix the date on which the conversation occurred. As such, it was completely proper and probative.

I find it especially perplexing that the fact finders would criticize the investigators for a too-aggressive and prosecutorial approach in view of their acknowledgement that Lt. General Glosson was evasive and misleading in his initial interview with the investigator. Were it not for the investigators' determination to pursue the matter in spite of the dissimulation, we would have failed in our duty to uncover the truth.

Finally, I feel compelled to disagree with the conclusion in the report that Lieutenant General Glosson did not lie during the investigation and that his testimony resulted merely from inaccurate recollection.

I find it inconceivable that any senior Air Force officer could have gone through the crisis of the past several years relating to promotion boards, including one instance where an Air Force general officer was retired at a lower grade, without being cognizant both at the time and later recollections of any conversations he had with three board members relating to a fellow officer's potential promotion.

It should also be noted that the entire report, including that important conclusion, was reviewed by the Air Force deputy general counsel and the Air Force judge advocate general. Those legal officials' initial concurrence was that the findings of the report were supported by the evidence of the record.

The factfinders make no reference whatever to the legal review. I believe the legal review is further testimony to the fairness of the report and its conclusions, and I continue to stand on it. I request that you forward this memorandum to the chairman and ranking member of the Senate Committee on Armed Services.

Signed Derek J. Vander Schaaf, Deputy Inspector General.

Mr. President, from day one, I have argued that the Senate should not confirm General Glosson's nomination until the dark cloud hanging over his name is somehow lifted.

Well, Mr. President, that dark, ominous cloud still hangs over the Glosson

79-059 O—97 Vol. 140 (Pt. 21) 3

name. A reinvestigation did not succeed in washing away the evidence. An independent panel of three judges took a fresh look at all the evidence, but it was unable to break free of the facts and to lift the cloud.

The evidence against General Glosson is compelling. It is impossible to reconcile General Glosson's story with the testimony of three senior Air Force officers. That is the problem we have to wrestle with today. That is the issue. The Glosson nomination has been a very difficult and contentious issue for the Armed Services Committee. The committee has been agonizing over it for months. It is kind of like a festering thorn in the committee's side.

The complaints that were lodged against General Glosson go right to the heart of the integrity of the military promotion boards.

This nomination poses a real dilemma for the committee since General Glosson was accused of breaking the rules that the committee has worked so hard over the past 5 years to put in place.

All the committee's hard work had one goal in mind, and that goal was to insulate the promotion board from improper influences and communications. The whole idea is to strengthen the officer corps by promoting the most qualified, based on skill, on performance and on integrity, and, let me say, not on political pull.

Those are the rules that General Glosson broke. The inspector general of the Department of Defense and the inspector general of the Air Force accused General Glosson of tampering with a promotion board and then lying about what he did when questioned by investigators. The accusations by the inspectors general are laid out in a joint report dated November 8, 1993.

The inspectors general's accusations rest primarily on the testimony of three senior Air Force officers. The three officers who filed complaints against General Glosson are as follows: Lt. Gen. John W. Nowak, Deputy Chief of Staff for Air Force Logistics; Lt. Michael Ryan, Assistant to the Chairman of the Joint Chiefs of Staff; and Maj. Gen. Richard Myers, Director of Fighter Weapons Programs for the Assistant Secretary of the Air Force for Acquisition. These are the ranks and the positions they held at the time of the investigation.

These three senior Air Force officers were members of the 1993 major general selection board. These three general officers, Nowak, Ryan and Myers, formally complained that General Glosson had communicated with each of them separately regarding the integrity of a fellow officer whose name was under consideration by the board.

I will refer to the person whose integrity Glosson questioned as General X to protect his privacy.

Communications with a promotion board regarding a particular officer are "expressly forbidden." They are "prohibited" by paragraph 11–d of Air Force regulation 36–9. A failure to obey this regulation could be a court-martial offense under the Uniform Code of Military Justice. Officers who are assigned to serve on these boards must take a solemn oath to "act without prejudice or partiality," and they have a duty to request relief if they think the board's proceedings have been compromised "by improper influence of superior military authority."

Mr. NUNN. Will the Senator yield for a brief question?

Mr. GRASSLEY. Yes. If I do not lose my right to the floor, I will yield.

Mr. NUNN. Mr. President, I would like to have our colleagues be able to hear both sides of this debate. I know the Senator has spoken now for I do not know how long and it is within his rights as long as he chooses to. But I think the other side of the issue should be heard so people can make a decision with both sides having been heard.

I would like to inquire of the Senator at what stage would he be willing to have others speak on this subject?

Mr. GRASSLEY. If the Senator can give me some information, I could answer that question. If the Senator can find out how many hours we are going to be in session tomorrow, because we will be voting on cloture sometime on the second day, and if we are just going to be in session a few hours tomorrow so I cannot discuss this, then I want to make sure we discuss it before we go home tonight.

And then I know—see, the reason I am concerned about this, I say to my friend from Georgia, is because we are involved in four debates all at one time. We are involved in the Glosson debate, the Barry debate, the Bolton debate, and then the California National Park debate, and we had 3 or 4 hours on the national park debate.

If we get into the national park debate tomorrow and they spend all the time on that, then cloture is going to come, and I will not have the opportunity to present the case that I want to present to the Senate. If we are going to have a long period of time for debate tomorrow, I would be glad to yield without losing my right to the floor to the Senator for what time he might want right now.

Mr. NUNN. I have no way of telling the Senator that. I will certainly inquire of the leadership what their intentions are.

I think most people would be able to speak if we vote on all these matters sometime tonight or in the morning. But if the Senator from Iowa is saying we really are going to be here until Sunday to debate these, I think the Senator would have plenty of time to debate, because if I know the Senate, and I think I do, there is nobody going to be here to speak after 11 o'clock anyway. I think we will have ample time to debate. I imagine if this is going to be stretched out to Sunday, there will be a number of hours that all of us would.

I defer to the Senator. I inquire of him how long does he think it will take him to present this case. Let us say in any circumstance does he anticipate he will take another 2 or 3 hours, 30 or 40 minutes, or another 5 or 6 hours?

I am trying to get a general idea on this. We have a number of speakers on the Armed Services Committee. Two of the nominations passed, as the Senator knows, by unanimous consent, all Republicans and Democrats. The Glosson nomination, I believe, was a 14-to-7 vote. So we will have other people who want to talk on the nomination on really both sides.

So I guess my question really is: If the Senator has all the time he needs to present his case on all of these, would he give us some general range of that so we can inform other Senators who may want to speak on this?

Mr. GRASSLEY. First of all, I would like to be cooperative and intersperse what I have to say with what the Senator has to say and others have to say on the other side, if that does not close me out of saying what I want to say in the whole process.

So the Senator asked a very legitimate part of the process. I would even benefit from hearing what the Senator has to say about it before I am done. I just want to make sure that we have an opportunity to do this. But do not forget that the issue before the Senate that is going to determine whether or not we vote tomorrow is not necessarily on these nominations, because the first vote on cloture is going to be on the national park bill.

Mr. NUNN. I understand.

Mr. GRASSLEY. So I do not want and I am not going to have that yoke around my neck. I am not responsible for extending debate until someone on the national park debate says they are going to vote sooner than the usual ripened time.

Mr. NUNN. I understand the Senator's point. I will also inquire into that and perhaps come back in an hour or so and at that stage determine when the remarks can be made.

Mr. GRASSLEY. If the Senator wants to come back before the hour is up, I am happy to cooperate with him and let him speak.

Mr. NUNN. I thank the Senator.

Mr. JOHNSTON. Will the Senator yield?

Mr. GRASSLEY. I will be glad to yield for a question if it is not for a long period of time and if I do not lose my right to the floor.

Mr. JOHNSTON. It is for a question.

Mr. President, my question is part question and part plea.

I ask the Senator to please let Senators know whether or not we should

cancel some very important things. My whole family is together for the first time in over a year and a half. The Senator has it within his power to cancel my weekend. That lies within the Senator's power.

I would tell him that if it is really important to do so, I understand he can exercise his prerogative. I ask him not to do that lightly. It is very important to me. And there are many other personal stories like this.

If the Senator wants to keep us here through the whole time, please tell us so. I plead with the Senator. Do not play cat and mouse and say, "Well, it depends on what you say and how the debate goes." I think the Senator knows what he is going to do.

I would personally appreciate it if I could call my wife and my children and their wives who are accompanied by their grandchildren and say, "I will not be coming tonight. Please proceed with the weekend without me."

You know, as the Nation goes, that is not an important issue. As my personal life goes, that is an important issue. And it is important enough so that the Senator from Iowa who is a friend can give me a straight answer. And I ask for one now.

Mr. GRASSLEY Mr. President, for reasons before said, I cannot answer the Senator's question, because the issues that I am debating will not be voted upon until there is a determination of when we are going to vote on the California national park bill.

Mr. JOHNSTON. Well, Mr. President, we do not get to that until we finish this. If the Senator could give us an idea on what his intentions are.

Mr. GRASSLEY. Is the Senator from Louisiana telling me that the debate on the national park bill is all done?

Mr. JOHNSTON. No. But you cannot get to that. I mean, I had good hopes that we would move to that vote as soon as we finish this.

Look, if the Senator wants to keep us here until Sunday, you know, I can accept that as an answer. But what I find difficult to accept is the vagueness of it all. Like, "Well, you know, it depends on them." And they say," No, it depends on you." You know, the old rope-a-dope.

The United States Senate, when I came 22 years ago, never operated like this. Senators were sensitive to the personal lives of other Senators. They were aware of what they were doing and they talked straight with one another. I think that is what we ought to do now. I mean, tell us. You have it within your power.

Mr. GRASSLEY. Mr. President, I am telling the Senator and any other Senator that is interested in the question that the Senator from Louisiana asked as forthright and as honest as I can.

Mr. JOHNSTON. That I should cancel the weekend?

Mr. GRASSLEY. I cannot answer for you or anybody else on that point. I can only tell you that I am going to present my case. I was prepared to debate one of these nominations last fall, I was prepared to debate the other in February, and I was prepared to debate another one as early as last April.

Mr. JOHNSTON. Would the Senator mind telling me how long he is prepared to debate tonight and tomorrow?

Mr. GRASSLEY. I would say 2 or 3 hours.

Now, when you are asking me, am I prepared to debate and stop at that point, then you get back still to the other question. It does not matter whether Chuck GRASSLEY stops right now or not, if the debate on the national park bill is not done, you are not going to go home, anyway. And I have nothing to do with that debate.

Mr. JOHNSTON. I fully understand.

Mr. GRASSLEY. I would resume my discussion.

A failure to obey the regulation that I was talking about could be a court-martial offense under the Uniform Code of Military Justice.

Officers, who are assigned to serve on these boards, must take a solemn oath to act "without prejudice or partiality."

And they have a duty to request relief if they think the board's proceedings have been compromised by improper influence of superior military authority.

After considerable anguish, the three generals stepped forward, asking to be excused.

Each then related the substance of their individual conversations with General Glosson to Air Force Secretary Widnall, and she subsequently excused them from the board.

Their complaints then triggered a criminal investigation.

The complaints were directed at General Glosson but they potentially involved the Chief of Staff of the Air Force, Gen. Merrill A. McPeak. That set off alarm bells.

Because of the serious nature of the complaints, a joint investigation was launched by the Inspectors General of the Department of Defense and the Air Force.

The Department of Defense Inspector General was in charge of the investigation. The Defense Department Inspector General made all the key decisions regarding the scope and direction of the investigation.

The Air Force Inspector General at the time, Lieut. Eugence H. Fischer, came along for the ride. He was invited to participate in the investigation—mainly as an afterthought—and at the urging of senior Air Force officials, including Secretary Widnall.

The DOD Inspector General overruled the Air Force IG when disagreements arose.

All the parties involved were questioned under oath.

Mr. President, I would like to review the principal evidence in the case—the testimony of the three senior Air Force generals—the complainants.

This is the key to the Glosson nomination.

It is important to note at this point that the testimony was gathered 2 to 3 weeks after the alleged communications occurred. So it's fresh material. The investigators were on a fresh trail.

I will take General Ryan's testimony first.

I will briefly hit the main points covered by General Ryan's testimony.

General Ryan testified that about 1 month after he was officially notified that he was designated as a member of the 1993 major general selection board in early October 1993, General Glosson called him on the telephone.

This is how General Ryan described the telephone conversation. I quote:

> I got a call from LTG Glosson, who related to me the following: That General X had lied to the Chief of Staff and that the Chief of Staff didn't want him promoted. I asked Gen. Glosson, I said, let me see if I got this right. I was kind of taken aback. General X lied to the Chief of Staff, and the Chief of Staff does not want General X promoted. And he says, that's it. And I said, I understand the message. And that was the end of the conversation. It was a very short conversation.

The investigators then asked General Ryan a very crucial question.

Do you think General Glosson knew you were a member of the promotion board when he called?

I quote: "In your mind, were you convinced that he knew you were a board member?" General Ryan's answer: "Oh, yeah, I'm sure." The IG followed up: "No doubt about that?" General Ryan: "No doubt * * * In fact, there was no question in the tenor and tone * * *"

After the conversation with General Glosson, General Ryan testified that he felt "disturbed." He said and I quote: "After a point, it started festering in me again * * * It really started bugging me * * * I don't think I can get through it. I can't sign that piece of paper at the end of the board and swear you know of no attempt to influence the outcome of the board."

Mr. President, those are the important points raised in General Ryan's testimony.

Now, I would like to turn to General Nowak.

General Nowak's testimony is almost identical to General Ryan's testimony.

Now, I would like to briefly summarize the key points raised in General Nowak's testimony.

On or about October 6, 1993, after he had been appointed to the board, General Ryan telephoned General Glosson to discuss a program of mutual interest.

After the business at hand was concluded, General Glosson then made these remarks to General Nowak. I quote:

> I want to tell you something, but you cannot check with the Chief to verify this or anything about it. I need you to know that

General X lied to the Chief. The Chief caught him and knows he lied, and he should not be promoted. If, in the course of your activities over the next few days, his name and record should pop up on your radar screen, you need to make sure that you do what's necessary.

General Nowak said "that was the total extent of the conversation. We hung up."

General Nowark, like Ryan, was "somewhat taken aback" by what General Glosson had said to him.

"My honest assessment," at that point was "I was not influenced by General Glosson," but "I thought it was a poor thing to do."

General Nowak, like Ryan, was convinced that General Glosson knew he was a member of the board.

"It was clear to me," General Nowak said, "that he wanted to affect my evaluation of General X."

To General Nowak, Glosson's intent was crystal clear.

General Myers' testimony tracks exactly with the testimony given by Generals Ryan and Nowak.

Now. Mr. President, I would like to briefly summarize the high points in General Myers' testimony.

On or about October 6, 1993, General Myers was notified that he would serve on the 1993 major general board.

The next morning General Myers received a call from General Glosson, who asked him to come to his office for a visit. General Myers agreed.

This is how General Myers remembers the substance of his conversation with General Glosson.

General Glosson asked me: "Have you been notified you're on a board? And I said, yes sir, I talked with General Boles yesterday and he told me I was on a board. And he said Well * * * that seemed to concern him a little bit. And then he said, Well, I'm going to tell you this, anyway. Then General Glosson said General X has lied to the Chief, and words to the effect that the Chief doesn't want him to get promoted."

In reply, General Myers asked: "So what do you want me to do about this?"

General Glosson replied: "Well, there may not be much you can do * * * Maybe you ought to just rate the record fairly low and hope it comes up in discussion, comes up in the gray area, and then you, you know, take it from there."

General Myers testified that he told General Glosson: "You put me in a heck of a position here." Glosson agreed, saying "yes, I know."

And that was it. The conversation lasted no more than 5 minutes.

Like Generals Nowak and Ryan, Myers too was upset by what had transpired.

For Myers, one of the most disturbing aspects of the conversation was General Glosson's close personal relationship with the Chief of Staff, General McPeak. Glosson was considered a "confidant" and member of the Chief's "inner circle."

This thought might have passed through Myers' mind: could this be a "black channel" communication from the Chief designed to torpedo a candidate?

Myers thought it was "really a strange conversation and probably not proper." He concluded that the Chief of Staff of the Air Force would not attempt to influence a promotion board. The whole idea "was repugnant to me * * * The more I thought about it, it became ludicrous."

General Glosson's testimony presents a somewhat different picture of what happened.

To briefly summarize, here are the important points raised during the interview with General Glosson.

General Glosson admitted he had conversations with Generals Ryan, Nowak, and Myers.

General Glosson admits he questioned the integrity of General X during those conversations.

General Glosson admits telling them: "that General X had lied to him on more than one occasion" in the past.

General Glosson even admits saying General X "can't be truthful with the Chief and the Chief didn't trust him," complaining General X would be promoted anyway.

While the two versions of what happened bear many similarities, there are crucial differences.

First, General Glosson denied telling Generals Ryan, Nowak, and Myers that Chief of Staff did not want General X promoted.

Second, General Glosson denied knowing that Generals Ryan, Nowak, and Myers were members of the promotion board.

General McPeak's testimony did not help General Glosson, not by a long shot.

Mr. President, I would like to take a moment to summarize the key points raised by General McPeak's testimony.

General McPeak denied telling General Glosson that General X had lied to him.

And General McPeak also denied telling General Glosson, or anyone else, that General X should not be promoted.

But the most damaging part of General McPeak's testimony was the part about General Glosson's knowledge and awareness of promotion board membership.

General McPeak's testimony clearly indicates that General Glosson had access to this kind of information on a routine basis.

General McPeak testified that he would not be surprised or bothered if General Glosson had obtained board members' names from the "Personnel Office."

McPeak said: "lots of people know who's on the board. All the 4 stars do. And as I said, I've always put Glosson in a special category * * * I can think of no issues that I haven't been willing to discuss fully with Buster Glosson."

Mr. President, as I said a moment ago, the principal evidence in the case is the testimony of those involved.

What does the testimony tell us?

Does the testimony answer four critical questions?

First, did General Glosson tell Generals Ryan, Nowak, and Myers that General X was unfit for promotion to higher rank?

Second, did General Glosson tell them that General X had lied to the Chief of Staff and the Chief did not want him promoted?

Third, did General Glosson know that Generals Ryan, Nowak, and Myers were members of a promotion board when he spoke to them?

Fourth, did General Glosson attempt to influence the outcome of the promotion board?

We should not confirm General Glosson unless the answers to these four questions are a clear, unambiguous "no."

Now, let us revisit the testimony, the principal evidence in the case.

Does it support resounding "no" answers on those four questions?

Not quite.

What does the evidence show?

It tells us that General Glosson contacted three board members and made very unfavorable remarks about the integrity of a fellow officer whose name was before the board for promotion.

Now, why would General Glosson do such a thing?

You do not have to be a rocket scientist to figure it out.

General McPeak's testimony suggests that there is a high probability that Glosson knew at least one or all three generals was on the board. Glosson was trying to block General X's promotion.

The testimony of Generals Ryan, Nowak, and Myers is almost identical about what General Glosson supposedly said.

General Glosson, by comparison, gives a somewhat different version of what was said.

Mr. President, it comes down to this: His word against their word.

There is no room for miscommunication or misunderstanding. There is no way to resolve the conflicting testimony.

What we have here are irreconcilable accounts of what happened. There is just one inescapable conclusion: Somebody is lying.

The stories given by Generals Ryan, Nowak, and Myers are almost identical. The consistency in their individual accounts lends credibility to their testimony. But the consistency may not be absolute.

Generals Myers and Ryan discussed their separate communications with

General Glosson before the board met and before being questioned by investigators. That is significant.

Did they huddle to get their stories straight? Was this an act of conspirators?

The conspiracy theory does not stand up to much scrutiny.

Neither General Ryan nor General Myers spoke with General Nowak, yet his story is identical to theirs.

Moreover, Generals Ryan and Myers voluntarily disclosed their discussions about the Glosson communications.

Conspirators do not freely acknowledge their discussions.

In sum, there is not one shred of evidence to suggest that three generals conspired to fabricate the allegations against General Glosson.

What benefit could they possibly derive from doing that?

Quite to the contrary, Generals Ryan, Nowak, and Myers came forward at great personal risk and with no certainty about what the final outcome would be. Theirs was an act of moral courage. Their action could have blown up in their faces and ended their careers. It was very risky business.

So what is the bottom line?

The inspectors general concluded that Generals Ryan, Nowak, and Myers are telling the truth. Everything points in that direction.

The accounts given by Generals Ryan and Myers were corroborated by the testimony of General Nowak, who testified that Glosson made identical statements to him.

And if the three generals are telling the truth, then that leads to one inescapable and difficult conclusion: General Glosson is not being truthful.

Mr. President, I would now like to take a moment to read the IG's important findings regarding General Glosson's conduct.

I will quote directly from the inspectors' general report. These are the inspectors' general findings on General Glosson's conduct. I quote from page 18 of the report.

> We make the following findings based upon a preponderance of the evidence:
>
> A. Lt. Gen. Glosson improperly communicated with the complainants and did so with the intent to influence their consideration of General X for promotion during the Calendar Year 1993 Major General Selection Board.
>
> B. Lt. Gen. Glosson lied under oath during our interview in describing the nature and circumstances of his communications to the complainants.
>
> C. Lt. General Glosson lied in his comments to the complainants regarding General X.
>
> D. Gen. McPeak played no role in Lt. Gen. Glosson's misconduct.

There is an important issue that needs clarification.

The inspectors general are saying that there are two sets of lies.

First, the substance or guts of General Glosson's communications with the three complainants was the first set of lies. Those lies were told in early October 1993.

Second, General Glosson lied when interrogated by investigators. That is the second set of lies. Those lies were told in late October 1993.

Mr. President, that is strong medicine, I know, but that is the conclusion.

It is the first time the inspectors general have ever accused a high official of lying under oath.

And I know the inspectors general only reached this conclusion after long and careful deliberation. They stuck to the facts, and the facts led them to those conclusions. It is as simple as that.

Now, the inspectors general did not present those conclusions without first clearing them through the Department's legal counsel. That was done.

The department's lawyers put their stamp of approval on the report.

The joint inspectors general report was reviewed and approved by the General Counsel, Sheila Cheston and Judge Advocate General of the Air Force, Major General Sklute.

I repeat, this is what the lawyers said:

> We have reviewed this report and concluded that its findings are supported by the evidence of record.

Their signatures appear on the letter transmitting the report to the Secretary of the Air Force.

Those signatures are dated November 8, 1993.

The DOD General Counsel was neutral.

After reviewing the inspector general's report, Secretary of the Air Force Sheila Widnall issued a formal letter of admonishment to General Glosson for communicating with three designated members of the 1993 major general promotion board. She continued: "this communication called into question the integrity of a promotion candidate."

That is the Secretary of the Air Force making those accusations against the general.

Mr. President, from the start, I felt the inspectors general had presented a solid case against General Glosson.

I had no reason to disbelieve the evidence. It was a credible report.

But the Armed Services Committee took a different view.

The Armed Services Committee has been struggling with the Glosson nomination for months. Until now, it had been unable to reconcile all the conflicting evidence.

The Glosson nomination has been like festering thorn in the Committee's side.

So, in frustration, in August the Committee turned to the Defense Department for help.

The Committee asked the Department to form an objective panel to take a fresh look at all the evidence.

That was done, and I will not dwell on that process, since it will be covered in detail, I am sure, by the chairman of the committee Senator NUNN.

The independent panel's report is dated September 13, 1994.

For the most part, the panel's report is an excellent piece of work.

The panel examined the same evidence as the inspectors general did and came to the same conclusions for the very same reasons. Only the very bottom line is different. That is it.

The panel was less decisive on the question of lying under oath. But, of course, that is a difficult question for anyone to wrestle with—especially when a high-ranking official is involved.

But whether you go to the IG's report, ratified all the way up the line, or whether you see the panel's report, except or that one issue, everything else is the same.

The panel concluded that General Glosson did not tell a deliberate lie. His recollection was inaccurate. He was, quite simply, mistaken.

In my mind, these are semantic differences.

General Glosson does not now remember things as they really happened.

Mr. President, the panel report does not clear General Glosson's name.

It does not cast reasonable doubt over the IG's finding that Glosson lied.

The panel report merely suggests that things may not—and I say may not—be quite as bad as we thought they were, but they are still pretty bad.

Maybe he did lie. Maybe he did not lie. We will never know for sure.

But there is no doubt about it, he tampered with the promotion board, because here are the panels findings.

Here are the panel's main findings.

First, the panel concluded that preponderance of the evidence suggests that the testimony given by Generals Ryan, Nowak, and Myers was truthful and accurate.

Second, the panel concluded that General Glosson improperly attempted to influence General X's promotion.

Third, the panel concluded that General Glosson's testimony was inaccurate—but not because he was lying but because his memory was foggy.

And forth, the panel concluded that the conflicts in evidential material were irreconcilable.

The differences were simply too vast to be reconciled.

The panel report does not get General Glosson out of hot water.

It is difficult to believe that General Glosson's mind could fog up so quickly.

He was first questioned by the inspectors general just 3 weeks after the alleged conversations took place. How did he suffer memory loss in such a short span of time.

While the panel report concludes that General Glosson did not lie, it does not say that Glosson was truthful, either.

It does not say that General Glosson told the truth. That is an open question—at least for the panel.

For the inspector general, General Glosson lied under oath when questioned by investigators.

The IG is sticking to his guns. He is not backing off. He stands behind his report: General Glosson lied under oath.

In a memorandum to the Under Secretary of Defense on September 21, 1994, the Deputy DOD Inspector General Vander Schaaf states:

I feel compelled to disagree with the conclusion in the report that Lt. Gen. Glosson did not lie during the investigation and that his testimony resulted merely from inaccurate recollection.

Mr. President, the inspectors general believe that Glosson told two distinct and separate sets of lies:

No. 1, the guts of his communications with the three complainants in early October.

No. 2, his statements to investigators in late October.

My reading of the DOD panel report suggests the panel only addressed the second set of lies.

The panel dodged the question of set No. 1.

Mr. Vander Schaaf, the inspector general, said it was inconceivable, that a senior officer like Glosson could not remember what he had said to the three complainants.

For a skilled fighter pilot and the mastermind of the air campaign against Iraq, it is hard to understand how he could so easily forget what he said to three members of the promotion about a fellow officer's suitability for advancement.

The three complainants did not suffer from memory loss. They did not have any trouble remembering what was said.

Mr. President, I just read Mr. Vander Schaaf's memo in its entirety.

The Deputy IG says that General Glosson is lying, and he said that barely 1 week ago.

While the panel concludes that Glosson suffered from inaccurate recollection, the panel is unambiguous about the truthfulness of the complainants. These are the three generals that resigned from the promotion board.

The panel concludes that the testimony given by Generals Ryan, Nowak, and Myers was truthful. It seems to me that that is the single most important finding and that in and of itself is devastating for Glosson. If the three generals are telling the truth, and the differences are irreconcilable, then a reasonable mind might conclude that General Glosson is lying.

Mr. President, it is important to revisit exactly the testimony given by the complainants. The three generals testified that General Glosson contacted each of them separately after they were appointed to the board and told them that general X had lied to the chief, meaning the chief of staff, and that the chief did not want general X promoted. The panel says all of that is true. That is what Glosson said.

Glosson denies saying those things, and the panel concludes that General Glosson improperly attempted to block the promotion of general X.

These two conclusions, when coupled together, tell me that General Glosson engaged in improper communications with members of a promotion board. Such communications are expressly forbidden and prohibited by paragraph 11 of the Air Force Regulations 36–9. A violation of those regulations could be a court-martial offense under the Uniform Code of Military Justice.

I asked the American Law Division at the Library of Congress to examine this question: would an attempt to influence the major-general selection board conceivably be subject to criminal prosecution? In response to my request, an excellent memo was prepared by Mr. Bob Burdette, legislative attorney within the division. I think he did a good job. The short answer to my question is, yes, a prosecution under articles 92, 133, and 134 could conceivably be undertaken.

I ask unanimous consent to print that memo in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, June 29, 1994.

Subject: Whether An Attempt To Influence a Major-General Selection Board Could Conceivably Be Subject To Criminal Prosecution.

To: Hon. Charles E. Grassley.
(Attention of Charlie Murphy).
From: American Law Division.

This memorandum responds to your request for an assessment of whether a possible attempt to influence the deliberations of a major-general selection board could conceivably be subject to criminal prosecution. You have indicated that the individual concerned spoke to persons who had been appointed as members of a major-general selection board, made negative comments concerning a particular individual who was under consideration by that board for promotion to the grade of major general, and represented his remarks as reflecting the views of the Chief of Staff of the uniformed service concerned. You have also indicated that the Inspector General of the uniformed service concerned and the Inspector General of the Department of Defense conducted a joint investigation of the matter and concluded, in relevant part, that the individual concerned had in fact "improperly communicated" with the members of the selection board "with the intent to influence their consideration" and had lied under oath to the investigators concerning the matter. Several distinct charges described in the Manual for Courts Martial (1984) could be implicated by such a set of circumstances. They are discussed separately below.

VIOLATION OF OR FAILURE TO OBEY A REGULATION (ART. 92, UCMJ)

The stated purpose of a relevant regulation of the uniformed service concerned[1] is to set out "objectives, policies, and procedures for promoting officers to and evaluating officers in the grades of brigadier and major general." Article 92 of the Uniform Code of Military Justice denominates "failure to obey any lawful . . . regulation" to be a punishable offense. Paragraph 16b(1) of the Manual for Courts Martial describes the elements of the offense, in relevant part, as follows:

Violation of or failure to obey a lawful . . . regulation.

(a) That there was in effect a certain lawful . . . regulation;

(b) That the accused had a duty to obey it; and

(c) That the accused violated or failed to obey the . . . regulation.

As part of the Manual's explanation of what constitutes a punishable violation, two items seem especially noteworthy for present purposes. Paragraph 16c(1)(d), relating to "*knowledge*," points out that: "Knowledge of a . . . regulation need not be alleged or proved, as knowledge is not an element of this offense and a lack of knowledge does not constitute a defense." Paragraph 16c(1)(e), relating to "enforceability," states that:

Not all provisions in . . . regulations can be enforced under Article 92(1). Regulations which only supply general guidelines or advice for conducting military functions may not be enforceable under Article 92(1).

In this regard, it might be observed that, far from supplying only "general guidelines," the regulation at issue in the instant context is one which, *inter alia*, sets out two relevant rules with considerable specificity. Part 11 of the regulation is captioned "communications with selection boards." The very first (which is to say, the most prominent) sentence of paragraph a. thereof states, as follows:

All communications intended to express the views of . . . the Chief of Staff of the Air Force . . . must be in writing, furnished to each member, and made a part of the board record.

Use of the command "must" and the detailed duties specified, taken together, imply a mandatory obligation rather than a merely directive general guideline. The second sentence of this same paragraph then explicitly declares that:

Communications regarding particular officers are expressly forbidden, unless unusual circumstances exist that would preclude an officer's performance from being documented in the official record (i.e., sensitive classified mission, etc.).

A declaration that certain conduct is "expressly forbidden" clearly seems to be a mandatory prohibition rather than a mere general guideline.

In light of the foregoing, if the facts are as alleged, a prosecution under Article 92 could conceivably be undertaken.

CONDUCT UNBECOMING A GENTLEMAN (ART. 133, UCMJ)

Paragraph 59c(2) of the Manual for Courts Martial describes the nature of the offense of conduct unbecoming a gentleman, in relevant part, as follows:

Conduct violative of this article is action or behavior in an official capacity which, in dishonoring or disgracing the person as an officer, seriously compromises the officer's character as a gentleman, or action or behavior in an unofficial or private capacity

[1] AF Regulation 36–9.

which, in dishonoring or disgracing the officer personally, seriously compromises the person's standing as an officer.

Paragraph 59c(3) then offers, *inter alia*, examples of offenses, as follows:

Instances of violation of this article include knowingly making a false official statement; . . . [and] using insulting or defamatory language to another officer in that officer's presence or about that officer to other military persons . . . .

If the facts are as alleged, a prosecution under Article 133 could conceivably be undertaken.

FALSE SWEARING (ART. 134, UCMJ)

Paragraph 79b of the Manual for Courts Martial sets out the elements of the offense of false swearing, in violation of the so-called General Article (Art. 134), as follows:

(1) That the accused took an oath or equivalent;

(2) That the oath or equivalent was administered to the accused in a manner in which such oath or equivalent was required or authorized by law;

(3) That the oath or equivalent was administered by a person having authority to do so;

(4) That upon this oath or equivalent the accused made or subscribed a certain statement;

(5) That the statement was false;

(6) That the accused did not then believe the statement to be true; and

(7) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

By way of explaining the nature of the offense, paragraph 79c(1) states, in relevant part, that:

False swearing is the making under a lawful oath or equivalent of any false statement, oral or written, not believing the statement to be true.

* * * * *

Unlike a false official statement under Article 107 . . . there is no requirement that the statement be made with an intent to deceive or that the statement be official.

If the facts are as alleged, a prosecution under Article 134 for false swearing could conceivably be undertaken.

CONCLUSIONS

The foregoing discussion has identified three distinct criminal charges which could conceivably be brought against an individual who attempted to influence the deliberations of a major-general selection board in the manner you have described.

ROBERT B. BURDETTE,
Legislative Attorney.

Mr. GRASSLEY. In sum, Mr. President, a dark cloud still hangs over General Glosson's name. General Glosson may have had a distinguished career. I respect that. He may have been masterful in the way he planned and directed air campaigns. That is very much to his credit. But that was 3 years ago when Glosson was a brigadier general.

A distinguished military record cannot become a license for misconduct. A good commander must be able to run the battle successfully, and General Glosson has demonstrated his capacity to do that. But as Senator BYRD has pointed out in another context, but I think applicable to this, a good commander must have two qualities. He or she must be able to defeat the enemy. That is a requirement. But a good commander must also have "clean hands." In other words, a military commander must be of unquestioned integrity. In Senator BYRD's mind a commander must have clean hands or the commander does not pass.

Mr. President, General Glosson does not have clean hands.

If a military commander's integrity has been called into question, then those who must follow him or her into battle may not follow when the going really gets tough. Integrity is the cornerstone, it is the very foundation of leadership.

Mr. President, General Glosson did in fact monkey with the promotion board, and he may or may not have lied about it. He is suspected of lying about it. That sets a terrible example if you are trying to clean up the military promotion process. If we reject the nomination, that will send a stern warning to military officers that if you tamper with the promotion board, you will get nailed.

In other words, I think it means that we have to have zero tolerance. We must demand accountability, both from within the ranks and at the top. That is the signal that the Senate should send. Senate confirmation of General Glosson would send the wrong signal. If we confirm General Glosson, we would be saying, so long as you have a great military career, it is OK to engage in misconduct. Anything goes. Do not worry. The Senate will confirm you. So I urge all my colleagues to vote against General Glosson's nomination.

Early in the debate I spoke about the Armed Services Committee's persistent, continuing effort to clean up the military promotion system. Over the past 5 years or more, the committee has worked very hard to bring some integrity to the process. General Glosson's alleged conduct is a step backward. Glosson's behavior threatens the integrity of the military promotion boards. His communication with three members of the 1993 major-general selection board pose a direct threat to the integrity of the board. That threat was very real. It threatened to compromise the impartiality of that board. Because of Glosson's behavior, three sitting board members felt honor bound to resign and did. General Glosson's communication also poses a threat to future promotion boards, unless, that is, General Glosson is disciplined in appropriate ways; others will follow General Glosson's example. And if they see the Senate ignoring what General Glosson did, they will say that it is a stamp of approval on this sort of undue influence on a promotion process. General Glosson's alleged conduct goes right to the heart of the problem. How do you protect the integrity of the military promotion process?

He is accused of violating the rules that the committee has worked so hard over the last 5 years to put in place. The goal of the committee's work in this area is clear—to insulate promotion boards from improper communication and improper influence. The whole idea is to make sure that the best, the very most qualified officers are selected for promotion and rise to the top.

Mr. President, there is a direct link between integrity of the promotion process and the integrity of the whole officer corps. This point was brought home by testimony of former Chief of Staff of the Army, General Gordon R. Sullivan. I wish to quote from General Sullivan's testimony before the Armed Services Committee. His thoughts on this important subject are presented on page 213 of the committee report on the fiscal year 1992 defense authorization bill, and that is report 102–113. General Sullivan said this, and I quote:

There is a direct link between the integrity of the selection board process and the integrity of our officer corps. The link lies in the confidence our officer corps has in the objectivity and the professional ethic of the board. Our selection must be fair and must be impartial and based upon demonstrated potential instead of subjective criteria, and they must be seen as such by our officer corps.

General Sullivan's thoughts should tell us something about the Glosson nomination. It carries an important lesson. If General Glosson's improper communications with the 1993 major-general promotion board are tolerated by the Department of Defense and the Senate, then we could be undermining the integrity of the promotion process as well as the integrity of the officer corps.

I wish to take a moment to review some of the committee's most important work in this field. I think that will help put the Glosson nomination in better perspective.

Back in November 1991, the committee issued a report entitled, "The Conduct of Proceedings for the Selection of Officers for Promotion in the U.S. Air Force." That is Senate report No. 102–54. The guts of that report was subsequently reprinted in another committee document on the same topic, report No. 102–4892 dated September 1992.

This report contains the results of numerous investigations. The findings presented in the committee report in turn became the basis for legislative remedies proposed in the fiscal year 1992 defense authorization. These documents, reports issued by the Armed Services Committee, contain very important information. They tell us what is wrong with the military promotion process.

One of the most serious deficiencies identified by the committee is this: Improper communications between senior

officials and promotion boards over specific candidates. That is the key problem identified by the committee. Improper communication.

Does that not sound familiar? That very same problem was created when General Glosson contacted 3 members of the 13-member board about general X. It is the same old problem that the Armed Services Committee studied and felt that something must be done about it back there in 1987. In 1987, the committee uncovered serious irregularities with the 1987 Marine Corps major general promotion list. I want to quote from page 213 of that committee report numbered 102–113:

One of the key problems arising out of the 1987 inquiry involved verbal inquiry communication about specific candidates by senior officials to the president of the selection board.

That sounds very much like the Glosson case again, only Glosson did not contact the president of the board—at least we do not know of that. But he did contact at least three other members of the board. So when the committee found out about improper communication with the 1987 Marine Corps major generals board, the committee took the issue straight to the top. They took it straight to the Deputy Secretary of Defense. At that time, that was Secretary Cap Weinberger. In his usual way, Weinberger assured the committee that the problem was under control.

On June 13, 1987, the promise of Weinberger's directive was given ordering the military departments to issue regulations to "ensure the integrity of the promotion process by regulating the flow of information to the selection board."

The committee thought the departments would finally develop and implement a new set of rules designed to insulate promotion boards from improper influence and communications from senior officials.

The committee thought that those rules were in operation. But I think the committee soon found out otherwise. After reviewing a number of the nominations in 1991 and 1992, the committee quickly realized that the military departments had failed to comply with the Weinberger directive. The committee discovered that the Air Force was the worst offender. The Air Force was just flat out ignoring the Weinberger order. The committee was correctly angered by the Air Force's defiance.

I would like to quote from page 214 of that same report:

The failure of the military departments to implement a DOD directive on a timely basis is inexcusable.

This is the Armed Services Committee of the Senate speaking.

When it involves a directive that the Secretary has issued to address problems of abuse in the promotion selection process, the failure is intolerable. The failure to implement applicable laws and regulations undermines the integrity of the selection board process.

Mr. President, I do not care if anybody in this body listens to me, but I would like to be able not to hear a buzz behind me.

The PRESIDING OFFICER. The Senator is correct. We will have order in the Chamber so the Senator can be heard.

The Senator from Iowa.

Mr. GRASSLEY. Again, I am not asking so I can be heard. I am only asking so I am not disturbed.

The committee was furious. I think this statement states that. The hammer fell on a man named Thomas J. Hickey. He was Deputy Chief of Staff for Personnel from 1981 to 1991. In that post, he held rank of lieutenant general. Hickey got axed. He was held accountable. General Hickey was blamed for failing to comply with Secretary Weinberger's directive. And he was blamed for the "existence and continuation of irregular and improper Air Force officer promotion policies and procedures."

General Hickey was nominated for retirement in grade of lieutenant general just like the Glosson situation. But do you know what the committee refused to do? The committee refused to act on the Hickey nomination for retirement as lieutenant general unlike Glosson. So General Hickey did not retire in grade. He was forced to retire a lower grade as major general. The committee came down hard on General Hickey. Why? Because the committee was ticked off. They had been told that things were going to change. Secretary Weinberger sends out a memo. But 4 years later, the same old business—business as usual.

The committee was ticked off because General Hickey failed to comply with these directives and for allowing improper promotion policies and procedures to continue undiminished.

Mr. President, Mr. Bob Goldich of the National Defense Division of CRS has prepared an excellent background memo on the Hickey case.

I ask unanimous consent to place that CRS memo on General Hickey in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, June 27, 1994.

To: Hon. Charles E. Grassley, Attention: Charlie Murphy.

From: Robert L. Goldich, Specialist in National Defense, Foreign Affairs and National Defense Division.

Subject: Retirement of Maj. Gen. Thomas J. Hickey, U.S. Air Force, in the grade of major general.

This memorandum is provided in response to your request of June 24, 1994, regarding the retirement of Major General Thomas J. Hickey, U.S. Air Force, in the grade of major general. Prior to his retirement, General Hickey had been serving as Deputy Chief of Staff for Personnel of the Air Force in the grade of lieutenant general. General Hickey was nominated by the President for retirement in the grade of lieutenant general on September 11, 1990. However, on November 27, 1991, the Senate Armed Services Committee announced that it would not act on the nomination.[1] By statute [10 USC 601(b)(4), this required General Hickey to be automatically retired in his permanent grade of major general within 90 days of relinquishing his post as Deputy Chief of Staff for Personnel of the Air Force on October 7, 1991.[2]

Press reports state that the Senate did not act on General Hickey's nomination for retirement in the grade of lieutenant general because of his responsibility, as Deputy Chief of Staff for Personnel of the Air Force during 1986–1991, for the existence and continuation of irregular and improper Air Force officer promotion policies and procedures.[3]

In a committee print published in late 1991 and a report published in late 1992, the Senate Armed Services Committee "identified the following systemic deficiencies in the Air Force officer selection process:

(1) Failure to issue implementing regulations required by applicable statutes and Department of Defense directives to ensure the fair operation of the selection board process.

(2) Use of a preselection process that improperly excluded ninety percent or more of the eligible officers from consideration by statutory selection boards.

(3) Improper communication to selection boards of "priority list" [of officers under consideration for promotion to the next higher grade] prepared by senior officers.

(4) Improper communication between the Air Force leadership and selection board members."[4]

Press reports appeared to suggest that of these four types of irregularities, that which generated the most concern was number (2), the preselection process.

The Committee was particularly concerned that these procedures had continued after a 1987 Committee investigation into Department of Defense (DOD) officer promotion procedures. This latter investigation was prompted by irregularities in the 1987 consideration of Marine Corps brigadier generals for promotion to the grade of major general. The specific issue that led to the 1987 investigation involved item (4), above—improper communications between senior uniformed leadership of a service and selection board members. However, the corrective action taken by the Secretary of Defense in both 1987 and 1989 involved the issuance of revised DOD directives which had broader aims of insuring "the integrity of the promotion process by regulating the flow of information to a selection board," not only improper communications by senior officers.[5]

There is no indication in the press reports that General Hickey was directly implicated in actively instigating any of these irregularities. However, although the two Senate Armed Services Committee documents do not mention General Hickey by name, they do discuss at length the participation of the Air Force Deputy Chief of Staff for Personnel (a position occupied by General Hickey during the time in question) in the continuation of improper procedures after the 1987 incident—and the corrective actions which should have prevented their recurrence. The Senate Armed Services Committee apparently believed that, because General Hickey had been the Air Force's senior uniformed

Footnotes at end of article.

personnel manager when the 1987 incidents and investigations occurred, and presided over the continuation of these irregularities into the early 1990s, he should be held responsible.

If we can be of further assistance, please call me at extension 77633.

[1]Joe West, "Hickey Forced to Retire with 2 Stars, Not 3," *Air Force Times*, Dec. 9, 1991: 3.

[2]At the time of General Hickey's retirement, the statute provided for a 90-day maximum in which a general or flag officer appointed under its provisions could retain his or her three- or four-star grade while "awaiting retirement." Subsequent legislation, effective April 1, 1992, reduced the maximum to 60 days. Section 502(b), P.L. 102-190, December 5, 1991, 105 Stat. 1354, the National Defense Authorization Act for Fiscal Year 1992.

[3]Joe West, "Hickey Forced to Retire with 2 Stars, Not 3," *Air Force Times*, Dec. 9, 1991: 3.

[4]U.S. Congress. Senate. Committee on Armed Services. *Report on the Conduct of Proceedings for the Selection of Officers for Promotion in the U.S. Air Force.* October 8, 1992. Washington, U.S. Govt. Print. Off., 1992 (102nd Congress, 2nd session. Senate, Report no. 102-482): 2 (hereafter cited as SASC Report). Also cited in U.S. Congress, Senate. Committee on Armed Services. *The Conduct of Proceedings for the Selection of Officers for Promotion in the U.S. Air Force.* November 26, 1991. Washington, U.S. Govt. Print. Off., 1991 (102nd Congress, 1st session. Senate. Committee Print No. 102-54): iii (hereafter cited as SASC Print).

[5]*SASC Report:* 3-4; *SASC Print:* 4-5.

Mr. GRASSLEY. The committee was angry about certain improper promotion policies and procedures that blossomed under General Hickey. What did the committee find most troublesome? Guess what? It is still the same old story—improper communication between the Air Force leadership and the selection board members; same old business.

The committee was also disturbed about the existence of the preselection processes. These are the things the committee disliked about the Hickey operation. The committee also was disturbed about the continuation of these abusive practices that it recommended putting strict remedies into law.

The committee recommended establishing a statutory requirement for regulations to govern the flow of information to selection boards. The purpose of this legislation the committee said was to "ensure the independence of the selection boards and to eliminate improper communication with and improper pressure on promotion selection boards."

This legislation was proposed in the fiscal year 1992 defense authorization bill. It consisted of eight separate statutory requirements. These are summarized on pages 214 through 216 of the report No. 102-113.

I want to revisit one provision of particular importance. The key provision is summarized in paragraph 6. Provision No. 6 was tough. It was harsh. It was designed to curb improper influence on board members. Attempting to influence a board's proceedings was going to be a criminal offense, if the committee got its way.

This is the what Armed Services Committee was recommending in July 1991. That was just 3 years ago. That is what the committee wanted. They wanted criminal sanctions for monkeying with the promotion board process.

I would like to reread what the committee said on making improper influence a criminal offense on page 215.

Improper influence on the board would be prohibited. In violation of regulations implementing this section would constitute a criminal violation of the Uniform Code of Military Justice. If a senior leadership of a service disagrees with the selections recommended by the board, the leadership's recourse is not to discuss the matter with the members of the board. The leadership was to use the statutory procedure for recommending that the President not approve the list in whole or in part.

And those are the words directly from the committee report. As I understand it, this provision never became law, but it speaks very clearly to the committee's attitude on improper influence of promotion boards. The committee's position was clear: Zero tolerance for board tampering. Such conduct was not to be tolerated. So why is the committee now willing to tolerate such behavior on General Glosson's part?

I hope the committee or the chairman sometime can answer two questions: Was it the committee's intention in July 1991 to make improper influence of the promotion board a criminal offense under the Criminal Code of Military Justice, and exactly what was intended in that suggestion? And then I ask: Did General Glosson attempt to improperly influence the 1993 major general promotion board?

After the Hickey affair, the committee thought the new rules were finally in operation. The new rules are embodied in Air Force regulation 36-9. The new rules may indeed be working, but they are not followed by everyone, because General Glosson came along and took it upon himself to break the rules. General Glosson contacted three members of the promotion board, questioning the integrity of a fellow officer who was before that board. General Glosson told them General "X" could not be trusted, that he had lied to the chief of staff, and the chief of staff did not want him promoted. That was improper communication, just as it is now, when Secretary Weinberger issued those regulations. It is an improper communication, if there is such a thing.

Communications of this nature about a particular officer are expressly prohibited by paragraph 11 of these Air Force regs. General Glosson violated paragraph 11 of the Air Force regs. If judged by the standard proposed by the committee in 1991, it seems to me that General Glosson might have engaged in criminal activity. If judged by paragraph 11, he could first face a court-martial.

There may be an inconsistency between the committee's action on the Hickey nomination and the proposed action on the Glosson nomination. General Hickey was hammered for failing to implement policies and procedures designed to insulate promotion boards from improper communications from senior officials. General Glosson, by comparison, violated the very same rules that General Hickey failed to implement. Yet, the committee is allowing him to skate.

I do not know which is worse, failing to implement rules or violating those same rules. You will have to answer that for yourself.

There seems to be an inconsistency, however, in the way that the committee handled these two nominations. It could be a double standard. Does General Glosson have more friends in Congress than General Hickey did? We have essentially the same problem, but we have different people. I do not understand the difference. The committee needs to explain why the Hickey and Glosson nominations have been handled in such different ways. I want to understand why the two were handled in these different ways.

As I said in the beginning, the Armed Services Committee worked very hard over the past 5 years to clean up the military promotion system. If the committee's efforts are to be effective, it needs to hold the Department's feet to the fire. But we will never really clean up the military promotion process if we let guys like Glosson off the hook.

The Armed Services Committee's persistent and continuing efforts to bring integrity to the promotion system are working. Progress has been achieved.

Mr. EXON. Will the Senator yield for a question?

Mr. GRASSLEY. Yes.

Mr. EXON. I will ask a question of my friend. But, first, I compliment my colleague from Iowa, with whom I have worked on many cases. I compliment him for his very comprehensive and thorough study he has done in this matter. As the senior Member of the Armed Services Committee who generally supports what that committee has done, I am particularly impressed with the recitation of the case you have made against General Glosson. We have devoted a lot of attention to him in the Armed Services Committee, as you can imagine.

I appreciate some of the good things you have said about the work of the committee in this regard. I was one of those Senators who voted against sending the Glosson matter to the floor favorably. Although earlier I intended to support him, the more I looked into it, notwithstanding his outstanding service in the past, I happened to come down basically on the side of the points that have been made by the Senator from Iowa on this whole matter.

So when this comes to a vote, I will be supporting the Senator from Iowa on the Glosson matter, not on the other. My question is simply this, and it is twofold: No. 1, we have some wrap-up matters that this Senator is interested in, as is probably the Senator

from Iowa, that need to be addressed very promptly so that we can get those matters over to the House of Representatives for their action before they adjourn.

I would also, at an appropriate time, ask the Senator from Iowa about how long he intends to continue in this discussion, for the benefit of all. But I ask the Senator, possibly, if he can work out something to not lose his right to the floor, to give the managers a chance to move some matters that have to be moved, that have been unanimously approved by both sides of the aisle, and get those to the House. Timeliness is a key factor here.

Mr. GRASSLEY. I will interrupt here. I think the point the Senator raises is a good one. I have already had discussions with our Republican whip, as it is his desire to take up some of these important measures. He has assured me that if I yield the floor momentarily, I will not lose my right to the floor, and that he would go through the business as he has to, and I will get the floor back.

(Mr. CONRAD assumed the chair.)

Mr. BREAUX. If the Senator will yield for a question, we plan to ask unanimous consent that the Senate be allowed to proceed as in morning business to do exactly that, without affecting the right of the Senator to retain the floor as soon as this business is concluded.

Mr. GRASSLEY. Then, Mr. President, for that purpose, I will yield.

MORNING BUSINESS

Mr. BREAUX. Mr. President, with that understanding, I ask unanimous consent that the Senate proceed into morning business for the purpose of doing some wrap-up, and that the Senator not lose his right to the floor.

The PRESIDING OFFICER. Without objection, the Senate will then proceed as in morning business.

TELECOMMUNICATION CARRIER DUTIES TO LAW ENFORCEMENT

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of bill H.R. 4922, a bill related to telecommunication carrier duties to law enforcement, just received from the House; that the bill be deemed read the third time, passed; that the motion to reconsider be laid upon the table, and any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4922) was deemed read the third time, and passed.

THE COASTAL BARRIER RESOURCES SYSTEM TECHNICAL CORRECTIONS ACT OF 1994

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 712, H.R. 4598, the coastal barrier technical corrections bill.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4598) to direct the Secretary of the Interior to make technical corrections to maps relating to the Coastal Barrier Resources System.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. CORRECTION TO MAPS.

(a) IN GENERAL.—The Secretary of the Interior shall, no later than 30 days after the date of enactment of this Act, make such corrections to the maps described in subsection (b) as are necessary to ensure that—

(1) depictions of areas on the maps are consistent with the depictions of areas appearing on the maps entitled "Coastal Barrier Resources System", dated September 27, 1994, and on file with the Secretary of the Interior; and

(2) the Coastal Barrier Resources System does not include any area that, on the day before the date of the enactment of this Act, was part of unit FL-05P of the System.

(b) MAPS DESCRIBED.—The maps described in this subsection are maps that—

(1) are included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990; and

(2) related to the following units of the Coastal Barrier Resources System: AL-15P, FL-05P; P11A, P17, P17A, P18P, P19P, FL-15, FL-95P, FL-36P, P31P, FL-72P, MI21, NY75, and VA62P.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 12 of the Coastal Barrier Resources Act (16 U.S.C. 3510) is amended to read as follows:

"SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary for carrying out this Act $2,000,000 for each of fiscal years 1995 to 1998.".

Mr. BREAUX. Mr. President, I ask unanimous consent that the committee amendment be agreed to; that the bill, as amended, be deemed read three times, passed and the motion to reconsider be laid upon the table; further that any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

So the bill (H.R. 4598), as amended, was deemed read three times and passed.

MEASURE READ FOR THE FIRST TIME

Mr. BREAUX. Mr. President, I understand that S. 2536, the Charitable Medical Care Act of 1994, introduced earlier today by Senators DANFORTH and MOSELEY-BRAUN is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. BREAUX. Mr. President, I ask for the bill's first reading.

The PRESIDING OFFICER. The clerk will read the bill.

The bill clerk read as follows:

A bill (S. 2546) to encourage health care services, and other purposes.

Mr. BREAUX. Mr. President, I ask for the second reading of the bill.

Mr. SIMPSON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will lay over and will receive its second reading on the next legislative day.

MEASURE READ FOR THE FIRST TIME

Mr. BREAUX. Mr. President, I understand that S. 2545, the Home and Community-Based Services for Individuals With Disabilities Act, introduced earlier today by Senator FEINGOLD, is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. BREAUX. Mr. President, I ask for that bill's first reading.

The PRESIDING OFFICER. The clerk will read the bill.

The assistant legislative clerk read as follows:

A bill (S. 2545) to provide for home and community-based services for individuals with disabilities.

Mr. BREAUX. Mr. President, I ask for its second reading.

Mr. SIMPSON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will lay over and will receive its second reading on the next legislative day.

THE TELECOMMUNICATIONS CARRIER'S DUTY ACT OF 1994

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 684, S. 2375, a bill relating to a telecommunications carrier's duty to assist law enforcement.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2375) to amend title 18, United States Code, to make clear a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. INTERCEPTION OF DIGITAL AND OTHER COMMUNICATIONS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 119 the following new chapter:

"CHAPTER 120—TELECOMMUNICATIONS CARRIER ASSISTANCE TO THE GOVERNMENT

"Sec.
"2601. Definitions.
"2602. Assistance capability requirements.
"2603. Notices of capacity requirements.
"2604. Systems security and integrity.
"2605. Cooperation of equipment manufacturers and providers of telecommunications support services.
"2606. Technical requirements and standards; extension of compliance date.
"2607. Enforcement orders.
"2608. Payment of costs of telecommunications carriers.

"§2601. Definitions

"(a) DEFINITIONS.—In this chapter—

"the terms defined in section 2510 have, respectively, the meanings stated in that section.

"'call-identifying information'—

"(A) means all dialing or signalling information that identifies the origin, direction, destination, or termination of each communication generated or received by the subscriber equipment, facility, or service of a telecommunications carrier that is the subject of a court order or lawful authorization; but

"(B) does not include any information that may disclose the physical location of the subscriber (except to the extent that the location may be determined from the telephone number).

"'Commission' means the Federal Communications Commission.

"'government' means the government of the United States and any agency or instrumentality thereof, the District of Columbia, any commonwealth, territory, or possession of the United States, and any State or political subdivision thereof authorized by law to conduct electronic surveillance.

"'information services'—

"(A) means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications; and

"(B) includes electronic publishing and electronic messaging services; but

"(C) does not include any capability for a telecommunications carrier's internal management, control, or operation of its telecommunications network.

"'telecommunications support services'' means a product, software, or service used by a telecommunications carrier for the internal signaling or switching functions of its telecommunications network.

"'telecommunications carrier'—

"(A) means a person or entity engaged in the transmission or switching of wire or electronic communications as a common carrier for hire (within the meaning of section 3(h) of the Communications Act of 1934 (47 U.S.C. 153(h))); and

"(B) includes—

"(i) a person or entity engaged in providing commercial mobile service (as defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d))); or

"(ii) a person or entity engaged in providing wire or electronic communication switching or transmission service to the extent that the Commission finds that such service is a replacement for a substantial portion of the local telephone exchange service and that it is in the public interest to deem such a person or entity to be a telecommunications carrier for purposes of this chapter; but

"(C) does not include persons or entities insofar as they are engaged in providing information services.

"§2602. Assistance capability requirements

"(a) CAPABILITY REQUIREMENTS.—Except as provided in subsections (b), (c), and (d) of this section, and subject to section 2607(c), a telecommunications carrier shall ensure that its services or facilities that provide a customer or subscriber with the ability to originate, terminate, or direct communications are capable of—

"(1) expeditiously isolating and enabling the government to intercept, to the exclusion of any other communications, all wire and electronic communications carried by the carrier within a service area to or from equipment, facilities, or services of a subscriber of such carrier concurrently with their transmission to or from the subscriber's service, facility, or equipment or at such later time as may be acceptable to the government;

"(2) expeditiously isolating and enabling the government to access call-identifying information that is reasonably available to the carrier—

"(A) before, during, or immediately after the transmission of a wire or electronic communication (or at such later time as may be acceptable to the government); and

"(B) in a manner that allows it to be associated with the communication to which it pertains,

except that, with regard to information acquired solely pursuant to the authority for pen registers and trap and trace devices (as defined in section 3127), such call-identifying information shall not include any information that may disclose the physical location of the subscriber (except to the extent that the location may be determined from the telephone number);

"(3) delivering intercepted communications and call-identifying information to the government in a format such that they may be transmitted by means of facilities or services procured by the government to a location other than the premises of the carrier; and

"(4) facilitating authorized communications interceptions and access to call-identifying information unobtrusively and with a minimum of interference with any subscriber's telecommunications service and in a manner that protects—

"(A) the privacy and security of communications and call-identifying information not authorized to be intercepted; and

"(B) information regarding the government's interception of communications and access to call-identifying information.

"(b) LIMITATIONS.—

"(1) DESIGN OF FEATURES AND SYSTEMS CONFIGURATIONS.—This chapter does not authorize any law enforcement agency or officer—

"(A) to require any specific design of features or system configurations to be adopted by providers of wire or electronic communication service, manufacturers of telecommunications equipment, or providers of telecommunications support services; or

"(B) to prohibit the adoption of any feature or service by providers of wire or electronic communication service, manufacturers of telecommunications equipment, or providers of telecommunications support services.

"(2) INFORMATION SERVICES; PRIVATE NETWORKS AND INTERCONNECTION SERVICES AND FACILITIES.—The requirements of subsection (a) do not apply to—

"(A) information services; or

"(B) services or facilities that support the transport or switching of communications for private networks or for the sole purpose of interconnecting telecommunications carriers.

"(3) ENCRYPTION.—A telecommunications carrier shall not be responsible for decrypting, or ensuring the government's ability to decrypt, any communication encrypted by a subscriber or customer, unless the encryption was provided by the carrier and the carrier possesses the information necessary to decrypt the communication.

"(c) EMERGENCY OR EXIGENT CIRCUMSTANCES.—In emergency or exigent circumstances (including those described in sections 2518 (7) or (11)(b) and 3125 of this title and section 1805(e) of title 50), a carrier at its discretion may fulfill its responsibilities under subsection (a)(3) by allowing monitoring at its premises if that is the only means of accomplishing the interception or access.

"(d) MOBILE SERVICE ASSISTANCE REQUIREMENTS.—A telecommunications carrier offering a feature or service that allows subscribers to redirect, hand off, or assign their wire or electronic communications to another service area or another service provider or to utilize facilities in another service area or of another service provider shall ensure that, when the carrier that had been providing assistance for the interception of wire or electronic communications or access to call-identifying information pursuant to a court order or lawful authorization no longer has access to the content of such communications or call-identifying information within the service area in which interception has been occurring as a result of the subscriber's use of such a feature or service, information is made available to the government (before, during, or immediately after the transfer of such communications) identifying the provider of wire or electronic communication service that has acquired access to the communications.

"§2603. Notices of capacity requirements

"(a) NOTICES OF MAXIMUM AND ACTUAL CAPACITY REQUIREMENTS.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this chapter, after consulting with State and local law enforcement agencies, telecommunications carriers, providers of telecommunications support services, and manufacturers of telecommunications equipment and after notice and comment, the Attorney General shall publish in the Federal Register and provide to appropriate telecommunications carrier associations, standard-setting organizations, and for a—

"(A) notice of the maximum capacity required to accommodate all of the communication interceptions, pen registers, and trap and trace devices that the Attorney General estimates that government agencies authorized to conduct electronic surveillance may conduct and use simultaneously; and

"(B) notice of the number of communication interceptions, pen registers, and trap and trace devices, representing a portion of the maximum capacity set forth under subparagraph (A), that the Attorney General estimates that government agencies authorized to conduct electronic surveillance may conduct and use simultaneously after the date that is 4 years after the date of enactment of this chapter.

"(2) BASIS OF NOTICES.—The notices issued under paragraph (1) may be based upon the type of equipment, type of service, number of subscribers, geographic location, or other measure.

"(b) COMPLIANCE WITH CAPACITY NOTICES.—

"(1) INITIAL CAPACITY.—Within 3 years after the publication by the Attorney General of a notice of capacity requirements or within 4 years after the date of enactment of this chapter, whichever is longer, a telecommunications carrier shall ensure that its systems are capable of—

"(A) expanding to the maximum capacity set forth in the notice under subsection (a)(1)(A); and

"(B) accommodating simultaneously the number of interceptions, pen registers, and trap and trace devices set forth in the notice under subsection (a)(1)(B).

"(2) EXPANSION TO MAXIMUM CAPACITY.—After the date described in paragraph (1), a telecommunications carrier shall ensure that it can

accommodate expeditiously any increase in the number of communication interceptions, pen registers, and trap and trace devices that authorized agencies may seek to conduct and use, up to the maximum capacity requirement set forth in the notice under subsection (a)(1)(A).

"(c) NOTICES OF INCREASED MAXIMUM CAPACITY REQUIREMENTS.—

"(1) The Attorney General shall periodically provide to telecommunications carriers written notice of any necessary increases in the maximum capacity requirement set forth in the notice under subsection (a)(1)(A).

"(2) Within 3 years after receiving written notice of increased capacity requirements under paragraph (1), or within such longer time period as the Attorney General may specify, a telecommunications carrier shall ensure that its systems are capable of expanding to the increased maximum capacity set forth in the notice.

"§2604. Systems security and integrity

"A telecommunications carrier shall ensure that any court ordered or lawfully authorized interception of communications or access to call-identifying information effected within its switching premises can be activated only with the affirmative intervention of an individual officer or employee of the carrier.

"§2605. Cooperation of equipment manufacturers and providers of telecommunications support services

"(a) CONSULTATION.—A telecommunications carrier shall consult, as necessary, in a timely fashion with manufacturers of its telecommunications transmission and switching equipment and its providers of telecommunications support services for the purpose of identifying any service or equipment, including hardware and software, that may require modification so as to permit compliance with this chapter.

"(b) MODIFICATION OF EQUIPMENT AND SERVICES.—Subject to section 2607(c), a manufacturer of telecommunications transmission or switching equipment and a provider of telecommunications support services shall, on a reasonably timely basis and at a reasonable charge, make available to the telecommunications carriers using its equipment or services such modifications as are necessary to permit such carriers to comply with this chapter.

"§2606. Technical requirements and standards; extension of compliance date

"(a) SAFE HARBOR.—

"(1) CONSULTATION.—To ensure the efficient and industry-wide implementation of the assistance capability requirements under section 2602, the Attorney General, in coordination with other Federal, State, and local law enforcement agencies, shall consult with appropriate associations and standard-setting organizations of the telecommunications industry and with representatives of users of telecommunications services and facilities.

"(2) COMPLIANCE UNDER ACCEPTED STANDARDS.—A telecommunications carrier shall be found to be in compliance with the assistance capability requirements under section 2602, and a manufacturer of telecommunications transmission or switching equipment or a provider of telecommunications support services shall be found to be in compliance with section 2605, if the carrier, manufacturer, or support service provider is in compliance with publicly available technical requirements or standards adopted by an industry association or standard-setting organization or by the Commission under subsection (b) to meet the requirements of section 2602.

"(3) ABSENCE OF STANDARDS.—The absence of technical requirements or standards for implementing the assistance capability requirements of section 2602 shall not—

"(A) preclude a carrier, manufacturer, or services provider from deploying a technology or service; or

"(B) relieve a carrier, manufacturer, or service provider of the obligations imposed by section 2602 or 2605, as applicable.

"(b) FCC AUTHORITY.—

"(1) IN GENERAL.—If industry associations or standard-setting organizations fail to issue technical requirements or standards or if a government agency or any other person believes that such requirements or standards are deficient, the agency or person may petition the Commission to establish, by notice and comment rulemaking or such other proceedings as the Commission may be authorized to conduct, technical requirements or standards that—

"(A) meet the assistance capability requirements of section 2602;

"(B) protect the privacy and security of communications not authorized to be intercepted; and

"(C) serve the policy of the United States to encourage the provision of new technologies and services to the public.

"(2) TRANSITION PERIOD.—If an industry technical requirement or standard is set aside or supplanted as a result of Commission action under this section, the Commission, after consultation with the Attorney General, shall establish a reasonable time and conditions for compliance with and the transition to any new standard, including defining the obligations of telecommunications carriers under section 2602 during any transition period.

"(c) EXTENSION OF COMPLIANCE DATE FOR FEATURES AND SERVICES.—

"(1) PETITION.—A telecommunications carrier proposing to deploy, or having deployed, a feature or service within 4 years after the date of enactment of this chapter may petition the Commission for 1 or more extensions of the deadline for complying with the assistance capability requirements under section 2602.

"(2) GROUND FOR EXTENSION.—The Commission may, after affording a full opportunity for hearing and after consultation with the Attorney General, grant an extension under this paragraph, if the Commission determines that compliance with the assistance capability requirements under section 2602 is not reasonably achievable through application of technology available within the compliance period.

"(3) LENGTH OF EXTENSION.—An extension under this paragraph shall extend for no longer than the earlier of—

"(A) the date determined by the Commission as necessary for the carrier to comply with the assistance capability requirements under section 2602; or

"(B) the date that is 2 years after the date on which the extension is granted.

"(4) APPLICABILITY OF EXTENSION.—An extension under this subsection shall apply to only that part of the carrier's business on which the new feature or service is used.

"§2607. Enforcement orders

"(a) ENFORCEMENT BY COURT ISSUING SURVEILLANCE ORDER.—If a court authorizing an interception under chapter 119, a State statute, or the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) or authorizing use of a pen register or a trap and trace device under chapter 206 or a State statute finds that a telecommunications carrier has failed to comply with the requirements in this chapter, the court may direct that the carrier comply forthwith and may direct that a provider of support services to the carrier or the manufacturer of the carrier's transmission or switching equipment furnish forthwith modifications necessary for the carrier to comply.

"(b) ENFORCEMENT UPON APPLICATION BY ATTORNEY GENERAL.—The Attorney General may apply to the appropriate United States district court for, and the United States district courts shall have jurisdiction to issue, an order directing that a telecommunications carrier, a manufacturer of telecommunications transmission or switching equipment, or a provider of telecommunications support services comply with this chapter.

"(c) GROUNDS FOR ISSUANCE.—A court shall issue an order under subsection (a) or (b) only if the court finds that—

"(1) alternative technologies or capabilities or the facilities of another carrier are not reasonably available to law enforcement for implementing the interception of communications or access to call-identifying information; and

"(2) compliance with the requirements of this chapter is reasonably achievable through the application of available technology to the feature or service at issue or would have been reasonably achievable if timely action had been taken.

"(d) TIME FOR COMPLIANCE.—Upon issuance of an enforcement order under this section, the court shall specify a reasonable time and conditions for complying with its order, considering the good faith efforts to comply in a timely manner, any effect on the carrier's, manufacturer's, or service provider's ability to continue to do business, the degree of culpability or delay in undertaking efforts to comply, and such other matters as justice may require.

"(e) LIMITATION.—An order under this section may not require a telecommunications carrier to meet the government's demand for interception of communications and acquisition of call-identifying information to any extent in excess of the capacity for which notice has been provided under section 2603.

"(f) CIVIL PENALTY.—

"(1) IN GENERAL.—A court issuing an order under this section against a telecommunications carrier, a manufacturer of telecommunications transmission or switching equipment, or a provider of telecommunications support services may impose a civil penalty of up to $10,000 per day for each day in violation after the issuance of the order or after such future date as the court may specify.

"(2) CONSIDERATIONS.—In determining whether to impose a fine and in determining its amount, the court shall take into account—

"(A) the nature, circumstances, and extent of the violation;

"(B) the violator's ability to pay, the violator's good faith efforts to comply in a timely manner, any effect on the violator's ability to continue to do business, the degree of culpability, and the length of any delay in undertaking efforts to comply; and

"(C) such other matters as justice may require.

"(3) CIVIL ACTION.—The Attorney General may file a civil action in the appropriate United States district court to collect, and the United States district courts shall have jurisdiction to impose, such fines.

"§2608. Payment of costs of telecommunications carriers

"(a) EQUIPMENT, FEATURES, AND SERVICES DEPLOYED BEFORE DATE OF ENACTMENT; CAPACITY COSTS.—The Attorney General shall, subject to the availability of appropriations, pay telecommunications carriers for all reasonable costs directly associated with—

"(1) the modifications performed by carriers prior to the effective date of section 2602 or prior to the expiration of any extension granted under section 2606(c) to establish, with respect to equipment, features, and services deployed before the date of enactment of this chapter, the capabilities necessary to comply with section 2602;

"(2) meeting the maximum capacity requirements set forth in the notice under section 2603(a)(1)(A); and

"(3) expanding existing facilities to accommodate simultaneously the number of interceptions, pen registers and trap and trace devices for which notice has been provided under section 2603(a)(1)(B).

"(b) EQUIPMENT, FEATURES, AND SERVICES DEPLOYED ON OR AFTER DATE OF ENACTMENT.—

"(1) IN GENERAL.—If compliance with the assistance capability requirements of section 2602 is not reasonably achievable with respect to equipment, features, or services deployed on or after the date of enactment of this chapter, the Attorney General, on application of a telecommunications carrier, may pay the telecommunications carrier reasonable costs directly associated with achieving compliance.

"(2) CONSIDERATION.—In determining whether compliance with the assistance capability requirements of section 2602 is reasonably achievable with respect to any equipment, feature, or service deployed the date of enactment of this chapter, consideration shall be given to the time when the equipment, feature, or service was deployed.

"(c) ALLOCATION OF FUNDS FOR PAYMENT.—The Attorney General shall allocate funds appropriated to carry out this chapter in accordance with law enforcement priorities determined by the Attorney General.

"(d) FAILURE TO MAKE PAYMENT WITH RESPECT TO EQUIPMENT, FEATURES, AND SERVICES DEPLOYED BEFORE DATE OF ENACTMENT.—

"(1) CONSIDERED TO BE IN COMPLIANCE.—Unless the Attorney General has agreed to pay the telecommunications carrier for all reasonable costs directly associated with modifications necessary to bring the equipment, feature, or service into actual compliance with those requirements, provided the carrier has requested payment in accordance with procedures promulgated pursuant to subsection (e), any equipment, feature, or service of a telecommunications carrier deployed before the date of enactment of this chapter shall be considered to be in compliance with the assistance capability requirements of section 2602 unless the equipment, feature, or service is replaced or significantly upgraded or otherwise undergoes major modification.

"(2) LIMITATION ON ORDER.—An order under section 2607 shall not require a telecommunications carrier to modify, for the purpose of complying with the assistance capability requirements of section 2602, any equipment, feature, or service deployed before the date of enactment of this chapter unless the Attorney General has agreed to pay the telecommunications carrier for all reasonable costs directly associated with modifications necessary to bring the equipment, feature, or service into actual compliance with those requirements.

"(e) PROCEDURES AND REGULATIONS.—Notwithstanding any other law, the Attorney General shall, after notice and comment, establish any procedures and regulations deemed necessary to effectuate timely and cost-efficient payment to telecommunications carriers for compensable costs incurred under this chapter, under chapters 119 and 121, and under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

"(f) DISPUTE RESOLUTION.—If there is a dispute between the Attorney General and a telecommunications carrier regarding the amount of reasonable costs to be paid under subsection (a), the dispute shall be resolved and the amount determined in a proceeding initiated at the Commission or by the court from which an enforcement order is sought under section 2607.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 119 the following new item:

"120. Telecommunications carrier assistance to the Government ..... 2601".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out section 2608 of title 18, United States Code, as added by section 1—

(1) a total of $500,000,000 for fiscal years 1995, 1996, and 1997; and

(2) such sums as are necessary for each fiscal year thereafter,

such sums to remain available until expended.

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in paragraph (2), chapter 120 of title 18, United States Code, as added by section 1, shall take effect on the date of enactment of this Act.

(b) ASSISTANCE CAPABILITY AND SYSTEMS SECURITY AND INTEGRITY REQUIREMENTS.—Sections 2602 and 2604 of title 18, United States Code, as added by section 1, shall take effect on the date that is 4 years after the date of enactment of this Act.

SEC. 4. REPORTS.

(a) REPORTS BY THE ATTORNEY GENERAL.—

(1) IN GENERAL.—On or before November 30, 1995, and on or before November 30 of each year for 5 years thereafter, the Attorney General shall submit to Congress and make available to the public a report on the amounts paid during the preceding fiscal year in payment to telecommunications carriers under section 2608 of title 18, United States Code, as added by section 1.

(2) CONTENTS.—A report under paragraph (1) shall include—

(A) a detailed accounting of the amounts paid to each carrier and the technology, equipment, feature or service for which the amounts were paid; and

(B) projections of the amounts expected to be paid in the current fiscal year, the carriers to which payment is expected to be made, and the technologies, equipment, features or services for which payment is expected to be made.

(b) REPORTS BY THE COMPTROLLER GENERAL.—

(1) PAYMENTS FOR MODIFICATIONS.—On or before April 1, 1996, and April 1, 1998, the Comptroller General of the United States, after consultation with the Attorney General and the telecommunications industry, shall submit to the Congress a report reflecting its analysis of the reasonableness and cost-effectiveness of the payments made by the Attorney General to telecommunications carriers for modifications necessary to ensure compliance with chapter 120 of title 18, United States Code, as added by section 1.

(2) COMPLIANCE COST ESTIMATES.—A report under paragraph (1) shall include the findings and conclusions of the Comptroller General on the costs to be incurred after the compliance date, including projections of the amounts expected to be incurred and the technologies, equipment, features or services for which expenses are expected to be incurred by telecommunications carriers to comply with the assistance capability requirements in the first 5 years after the effective date of section 2602.

SEC. 5. CORDLESS TELEPHONES.

(a) DEFINITIONS.—Section 2510 of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "but such term does not include" and all that follows through "base unit"; and

(2) in paragraph (12) by striking subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively.

(b) PENALTY.—Section 2511 of title 18, United States Code, is amended—

(1) in subsection (4)(b)(i) by inserting "a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit," after "cellular telephone communication,"; and

(2) in subsection (4)(b)(ii) by inserting "a cordless telephone communication that is transmitted between the cordless telephone handset and the base unit," after "cellular telephone communication,".

SEC. 6. RADIO-BASED DATA COMMUNICATIONS.

Section 2510(16) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by inserting "or" at the end of subparagraph (E); and

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) an electronic communication;"

SEC. 7. PENALTIES FOR MONITORING RADIO COMMUNICATIONS THAT ARE TRANSMITTED USING MODULATION TECHNIQUES WITH NONPUBLIC PARAMETERS.

Section 2511(4)(b) of title 18, United States Code, is amended by striking "or encrypted, then" and inserting ", encrypted, or transmitted using modulation techniques the essential parameters of which have been withheld from the public with the intention of preserving the privacy of such communication".

SEC. 8. TECHNICAL CORRECTION.

Section 2511(2)(a)(i) of title 18, United States Code, is amended by striking "used in the transmission of a wire communication" and inserting "used in the transmission of a wire or electronic communication".

SEC. 9. FRAUDULENT ALTERATION OF COMMERCIAL MOBILE RADIO INSTRUMENTS.

(a) OFFENSE.—Section 1029(a) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (3); and

(2) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a telecommunications instrument that has been modified or altered to obtain unauthorized use of telecommunications services; or

"(6) knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses—

"(A) a scanning receiver; or

"(B) hardware or software used for altering or modifying telecommunications instruments to obtain unauthorized access to telecommunications services,".

(b) PENALTY.—Section 1029(c)(2) of title 18, United States Code, is amended by striking "(a)(1) or (a)(4)" and inserting "(a) (1), (4), (5), or (6)".

(c) DEFINITIONS.—Section 1029(e) of title 18, United States Code, is amended—

(1) in paragraph (1) by inserting "electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier," after "account number,";

(2) by striking "and" at the end of paragraph (5);

(3) by striking the period at the end of paragraph (6) and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(7) the term 'scanning receiver' means a device or apparatus that can be used to intercept a wire or electronic communication in violation of chapter 119.".

SEC. 10. TRANSACTIONAL DATA.

(a) DISCLOSURE OF RECORDS.—Section 2703 of title 18, United States Code, is amended—

(1) in subsection (c)(1)—

(A) in subparagraph (B)—

(i) by striking clause (i); and

(ii) by redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively; and

(B) by adding at the end the following new subparagraph:

"(C) A provider of electronic communication service or remote computing service shall disclose to a governmental entity the name, address, telephone toll billing records, and length of service of a subscriber to or customer of such service and the types of services the subscriber or customer utilized, when the governmental entity uses an administrative subpoena authorized by a Federal or State statute or a Federal or State grand jury or trial subpoena or any means available under subparagraph (B).''; and

(2) by amending the first sentence of subsection (d) to read as follows: "A court order for disclosure under subsection (b) or (c) may be issued by any court that is a court of competent jurisdiction described in section 3126(2)(A) and shall issue only if the governmental entity offers specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation.''.

(b) PEN REGISTERS AND TRAP AND TRACE DEVICES.—Section 3121 of title 18, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) LIMITATION.—A government agency authorized to install and use a pen register under this chapter or under State law, shall use technology reasonably available to it that restricts the recording or decoding of electronic or other impulses to the dialing and signalling information utilized in call processing.''.

Mr. BREAUX. Mr. President, I ask unanimous consent that the committee substitute be agreed to, that the bill be read a third time, passed, the motion to reconsider be tabled and any statements appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

So the bill (S. 2375), as amended, was deemed read for a third time and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

LAND SALE BY THE UNIVERSITY OF ARKANSAS

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2550, relating to a land sale by the University of Arkansas, introduced earlier today by Senator PRYOR, that the bill be read three times, passed, and the motion to reconsider be laid upon the table, and that any statements relating to this item be placed in the RECORD as if read in the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2550) was deemed read three times and passed, as follows:

(The text of the bill will be printed in a future edition of the RECORD.)

STATE DEPARTMENT AUTHORIZATION TECHNICAL CORRECTIONS

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5034, the State Department authorization technical corrections bill just received from the House, that the bill be deemed read a third time and passed; the motion to reconsider laid upon the table; and that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5034) was deemed read a third time and passed.

INTERNATIONAL NARCOTICS CONTROL CORRECTIONS

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 5030, the international narcotics control corrections bill, just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5030) to amend the Foreign Assistance Act of 1961 to make corrections relating to international narcotics control activities, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2639

(Purpose: To add provisions relating to the membership of the North Atlantic Treaty Organization [NATO])

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator BROWN, and I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON] for Mr. BROWN proposes an amendment number 2639.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 2639) was agreed to, as follows:

At the end of the bill, add the following:

TITLE—NATO PARTICIPATION ACT OF 1994

SEC. 01. SHORT TITLE.

This title may be cited as the "NATO Participation Act of 1994".

SEC. 02. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) the leaders of the NATO member nations are to be commended for reaffirming that NATO membership remains open to Partnership for Peace countries emerging from communist domination and for welcoming eventual expansion of NATO to include such countries;

(2) full and active participants in the Partnership for Peace in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area should be invited to become full NATO members in accordance with Article 10 of such Treaty at an early date, if such participants—

(A) maintain their progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(B) remain committed to protecting the rights of all their citizens and respecting the territorial integrity of their neighbors;

(3) the United States, other NATO member nations, and NATO itself should furnish appropriate assistance to facilitate the transition to full NATO membership at an early date of full and active participants in the Partnership for Peace; and

(4) in particular, Poland, Hungary, the Czech Republic, and Slovakia have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law since the fall of their previous communist governments.

SEC. 03. AUTHORITY FOR PROGRAM TO FACILITATE TRANSITION TO NATO MEMBERSHIP.

(a) IN GENERAL.—The President may establish a program to assist the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to subsection (d).

(b) CONDUCT OF PROGRAM.—The program established under subsection (a) shall facilitate the transition to full NATO membership of the countries described in such subsection by supporting and encouraging, inter alia—

(1) joint planning, training, and military exercises with NATO forces;

(2) greater interoperability of military equipment, air defense systems, and command, control, and communications systems; and

(3) conformity of military doctrine.

(c) TYPE OF ASSISTANCE.—In carrying out the program established under subsection (a), the President may provide to the countries described in such subsection the following types of security assistance:

(1) The transfer of excess defense articles under section 516 of the Foreign Assistance Act of 1961, without regard to the restrictions in paragraphs (1) through (3) of subsection (a) of such section (relating to the eligibility of countries for such articles under such section).

(2) The transfer of nonlethal excess defense articles under section 519 of the Foreign Assistance Act of 1961, without regard to the restriction in subsection (a) of such section (relating to the justification of the foreign military financing program for the fiscal year in which a transfer is authorized).

(3)Assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training).

(4) Assistance under section 23 of the Arms Export Control Act (relating to the "Foreign Military Financing Program").

(d) DESIGNATION OF PARTNERSHIP FOR PEACE COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President may designate countries emerging from communism and participating in the Partnership for Peace, especially Poland, Hungary, the

Czech Republic, and Slovakia, to receive assistance under the program established under subsection (a) if the President determines and reports to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that such countries—

(1) are full and active participants in the Partnership for Peace;

(2) have made significant progress toward establishing democratic institutions, a free market economy, civilian control of their armed forces, and the rule of law;

(3) are likely (in the future) to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area; and

(4) are not selling or transferring defense articles to a state that has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j) of the Export Administration Act of 1979.

(e) NOTIFICATION.—At least 15 days before designating any country pursuant to subsection (d), the President shall notify the appropriate congressional committees in accordance with the procedures applicable under section 634A of the Foreign Assistance Act of 1961.

(f) DETERMINATION.—It is hereby determined that Poland, Hungary, the Czech Republic, and Slovakia meet the criteria required in paragraphs (1), (2), and (3) of subsection (d).

SEC. 04. ADDITIONAL AUTHORITIES.

(a) ARMS EXPORT CONTROL ACT.—The President is authorized to exercise the authority of sections 63 and 65 of the Arms Export Control Act with respect to any country designated under section 03(d) of this title on the same basis authorized with respect to NATO countries.

(b) OTHER NATO AUTHORITIES.—The President should designate any country designated under section 03(d) of this title as eligible under sections 2350c and 2350f of title 10, United States Code.

(c) SENSE OF CONGRESS.—It is the sense of Congress that, in the interest of maintaining stability and promoting democracy in Poland, Hungary, the Czech Republic, Slovakia, and any other Partnership for Peace country designated under section 03(d) of this title, those countries should be included in all activities under section 2457 of title 10, United States Code, relate to the increased standardization and enhance interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.

SEC. 05. REPORTING REQUIREMENT.

The President shall include in the report required by section 514(a) of Public Law 103-236 (22 U.S.C. 1928 note) the following:

(1) A description of all assistance provided under the program established under section 03(a), or otherwise provided by the United States Government to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to section 03(d).

(2) A description on the basis of information received from NATO, of all assistance provided by other NATO member nations or NATO itself to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to section 03(d).

AMENDMENT NO. 2640

(Purpose: To retain existing authorities under the 1988 International Narcotics Control Act)

Mr. BREAUX. Mr. President, I send an amendment to the desk on behalf of Senator KERRY and I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] for Mr. KERRY proposes an amendment numbered 2640.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 2640) was agreed to, as follows:

On page 8, line 21, delete the period and inset in lieu thereof the following:

"except for the title heading and section 4702 (a) through (f).".

Mr. BREAUX. Mr. President, I ask unanimous consent that the bill be deemed read a third time and passed; the motion to reconsider be laid upon the table, and any statements thereon appear at appropriate place in the RECORD as though read.

So the bill (H.R. 5030), as amended, was deemed read three times and passed.

PROVIDING FOR THE PRINTING OF STATEMENTS MADE IN TRIBUTE TO THE LATE SPEAKER "TIP" O'NEILL, JR.—H. CON. RES. 292

PROVIDING FOR THE PRINTING OF THE BOOK ENTITLED "HISTORY OF THE U.S. HOUSE OF REPRESENTATIVES"—H. CON. RES. 293

PROVIDING FOR THE PRINTING OF THE BOOK ENTITLED "HISPANIC AMERICANS IN CONGRESS"—H. CON. RES. 299

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the consideration en bloc of the following concurrent resolutions now at the desk: House Concurrent Resolution 292, House Concurrent Resolution 293, and House Concurrent Resolution 299; that the concurrent resolutions be agreed to en bloc; the motions to reconsider laid on the table and any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the concurrent resolutions (H. Con. Res. 292, H. Con. Res. 293, and H. Con. Res. 299) were agreed to.

THE CROW BOUNDARY SETTLEMENT ACT OF 1994

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5200, the Crow Boundary Settlement Act of 1994, just received from the House, that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table; further that any statements on this measure be read three times, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5200) was deemed read three times and passed.

TO REAUTHORIZE THE OFFICE OF SPECIAL COUNSEL

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2970, a bill to reauthorize the Office of Special Counsel, received from the House and at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2970) to reauthorize the Office of Special Counsel, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2641

(Purpose: To authorize appropriations for the United States Office of Special Counsel, the Merit Systems Protection Board, and for other purposes)

Mr. BREAUX. Mr. President, on behalf of Senators LEVIN and COHEN, I send a substitute to the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] for Mr. LEVIN proposes an amendment numbered 2641.

Mr. BREAUX. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

(a) MERIT SYSTEMS PROTECTION BOARD.—Section 8(a)(1) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 101-12; 103 Stat. 34) is amended by striking out "1989, 1990, 1991, 1992, 1993, and 1994" and inserting in lieu thereof "1993, 1994, 1995, 1996, and 1997".

(b) OFFICE OF SPECIAL COUNSEL.—Section 8(a)(2) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 101-12; 103 Stat. 34) is amended by striking out "1989, 1990, 1991, and 1992" and inserting in lieu thereof "1993, 1994, 1995, 1996, and 1997".

SEC. 2. REASONABLE ATTORNEY FEES IN CERTAIN CASES.

Section 1204 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(m)(1) Except as provided in paragraph (2) of this subsection, the Board, or an administrative law judge or other employee of the Board designated to hear a case arising under section 1215, may require payment by the agency involved of reasonable attorney fees incurred by an employee or applicant for employment if the employee or applicant is the prevailing party and the Board, administrative law judge, or other employee (as the case may be) determines that payment by the agency is warranted in the interest of justice, including any case in which a prohibited personnel practice was engaged in by the agency or any case in which the agency's action was clearly without merit.

"(2) If an employee or applicant for employment is the prevailing party of a case arising under section 1215 and the decision is based on a finding of discrimination prohibited under section 2302(b)(1) of this title, the payment of attorney fees shall be in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5(k)).".

SEC. 3. OFFICE OF SPECIAL COUNSEL.

(a) SUCCESSION.—Section 1211(b) of title 5, United States Code, is amended by inserting after the first sentence: "The Special Counsel may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that the Special Counsel may not continue to serve for more than one year after the date on which the term of the Special Counsel would otherwise expire under this subsection.".

(b) LIMITATIONS ON DISCLOSURES.—Section 1212(g) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking out "provide information concerning" and inserting in lieu thereof "disclose any information from or about"; and

(2) in paragraph (2), by striking out "a matter described in subparagraph (A) or (B) of section 2302(b)(2) in connection with a" and inserting in lieu thereof "an evaluation of the work performance, ability, aptitude, general qualifications, character, loyalty, or suitability for any personnel action of any".

(c) STATUS REPORT BEFORE TERMINATION OF INVESTIGATION.—Section 1214(a) of title 5, United States Code, is amended—

(1) in paragraph (1) by adding at the end thereof the following new subparagraph:

"(D) No later than 10 days before the Special Counsel terminates any investigation of a prohibited personnel practice, the Special Counsel shall provide a written status report to the person who made the allegation of the proposed findings of fact and legal conclusions. The person may submit written comments about the report to the Special Counsel. The Special Counsel shall not be required to provide a subsequent written status report under this subparagraph after the submission of such written comments."; and

(2) in paragraph (2)(A)—

(A) in clause (ii) by striking out "and" after the semicolon;

(B) in clause (iii) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new clause:

"(iv) a response to any comments submitted under paragraph (1)(D).".

(d) DETERMINATIONS.—Section 1214(b)(2) of title 5, United States Code, is amended—

(1) by redesignating subparagraphs (A), (B) and (C) as subparagraphs (B), (C) and (D), respectively;

(2) by inserting before subparagraph (B) (as redesignated by paragraph (1) of this subsection) the following:

"(A)(i) Except as provided under clause (ii), no later than 240 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(ii) If the Special Counsel is unable to make the required determination within the 240-day period specified under clause (i) and the person submitting the allegation of a prohibited personnel practice agrees to an extension of time, the determination shall be made within such additional period of time as shall be agreed upon between the Special Counsel and the person submitting the allegation."; and

(3) by inserting after subparagraph (D) (as redesignated by paragraph (1) of this subsection) the following new subparagraph:

"(E) A determination by the Special Counsel under this paragraph shall not be cited or referred to in any proceeding under this paragraph or any other administrative or judicial proceeding for any purpose, without the consent of the person submitting the allegation of a prohibited personnel practice.".

(e) REPORTS.—Section 1218 of title 5, United States Code, is amended by inserting "cases in which it did not make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken within the 240-day period specified in section 1214(b)(2)(A)(i)," after "investigations conducted by it,".

SEC. 4. INDEPENDENT RIGHT OF ACTION.

(a) SUBPOENAS.—Section 1221(d) of title 5, United States Code, is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (a), the Board shall issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that the testimony or production requested is not unduly burdensome and appears reasonably calculated to lead to the discovery of admissible evidence.".

(b) CORRECTIVE ACTIONS.—Section 1221(e)(1) is amended by adding after the last sentence: "The employee may demonstrate that the disclosure was a contributing factor in the personnel action through circumstantial evidence, such as evidence that—

"(A) the official taking the personnel action knew of the disclosure; and

"(B) the personnel action occurred within a period of time such that a reasonable person could conclude that the disclosure was a contributing factor in the personnel action.".

(c) REFERRALS.—Section 1221(f) of title 5, United States Code, is amended by adding after paragraph (2) the following new paragraph:

"(3) If, based on evidence presented to it under this section, the Merit Systems Protection Board determines that there is reason to believe that a current employee may have committed a prohibited personnel practice, the Board shall refer the matter to the Special Counsel to investigate and take appropriate action under section 1215.".

SEC. 5. PROHIBITED PERSONNEL PRACTICES.

(a) PERSONNEL ACTIONS.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(1) in clause (ix) by striking out "and" after the semicolon;

(2) by striking out clause (x) and inserting in lieu thereof the following:

"(x) a decision to order psychiatric testing or examination; and

"(xi) any other significant change in duties, responsibilities, or working conditions;"; and

(3) in the matter following designated clause (xi) (as added by paragraph (2) of this subsection) by inserting before the semicolon the following: ", and in the case of an alleged prohibited personnel practice described in subsection (b)(8), an employee or applicant for employment in a Government corporation as defined in section 9101 of title 31".

(b) COVERED POSITIONS.—Section 2302(a)(2)(B) of title 5, United States Code, is amended to read as follows:

"(B) 'covered position' means, with respect to any personnel action, any position in the competitive service, a career appointee position in the Senior Executive Service, or a position in the excepted service, but does not include any position which is, prior to the personnel action—

"(i) excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

"(ii) excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration; and".

(c) AGENCIES.—Section 2302(a)(2)(C) of title 5, United States Code, is amended in clause (i) by inserting before the semicolon: ", except in the case of an alleged prohibited personnel practice described under subsection (b)(8)".

(d) INFORMATIONAL PROGRAM.—Section 2302(c) of title 5, United States Code, is amended in the first sentence by inserting before the period ", and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter 12 of this title".

SEC. 6. PERFORMANCE APPRAISALS.

Section 4313(5) of title 5, United States Code, is amended to read as follows:

"(5) meeting affirmative action goals, achievement of equal employment opportunity requirements, and compliance with the merit systems principles set forth under section 2301 of this title.".

SEC. 7. MERIT SYSTEMS APPLICATION TO CERTAIN VETERANS AFFAIRS PERSONNEL.

Section 2105 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) For purposes of sections 1212, 1213, 1214, 1215, 1216, 1221, 1222, 2302, and 7701, employees appointed under chapter 73 or 74 of title 38 shall be employees.".

SEC. 8. CORRECTIVE ACTIONS ORDERED BY THE MERIT SYSTEMS PROTECTION BOARD.

(a) IN GENERAL.—Section 1214 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) If the Board orders corrective action under this section, such corrective action may include—

"(1) that the individual be placed, as nearly as possible, in the position the individual would have been in had the prohibited personnel practice not occurred; and

"(2) reimbursement for attorney's fees, back pay and related benefits, medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential damages.".

(b) CERTAIN REPRISAL CASES.—Section 1221(g) of title 5, United States Code (as amended by section 4(d) of this Act) is further amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2) (as redesignated by paragraph (1) of this subsection) the following new paragraph:

"(1)(A) If the Board orders corrective action under this section, such corrective action may include—

"(i) that the individual be placed, as nearly as possible, in the position the individual would have been in had the prohibited personnel practice not occurred; and

"(ii) back pay and related benefits, medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential changes.

"(B) Corrective action shall include attorney's fees and costs as provided for under paragraphs (2) and (3).".

SEC. 9. AUTHORITIES RELATING TO ARBITRATORS AND CHOICE OF REMEDIES NOT INVOLVING JUDICIAL REVIEW.

(a) AUTHORITIES WHICH MAY BE EXTENDED TO ARBITRATORS.—Section 7121(b) of title 5, United States Code, is amended—

(1) by redesignating subparagraphs (A) through (C) of paragraph (3) as clauses (i) through (iii), respectively;

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by striking "(b)" and inserting "(b)(1)"; and

(4) by adding at the end the following:

"(2)(A) The provisions of a negotiated grievance procedure providing for binding arbitration in accordance with paragraph (1)(C)(iii) shall, if or to the extent that an alleged prohibited personnel practice is involved, allow the arbitrator to order—

"(i) a stay of any personnel action in a manner similar to the manner described in section 1221(c) with respect to the Merit Systems Protection Board; and

"(ii) the taking, by an agency, of any disciplinary action identified under section 1215(a)(3) that is otherwise within the authority of such agency to take.

"(B) Any employee who is the subject of any disciplinary action ordered under subparagraph (A)(ii) may appeal such action to the same extent and in the same manner as if the agency had taken the disciplinary action absent arbitration.".

(b) CHOICE OF REMEDIES PROVISION NOT INVOLVING JUDICIAL REVIEW.—Section 7121 of title 5, United States Code, is amended by adding at the end the following:

"(g)(1) This subsection applies with respect to a prohibited personnel practice other than a prohibited personnel practice to which subsection (d) applies.

"(2) An aggrieved employee affected by a prohibited personnel practice described in paragraph (1) may elect not more than one of the remedies described in paragraph (3) with respect thereto. For purposes of the preceding sentence, a determination as to whether a particular remedy has been elected shall be made as set forth under paragraph (4).

"(3) The remedies described in this paragraph are as follows:

"(A) An appeal to the Merit Systems Protection Board under section 7701.

"(B) A negotiated grievance procedure under this section.

"(C) Procedures for seeking corrective action under subchapters II and III of chapter 12.

"(4) For the purpose of this subsection, a person shall be considered to have elected—

"(A) the remedy described in paragraph (3)(A) if such person has timely filed a notice of appeal under the applicable appellate procedures;

"(B) the remedy described in paragraph (3)(B) if such person has timely filed a grievance in writing, in accordance with the provisions of the parties' negotiated procedure; or

"(C) the remedy described in paragraph (3)(C) if such person has sought corrective action from the Office of Special Counsel by making an allegation under section 1214(a)(1).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 7121(a)(1) of title 5, United States Code, is amended—

(1) by striking "(d) and (e)" and inserting "(d), (e), and (g)"; and

(2) by inserting "administrative" after "exclusive".

SEC. 10. EXPENSES RELATED TO FEDERAL RETIREMENT APPEALS.

Section 8348(a) of title 5, United States Code, is amended—

(1) in paragraph (1)(B) by striking out "and" at the end thereof;

(2) in paragraph (2) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) is made available, subject to such annual limitation as the Congress may prescribe, for any expenses incurred by the Merit Systems Protection Board in the administration of appeals authorized under sections 8347(d) and 8461(e) of this title.".

SEC. 11. ELECTION OF APPLICATION OF LAWS BY EMPLOYEES OF THE RESOLUTION TRUST CORPORATION AND THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

(a) ELECTION OF PROVISIONS OF TITLE 5, UNITED STATES CODE.—If an individual who believes he has been discharged or discriminated against in violation of section 21a(q)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)(1)) seeks an administrative corrective action or judicial remedy for such violation under the provisions of chapters 12 and 23 of title 5, United States Code, the provisions of section 21a(q) of such Act shall not apply to such alleged violation.

(b) ELECTION OF PROVISIONS OF FEDERAL HOME LOAN BANK ACT.—If an individual files a civil action under section 21a(q)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)(2)), the provisions of chapters 12 and 23 of title 5, United States Code, shall not apply to any alleged violation of section 21a(q)(1) of such Act.

SEC. 12. IMPLEMENTATION.

(a) POLICY STATEMENT.—No later than 6 months after the date of enactment of this Act, the Special Counsel shall issue a policy statement regarding the implementation of the Whistleblower Protection Act of 1989. Such policy statement shall be made available to each person alleging a prohibited personnel practice described under section 2302(b)(8) of title 5, United States Code, and shall include detailed guidelines identifying specific categories of information that may (or may not) be communicated to agency officials for an investigative purpose, or for the purpose of obtaining corrective action under section 1214 of title 5, United States Code, or disciplinary action under section 1215 of such title, the circumstances under which such information is likely to be disclosed, and whether or not the consent of any person is required in advance of any such communication.

(b) TERMINATION STATEMENT.—The Special Counsel shall include in any letter terminating an investigation under section 1214(a)(2) of title 5, United States Code, the name and telephone number of an employee of the Special Counsel who is available to respond to reasonable questions from the person regarding the investigation or review conducted by the Special Counsel, the relevant facts ascertained by the Special Counsel, and the law applicable to the person's allegations.

SEC. 13. ANNUAL SURVEY OF INDIVIDUALS SEEKING ASSISTANCE.

(a) IN GENERAL.—The Office of Special Counsel shall, after consulting with the Office of Policy and Evaluation of the Merit Systems Protection Board, conduct an annual survey of all individuals who contact the Office of Special Counsel for assistance. The survey shall—

(1) determine if the individual seeking assistance was fully apprised of their rights;

(2) determine whether the individual was successful either at the Office of Special Counsel or the Merit Systems Protection Board; and

(3) determine if the individual, whether successful or not, was satisfied with the treatment received from the Office of Special Counsel.

(b) REPORT.—The results of the survey conducted under subsection (a) shall be published in the annual report of the Office of Special Counsel.

SEC. 14. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall be effective on and after the date of the enactment of this Act.

Mr. DORGAN. Mr. President, I rise in support of the conference report on H.R. 2970, the proposed act to authorize appropriations for the U.S. Office of Special Counsel, the Merit Systems Protection Board [MSPB], and for other purposes.

One of the persistent complaints that surveys, conducted by both GAO and the Merit Systems Protection Board itself, of Federal civil servants reveals is the frustration people feel about the lack of communication on the part of the Office of Special Counsel.

The Office of Special Counsel is supposed to be the policeman of the merit system. The OSC is supposed to punish the perpetrator and help the victims of personnel crime. But, a policeman must be able to communicate with those he is trying to help.

Federal employees who have suffered retaliation for blowing the whistle on waste, fraud, or abuse are supposed to report first to the Office of Special Counsel. In the vast majority of cases, OSC has exclusive jurisdiction—a monopoly, if you will—of these cases. OSC typically waits for months before they take any action on a case. All too often cases are closed out by OSC well before critical witnesses have been interviewed or documents reviewed.

All the employee knows is that the fate of his or her career has entered a black box known as the OSC and that after an undetermined amount of time his or her case is spit out of the black box with a little note—called a close out memo—that says, in effect, "Sorry, you're out of luck."

It should be noted that, in one survey, over a third of cases closed out by the OSC were later won by the employees on appeal. Obviously, the OSC is missing something.

What this amendment says is that 10 days before the OSC rejects a case the OSC must tell the employee why. The employee then has one last chance to highlight a key fact or make sure that a critical witness is interviewed. At least the employee will have some idea why the agency charged with protecting his rights is not going to stand up for him.

There should not be any confusion that this status report is solely for the complainant's benefit. Like an OSC closeout letter, the Special Counsel's final status report with proposed findings of fact and legal conclusions may not be admitted into any administrative or judicial forum without the complainant's consent.

This amendment will open the lines of communication at an early stage of the process. This will help prevent the MSPB from being clogged with appeals that could have been avoided if the OSC had simply talked to the employee.

The notion that Federal agencies should serve their customers should not be limited to agencies that deal with the general public. Agencies that are supposed to help the employees of the people should also treat these employees as people. That means leveling with them, letting them know the score. That is what this amendment accomplishes.

Mr. HATCH. Mr. President, law enforcement agencies and representatives of the telecommunications industry have worked with members of the Judiciary and Commerce Committees for several years to draft legislation intended to clarify the responsibilities of telecommunications companies when assisting law enforcement in conducting court authorized wiretaps and traces. The proposed legislation, S. 2375, is the result of their labors. I commend the efforts of Senator LEAHY for sheperding this bill through the Senate. I also applaud FBI Director Louis Freeh and his staff for their dogged determination in fighting for this important legislation.

The Fourth Amendment to our Constitution underscores the careful balance that must be struck between the right of the people to private communications and the legitimate needs of law enforcement. Unfortunately, that balance has shifted in recent years. Law enforcement agencies have seen rapid advancements in telecommunications technology seriously undermining their ability to conduct court-authorized wiretaps. In the not too distant future, law enforcement may find that it will be unable to execute wiretaps. While we must applaud the telecommunications industry for developing extraordinary new means of communicating, we must be ever watchful that those who prey upon society's innocents will not be able to pervert those revolutionary technologies and use them for criminal gain. Who can forget the bombing of the World Trade Center in New York City? But how many of us remember that the FBI was able to thwart additional terrorist attacks in New York because of the Bureau's capability to intercept criminal conversations. Law enforcement's ability to conduct court-authorized electronic surveillance simply cannot be compromised.

American's concern about crime has never been greater than it is today. Court authorized electronic surveillance is one of the most important and effective tools that State and Federal law enforcement agencies have to fight and to prevent crime. The proposed legislation is essential to effective law enforcement. It preserves law enforcement's ability to conduct court-authorized wiretaps while maintaining the overall security and integrity of the communications network.

The bill requires telephone companies, when served with a court order, to continue to assist law enforcement as they have for the past 50 years by having the capability to identify, segregate, and provide access to the conversations of specific criminals and target numbers, to the exclusion of all others, regardless of the technology, services, or features offered. This bill is not requiring industry to do anything new; rather it simply requires industry to continue to take into account the needs of law enforcement as new communications technologies are designed and deployed. This bill strikes a careful balance between the legitimate needs of law enforcement and the right of the people to private communications. It also strengthens the cooperative relationship that industry and law enforcement have shared for the past 50 years. On this account, I am delighted to cosponsor this legislation and urge my colleagues to give it their wholehearted support.

Mr. BREAUX. Mr. President, I ask unanimous consent that amendment be agreed to and that the motion to reconsider be laid upon the table; that the bill, as amended, be deemed read three times, passed, the title amendment be agreed to, and the motions to reconsider be laid upon the table, en bloc, and that any statements be inserted in the RECORD at the appropriate place as if read.

The amendment (No. 2641) was agreed to.

So the bill (H.R. 2970), as amended, was deemed read three times and passed.

The title was amended so as to read: "An Act to authorize appropriations for the United States Office of Special Counsel, the Merit Systems Protection Board, and for other purposes."

TO ENHANCE BUSINESS DEVELOPMENT OPPORTUNITIES

Mr. BREAUX. Mr. President, I ask unanimous consent that the Small Business Committee be discharged from further consideration of S. 2478, a bill to enhance the business development opportunities of socially and economically disadvantaged individuals, and that the Senate proceed to the bill's immediate consideration, that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table; and further that any statements on this measure appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2478) was deemed read three times and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

THE FEGLI LIVING BENEFITS ACT

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 708, H.R. 512, relating to group life insurance benefits.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 512) to amend chapter 87 of title 5, United States Code, to provide that group life insurance benefits under such chapter may, upon application, be paid out to an insured individual who is terminally ill, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2642

(Purpose: To provide for continuation of health benefits coverage for certain individuals enrolled in health benefits plans administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision)

Mr. BREAUX. Mr. President, on behalf of Senator PRYOR, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] for Mr. PRYOR proposes an amendment numbered 2642.

Mr. BREAUX. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new sections:

SEC. 5. CONTINUATION OF HEALTH BENEFITS COVERAGE FOR INDIVIDUALS ENROLLED IN A PLAN ADMINISTERED BY THE OFFICE OF THE COMPTROLLER OF THE CURRENCY OR THE OFFICE OF THRIFT SUPERVISION.

(a) ENROLLMENT IN CHAPTER 89 PLAN.—For purposes of the administration of chapter 89

of title 5, United States Code, any period of enrollment under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision before the termination of such plans on January 7, 1995, shall be deemed to be a period of enrollment in a health benefits plan under chapter 89 of such title.

(b) CONTINUED COVERAGE.—(1) Any individual who, on January 7, 1995, is covered by a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision may enroll in an approved health benefits plan described under section 8903 or 8903a of title 5, United States Code—

(A) either as an individual or for self and family, if such individual is an employee, annuitant, or former spouse as defined under section 8901 of such title; and

(B) for coverage effective on and after January 8, 1995.

(2) An individual who, on January 7, 1995, is entitled to continued coverage under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision—

(A) shall be deemed to be entitled to continued coverage under section 8905a of title 5, United States Code, for the same period that would have been permitted under the plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision; and

(B) may enroll in an approved health benefits plan described under section 8903 or 8903a of such title in accordance with section 8905a of such title for coverage effective on and after January 8, 1995.

(3) An individual who, on January 7, 1995, is covered as an unmarried dependent child under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision and who is not a member of family as defined under section 8901(5) of title 5, United States Code—

(A) shall be deemed to be entitled to continued coverage under section 8905a of such title as though the individual had, on January 7, 1995, ceased to meet the requirements for being considered an unmarried dependent child under chapter 89 of such title; and

(B) may enroll in an approved health benefits plan described under section 8903 or 8903a of such title in accordance with section 8905a for continued coverage effective on and after January 8, 1995.

(c) TRANSFERS TO THE EMPLOYEES HEALTH BENEFITS FUND.—The Office of the Comptroller of the Currency and the Office of Thrift Supervision shall transfer to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, amounts determined by the Director of the Office of Personnel Management, after consultation with the Office of the Comptroller of the Currency and the Office of Thrift Supervision, to be necessary to reimburse the Fund for the cost of providing benefits under this section not otherwise paid for by the individuals covered by this section. The amounts so transferred shall be held in the Fund and used by the Office in addition to amounts available under section 8906(g)(1) of such title.

(d) ADMINISTRATION AND REGULATIONS.—The Office of Personnel Management—

(1) shall administer the provisions of this section to provide for—

(A) a period of notice and open enrollment for individuals affected by this section; and

(B) no lapse of health coverage for individuals who enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with this section; and

(2) may prescribe regulations to implement this section.

FEHB LEGISLATION FOR OCC AND OTS

BACKGROUND

In the 1980s, OCC and OTS (along with other federal banking agencies) established separate health plans to help attract and retain employees during a time when turnover was high and valuable examiner talent was being lost to private industry.

OCC plan was established in 1982; OTS in 1987. Both were attractive enough that the vast majority of employees chose the separate plans rather than a plan in FEHB.

In the last several years, the rationale for maintaining health plans outside the FEHB has eroded. Accounting rules have substantially increased the costs of maintaining separate health plans. And, as health care costs have increased generally over recent years, the differences between the agency plans and FEHB fee-for-service plans have narrowed.

The increased costs of accounting for separate health plans have come at a critical time for both OTS and OCC.

The OTS is confronted with a shrinking industry. Since OTS is 95% funded by assessments on the thrift industry, revenue has been decreasing at an alarming rate. In fact, even with two previous downsizing initiatives, OTS expenses have not declined as fast as revenues. OTS has been operating at a deficit for several years.

OCC is also primarily funded by assessments of the national banks it regulates. National banks are increasingly complaining about their costs of federal supervision. Consequently, OCC is launching a major effort to cut costs, with the hope that this will permit an assessment decrease for 1995.

Both agencies have decided to terminate their separate health plans at the end of 1994.

EMPLOYEES NEGATIVELY AFFECTED BY THE CHANGE TO FEHB

Active employees not close to retirement are not affected by the decision to terminate OCC and OTS separate agency plans, except that they will have to choose among FEHB plans during the next open season.

However, the statutory requirement that Federal employees participate in an FEHB plan for five years just prior to retirement is an impediment for employees close to retirement. To obtain FEHB insurance, these employees would have to work five additional years.

Also barred by statute from participation in FEHB plans are the OCC and OTS retirees currently covered by the agencies' separate plans.

OCC and OTS retirees and near-retirees have accumulated many decades of federal service and, in fact, in most cases participated in FEHB plans (and paid premiums) for as long as 20 years before selecting their agency health plan.

LEGISLATIVE SOLUTION

The Administration supports this legislative proposal.

OCC, OTS, and OPM staff have worked cooperatively to develop legislative language that will allow their near-retirees and retirees to enroll in FEHB plans during this coming open season. By treating participation in an FCC or OTS plan as though it were an FEHB plan, the proposed legislation makes the transition a seamless one.

For OTS, this legislation resolves the problems affecting 189 employees within five years of retirement, 175 current retirees, and a handful of non-employees (e.g., survivors of OTS employees; separated employees with temporary continuing coverage).

For OCC, the numbers are 330 employees within five years of retirement, 284 current retirees, and a small number of non-employees.

The retirees and near-retirees affected by the proposed legislation are located throughout the country, as are the current workforces.

FUNDING FEHB

OCC and OTS have agreed to pay the Employees Health Benefit Fund an amount determined by the Director of OPM for the benefits provided by this legislation not otherwise paid for by the individuals to be covered. According to OMB, this makes the proposal budget-neutral for pay-go purposes.

URGENCY

Legislation must be passed this session. Without it, OCC and OTS will be forced to purchase private health coverage at substantially higher premiums for this relatively small number of older individuals. This higher cost will exacerbate the OTS deficit and will not allow the OCC to reduce costs to the degree necessary to relieve pressure on national bank assessments.

Moreover, without this legislation, OCC and OTS retirees, most of whom have many years of federal service, would not have the range of choice and costs available to all other federal retirees. And near-retirees may feel they must work longer than they had planned to ensure themselves coverage under FEHB.

Last, OCC and OTS plans for rightsizing initiatives will be frustrated by the uncertainties in health insurance confronting those employees eligible for either optional or early retirement.

Mr. BREAUX. Mr. President, I ask unanimous consent that the amendment be agreed to and the motion to reconsider be laid upon the table; that the bill as thus amended be deemed read three times, passed, and the motion to reconsider be laid upon the table; that the title amendment be agreed to; that any statements relating to this measure be inserted in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2642) was agreed to.

So the bill (H.R. 512), as amended, was deemed read three times and passed.

The title was amended so as to read:

An Act to amend chapter 87 of title 5, United States Code, to provide that group life insurance benefits under such chapter may, upon application, be paid out to an insured individual who is terminally ill; to provide for continuation of health benefits coverage for certain individuals enrolled in health benefits plans administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision; and for other purposes.

ADVANCEMENT OF NATIONAL EDUCATION GOALS FOR INDIANS

Mr. BREAUX. Mr. President, I ask unanimous consent that the Indian Affairs Committee be discharged from further consideration of S. Res. 264, a resolution expressing the sense of the Senate on advancement of the national

education goals for Indians; that the Senate then proceed to its immediate consideration, the resolution be adopted, the preamble be agreed to, and the motion to reconsider be laid on the table; and that, further, any statements on this measure appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 264) was agreed to.

The preamble was agreed to.

(The text of the resolution will be printed in a future edition of the RECORD.)

CODIFICATION OF LAWS RELATED TO TRANSPORTATION

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4778, relating to codification of laws related to transportation to improve the code, just received from the House; that the bill be read a third time, passed, the motion to reconsider be laid on the table; and that any statement appear at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4778) was passed.

SENATE ARMS CONTROL OBSERVER GROUP

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 280, a resolution introduced earlier today by the majority leader and Senator DOLE regarding the Senate Arms Control Observer Group; that the resolution be agreed to, the motion to reconsider laid on the table, and any statement thereon appear in the RECORD at the appropriate place, as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 280) was agreed to.

(The text of the resolution will be printed in a future edition of the RECORD.)

WATER BANK EXTENSION ACT OF 1994

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5053, the Water Bank Extension Act of 1994, just received from the House; that bill be read three times, passed, the motion to reconsider be laid upon the table; and, further, that any statements related to this measure be printed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5053) was passed.

Mr. LEAHY. Mr. President, I applaud the purpose of H.R. 5053 which is to protect the approximately 64,000 acres of wetlands and upland habitat enrolled in the Water Bank Program that are scheduled to expire on December 31, 1994. Unfortunately, no funds have been appropriated in fiscal year 1995 to renew these contracts. Therefore, we have been forced to pass this bill as a quick fix to protect these lands until the long-term future of the Water Bank Program can be resolved in the 1995 farm bill.

It is with reluctance, however, that I agree to utilize the scarce dollars that have been appropriated to fund the Wetland Reserve Program for a quick fix of the Water Bank Program. The Wetland Reserve Program is a unique program that seeks to restore wetlands, help farmers meet the wetland conservation provisions of the 1985 Food Security Act, and help all of us meet our overall goal of no net loss of wetlands. Most of the wetlands currently enrolled in the Water Bank Program would not, and should not, be eligible for inclusion in the Wetlands Reserve Program. The Wetlands Reserve Program was authorized for a single, unique purpose: to help farmers restore, and protect in perpetuity, wetlands that had previously been converted to cropland. It is critical that the Wetland Reserve Program not be diverted from this unique and important purpose.

Tight budgets have forced us to choose between two unique wetland management programs. I concur that this choice is best made in the farm bill when the overall needs of wetland conservation and protection can be debated more fully. I look forward to working with my colleagues from water bank States to resolve this problem next year.

INTERNATIONAL ANTITRUST ENFORCEMENT ASSISTANCE ACT OF 1994

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 699, S. 2297, a bill relating to international antitrust.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2297) to facilitate obtaining foreign-located antitrust evidence by authorizing the Attorney General of the United States and the Federal Trade Commission to provide, in accordance with antitrust mutual assistance agreements, antitrust evidence to foreign antitrust authorities on a reciprocal basis, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Antitrust Enforcement Assistance Act of 1994".

SEC. 2. DISCLOSURE TO A FOREIGN ANTITRUST AUTHORITY OF ANTITRUST EVIDENCE.

Subject to section 8, except as provided in section 5, and in accordance with an antitrust mutual assistance agreement, the Attorney General and the Federal Trade Commission may provide antitrust evidence to a foreign antitrust authority to assist the foreign antitrust authority—

(1) in determining whether a person has violated or is about to violate any of the foreign antitrust laws administered or enforced by the foreign antitrust authority; or

(2) in enforcing any of such foreign antitrust laws.

SEC. 3. INVESTIGATIONS TO ASSIST A FOREIGN ANTITRUST AUTHORITY IN OBTAINING ANTITRUST EVIDENCE.

(a) AUTHORITY OF THE ATTORNEY GENERAL.—

(1) REQUEST.—Requests for assistance from a foreign antitrust authority pursuant to this section shall be made to the Attorney General.

(2) INVESTIGATION.—Subject to section 8, except as provided in section 5, and in accordance with an antitrust mutual assistance agreement, the Attorney General may, after consultation with the Commission, use antitrust investigative authority to conduct antitrust investigations to obtain antitrust evidence relating to a violation of the foreign antitrust laws administered or enforced by a foreign antitrust authority, and may provide such antitrust evidence to the foreign antitrust authority, to assist the foreign antitrust authority—

(A) in determining whether a person has violated or is about to violate any of such foreign antitrust laws; or

(B) in enforcing any of such foreign antitrust laws.

(3) FEDERAL ANTITRUST LAWS.—An investigation under this section may be conducted, and such antitrust evidence may be provided, without regard to whether the conduct investigated violates any of the Federal antitrust laws.

(b) AUTHORITY OF THE COMMISSION.—

(1) IN GENERAL.—After consultation with the Commission, and consistent with section 10(b), the Attorney General may refer to the Commission a request for assistance under this section from a foreign antitrust authority.

(2) INVESTIGATION.—Upon referral under paragraph (1), the Commission may, subject to section 8 and except as provided in section 5, use its investigative authority under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) to conduct antitrust investigations in the same manner and of the same scope as those described under subsection (a).

(c) CONFORMING AMENDMENTS.—

(1) ANTITRUST CIVIL PROCESS ACT.—The Antitrust Civil Process Act (15 U.S.C. 1311 et seq) is amended—

(A) in section 2—

(i) in subsection (d)—

(I) by striking "or any" and inserting ", any"; and

(II) by inserting before the semicolon ", or any of the foreign antitrust laws"; and

(ii) by adding at the end the following new subsection:

"(k) The term 'foreign antitrust laws' has the meaning given such term in section 12 of the International Antitrust Enforcement Assistance Act of 1994."; and

(B) in the first sentence of section 3(a)—

(i) by inserting "or to an investigation authorized by section 3(a) of the International Antitrust Enforcement Assistance Act of 1994" after "investigation"; and

(ii) by inserting "by the United States" after "proceeding".

(2) FEDERAL TRADE COMMISSION ACT.—Section 6(h) of the Federal Trade Commission Act (15 U.S.C. 46(h)) is amended by striking the period after "advisable" and inserting "and to conduct investigations in accordance with the International Antitrust Enforcement Assistance Act.".

SEC. 4. JURISDICTION OF THE DISTRICT COURTS OF THE UNITED STATES.

(a) AUTHORITY OF THE DISTRICT COURTS.—On the application of the Attorney General made in accordance with an antitrust mutual assistance agreement, the United States district court for the district in which a person resides, is found, or transacts business may order such person to give testimony or a statement, or to produce a document or other thing, to the Attorney General to assist the foreign antitrust authority that is covered by the agreement—

(1) in determining whether a person has violated or is about to violate any of the foreign antitrust laws administered or enforced by the foreign antitrust authority; or

(2) in enforcing any of such foreign antitrust laws.

(b) CONTENTS OF ORDER.—

(1) IN GENERAL.—An order issued under subsection (a) may direct that testimony or a statement be given, or a document or other thing be produced, to a person who shall be recommended by the Attorney General and appointed by the court.

(2) POWER OF APPOINTEE.—A person appointed in an order under paragraph (1) shall have power to administer any necessary oath and to take such testimony or such statement.

(3) PRACTICE AND PROCEDURE.—(A) An order issued under subsection (a) may prescribe the practice and procedure for taking testimony and statements.

(B) Such practice and procedure may be in whole or in part the practice and procedure of the foreign state, or the regional economic integration organization, represented by the foreign antitrust authority with respect to which the Attorney General requests such order.

(C) To the extent such order does not prescribe otherwise, any testimony and statements required to be taken shall be taken, and any documents and other things required to be produced shall be produced, in accordance with the Federal Rules of Civil Procedure.

(c) RIGHTS AND PRIVILEGES PRESERVED.—A person may not be compelled under an order issued under subsection (a) or in connection with an investigation authorized by section 3 to give testimony or a statement, or to produce a document or other thing, in violation of any legally applicable right or privilege.

(d) VOLUNTARY CONDUCT.—This section does not preclude a person in the United States from voluntarily giving testimony or a statement, or producing a document or other thing, in any manner acceptable to such person for use in an investigation by a foreign antitrust authority.

SEC. 5. LIMITATIONS ON AUTHORITY.

Sections 2, 3, and 4 shall not apply with respect to the following antitrust evidence:

(1) Antitrust evidence that is received by the Attorney General or the Commission under section 7A of the Clayton Act (15 U.S.C. 18a), as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976. Nothing in this paragraph shall affect the ability of the Attorney General or the Commission to disclose to a foreign antitrust authority antitrust evidence that is obtained otherwise than under such section 7A.

(2) Antitrust evidence that is matter occurring before a grand jury and with respect to which disclosure is prevented by Federal law, except as may be directed by a court pursuant to Rule 6(e)(3)(C)(i) of the Federal Rules of Criminal Procedure. For purposes of this section, disclosure preliminary to or in connection with a judicial proceeding shall include disclosure to a foreign antitrust authority for the purposes provided in section 2.

(3) Antitrust evidence that is specifically authorized under criteria established by Executive Order 12356, or any successor to such order, to be kept secret in the interest of national defense or foreign policy, and—

(A) that is classified pursuant to such order or such successor; or

(B) with respect to which a determination of classification is pending under such order or such successor.

(4) Antitrust evidence that is classified under section 142 of the Atomic Energy Act of 1954 (42 U.S.C. 2162).

SEC. 6. DISCLOSURE OF ANTITRUST EVIDENCE.

Neither section 4 of the Antitrust Civil Process Act (15 U.S.C. 1313) nor section 6(f) or 21 of the Federal Trade Commission Act (15 U.S.C. 46, 57b–2) shall apply to prevent the Attorney General or the Commission from providing to a foreign antitrust authority antitrust evidence in accordance with an antitrust mutual assistance agreement in effect under this Act and in accordance with the other requirements of this Act.

SEC. 7. PUBLICATION REQUIREMENTS APPLICABLE TO ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.

(a) PUBLICATION OF PROPOSED ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.—Not less than 45 days before entering into an antitrust mutual assistance agreement, the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register—

(1) the proposed text of such agreement and any modification to such proposed text; and

(2) a request for public comment with respect to such text or such modification, as the case may be.

(b) PUBLICATION OF PROPOSED AMENDMENTS TO ANTITRUST MUTUAL ASSISTANCE AGREEMENTS IN EFFECT.—Not less than 45 days before entering into an agreement that makes an amendment to an antitrust mutual assistance agreement in effect under this Act, the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register—

(1) the proposed text of such amendment, and

(2) a request for public comment with respect to such amendment.

(c) PUBLICATION OF ANTITRUST MUTUAL ASSISTANCE AGREEMENTS ENTERED INTO, AND AMENDMENTS TO AND TERMINATIONS OF, SUCH AGREEMENTS.—

(1) IN GENERAL.—Not later than 30 days after—

(A) entering into an antitrust mutual assistance agreement;

(B) entering into an agreement that makes an amendment to an antitrust mutual assistance agreement; or

(C) terminating an antitrust mutual assistance agreement,

the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register a notice containing the information described in paragraph (2).

(2) CONTENTS OF NOTICE.—A notice under this subsection shall contain—

(A) the text of the antitrust mutual assistance agreement or of such amendment, or the fact and any terms of termination as the case may be; and

(B) in the case of an agreement that makes such amendment, a notice containing—

(i) a statement of the fact that such agreement was entered into;

(ii) citations to the provisions of the Federal Register that contain the text of the amendment, of any previous amendments and of the antitrust mutual assistance agreement that is so amended; and

(iii) a description of the manner in which a copy of the antitrust mutual assistance agreement, as so amended, may be obtained from the Attorney General or the Commission.

(d) CONDITION FOR VALIDITY.—An antitrust mutual assistance agreement, or an agreement that makes an amendment to an antitrust mutual assistance agreement, entered into in violation of subsection (a) or (b) shall not be considered to be entered into under the authority of this Act.

SEC. 8. IMPLEMENTATION OF ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.

(a) DETERMINATIONS.—The Attorney General or the Commission may conduct an investigation under section 3 and may provide antitrust evidence to a foreign antitrust authority, under an antitrust mutual assistance agreement, only if the Attorney General or the Commission, as the case may be, determines in the particular instance in which such investigation or evidence is requested that—

(1) the foreign antitrust authority—

(A) will satisfy the assurances, terms, and conditions required by subparagraphs (A), (B), and (D) of section 12(2); and

(B) is capable of complying with and will comply with the confidentiality requirements applicable under such agreement to the requested antitrust evidence;

(2) providing the requested antitrust evidence will not violate section 5; and

(3) conducting such investigation, or providing the requested antitrust evidence, as the case may be, is consistent with the public interest of the United States, taking into consideration, among other factors, whether the foreign state, or the regional economic integration organization, represented by the foreign antitrust authority holds any proprietary interest that could benefit or otherwise be affected by such investigation or by the provision of such antitrust evidence.

(b) LIMITATION ON DISCLOSURE OF CERTAIN ANTITRUST EVIDENCE.—Neither the Attorney General nor the Commission may disclose in violation of an antitrust mutual assistance agreement any antitrust evidence received under such agreement, except that such agreement may not prevent the disclosure of such antitrust evidence to a defendant in an action or proceeding brought by the Attorney General or the Commission for a violation of any of the Federal antitrust laws if such disclosure would otherwise be required by Federal law.

(c) REQUIRED DISCLOSURE OF NOTICE RECEIVED.—If the Attorney General or the Commission receives a notice described in section 12(2)(G), the Attorney General or the Commission, as the case may be, shall transmit such notice to the person that provided the evidence with respect to which such notice is received.

SEC. 9. LIMITATIONS ON JUDICIAL REVIEW

(a) DETERMINATIONS.—Determinations made under section 8(a) (1) and (3) shall not be subject to judicial review.

(b) ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.—Whether an antitrust mutual assistance agreement satisfies the requirements specified in section 12(2) shall not be subject to judicial review under chapter 7 of title 5, United States Code.

(c) RULE OF CONSTRUCTION.—Nothing in this section affects the availability of judicial review under laws referenced in section 5.

SEC. 10. SUPPLEMENTATION AND PRESERVATION OF AUTHORITY.

(a) SUPPLEMENTAL AUTHORITY.—The authority provided by this Act is in addition to, and not in lieu of, any other authority vested in the Attorney General, the Commission, or any other officer of the United States.

(b) AUTHORITY PRESERVED.—This Act shall not modify or affect the allocation of responsibility between the Attorney General and the Commission for the enforcement of the Federal antitrust laws.

SEC. 11. REPORT TO THE CONGRESS.

In the 30-day period beginning 3 years after the date of the enactment of this Act, the Attorney General, with the concurrence of the Commission, shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report—

(1) describing how the operation of this Act has affected the enforcement of the Federal antitrust laws;

(2) the extent to which foreign antitrust authorities have complied with the confidentiality requirements applicable under antitrust mutual assistance agreements in effect under this Act;

(3) the number and identities of the foreign antitrust authorities, foreign states, and regional economic integration organizations that have entered into such agreements;

(4) the identity of each foreign state, and each regional economic integration organization, that has in effect a law similar to this Act;

(5) the approximate number of requests made by the Attorney General and the Commission under such agreements to foreign antitrust authorities for antitrust investigations and for antitrust evidence;

(6) the approximate number of requests made by foreign antitrust authorities under such agreements to the Attorney General and the Commission for investigations under section 3 and for antitrust evidence; and

(7) a description of any significant problems or concerns of which the Attorney General or the Commission is aware with respect to the operation of this Act.

SEC. 12. DEFINITIONS.

For purposes of this Act:

(1) The term "antitrust evidence" means information, testimony, statements, documents, or other things obtained in anticipation of, or during the course of, an investigation or proceeding under any of the Federal antitrust laws or any of the foreign antitrust laws.

(2) The term "antitrust mutual assistance agreement" means a written agreement, or written memorandum of understanding, that is entered into (i) between the Attorney General and the Commission, and the foreign antitrust authority and such other agencies of a foreign state or regional economic integration organization as may be necessary to carry out the agreement, or (ii) between the Government of the United States and a foreign state or regional economic integration organization, for the purpose of conducting investigations under section 3, or for providing antitrust evidence, on a reciprocal basis and that includes the following:

(A) An assurance that the foreign antitrust authority will provide to the Attorney General or the Commission assistance that is comparable in scope to the assistance the Attorney General or the Commission provides under such agreement or such memorandum.

(B) An assurance that the foreign antitrust authority is subject to laws and procedures that are adequate to maintain the confidentiality of antitrust evidence that may be received under section 2, 3, or 4 and will give protection to antitrust evidence received under such section that is not less than the protection provided under the laws of the United States to such antitrust evidence.

(C) Citations to, and brief descriptions of, the laws (including treaties, statutes, executive orders, and regulations) of the United States, and the laws (including treaties, statutes, executive orders, and regulations) of the foreign state, or the regional economic integration organization, represented by the foreign antitrust authority, that protect the confidentiality of antitrust evidence that may be provided under such agreement or such memorandum. Such citations and such descriptions shall include the enforcement mechanisms and penalties applicable under such laws.

(D) Terms and conditions that specifically prohibit disclosing or using antitrust evidence received under such agreement or such memorandum, for any purpose other than the administration or enforcement of the foreign antitrust laws involved unless, under special circumstances when such disclosure or use is essential to law enforcement and the evidence is not otherwise readily obtainable, the Attorney General or the Commission gives prior written consent to the disclosure or use of the antitrust evidence provided under this Act for such other law enforcement purpose as may be specified by the foreign antitrust authority, subject to the other confidentiality requirements of this Act.

(E) An assurance that antitrust evidence received under section 2, 3, or 4 from the Attorney General or the Commission, and all copies of such evidence, in the possession or control of the foreign antitrust authority will be returned to the Attorney General or the Commission, respectively, at the conclusion of the foreign investigation or proceeding with respect to which such evidence was so received.

(F) Terms and conditions that specifically provide that such agreement or such memorandum will be terminated if—

(i) the confidentiality required under such agreement or such memorandum is violated with respect to antitrust evidence; and

(ii) adequate action is not taken both to minimize any harm resulting from the violation and to ensure that such confidentiality requirement is not violated again.

(G) Terms and conditions that specifically provide that if the confidentiality required under such agreement or such memorandum is violated with respect to antitrust evidence, notice of the violation will be given—

(i) by the foreign antitrust authority promptly to the Attorney General or the Commission with respect to antitrust evidence provided by the Attorney General or the Commission, respectively; and

(ii) by the Attorney General or the Commission to the person (if any) that provided such evidence to the Attorney General or the Commission.

(3) The term "Attorney General" means the Attorney General of the United States.

(4) The term "Commission" means the Federal Trade Commission.

(5) The term "Federal antitrust laws" has the meaning given the term "antitrust laws" in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)) but also includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(6) The term "foreign antitrust authority" means a governmental entity of a foreign state or of a regional economic integration organization that is vested by such state or such organization with authority to enforce the foreign antitrust laws of such state or such organization.

(7) The term "foreign antitrust laws" means the laws of a foreign state, or of a regional economic integration organization, that are substantially similar to any of the Federal antitrust laws and that prohibit conduct similar to conduct prohibited under the Federal antitrust laws.

(8) The term "person" has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(9) The term "regional economic integration organization" means an organization that is constituted by, and composed of, foreign states and in which such foreign states have vested authority to make decisions binding on such foreign states.

SEC. 13. AUTHORITY TO RECEIVE REIMBURSEMENTS.

The Attorney General and the Commission are authorized to receive from a foreign antitrust authority, a foreign state, or a regional economic integration organization reimbursement in cash or in kind for the costs incurred by the Attorney General or the Commission, respectively, to conduct investigations under section 3 or provide antitrust evidence under a mutual assistance agreement.

AMENDMENT NO. 2643

(Purpose: To facilitate obtaining foreign-located antitrust evidence)

Mr. BREAUX. Mr. President, on behalf of Senator METZENBAUM and Senator THURMOND, I send a substitute amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX], for Mr. METZENBAUM for himself and Mr. THURMOND, proposes an amendment numbered 2643.

Mr. BREAUX. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. THURMOND. Mr. President, I rise today in support of H.R. 4781, the International Antitrust Enforcement Assistance Act, which is the House version of the legislation I introduced with Senator METZENBAUM in July of this year. It authorizes closer cooperation and sharing of information between United States and foreign antitrust authorities in order to more effectively enforce antitrust laws for the benefit of American consumers and businesses.

As I have stated previously, the goals of this legislation deserve broad bipartisan support. It is appropriate and necessary for our antitrust authorities to be given better tools for obtaining evidence abroad, because antitrust violations increasingly involve transactions and evidence which are located abroad or in more than one country. This bill achieves that goal by authorizing investigations to be conducted and information shared with foreign authorities in appropriate circumstances. However, this legislation does not change the jurisdictional reach or substance of either the U.S. antitrust laws or any foreign law.

Mr. President, I believe that this legislation now contains all necessary protections to safeguard American interests. Prior to any exchange of information, the bill requires a comprehensive agreement between the United States and foreign antitrust authorities, which is effective only after notice and an opportunity for public comment. That agreement is required to

contain many terms to protect the confidentiality of any information disclosed, while the bill expressly precludes disclosure of certain categories of information.

Among other things, the confidentiality provisions require that the U.S. agencies must make a determination in each case that the foreign laws are sufficient to protect confidentiality and will be applied. Further, the bill ensures that there will be true reciprocity between the United States and foreign antitrust authorities in providing assistance and exchanging information so that the benefits and responsibilities are evenly shared.

For all of these reasons, this is a bill which is good for American consumers and which many American businesses wholeheartedly support. I urge my colleagues to vote for this legislation.

Mr. BREAUX. Mr. President, I ask unanimous consent the amendment be agreed to; that the committee substitute amendment, as amended, be agreed to; that the bill be read a third time, passed, the motion to reconsider be laid upon the table; and that any statements appear in the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 2643) was agreed to.

So the bill (S. 2297) was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

FEDERAL EMPLOYEES FAMILY FRIENDLY LEAVE ACT

Mr. BREAUX. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 4361, the Federal Employees Family Friendly Leave Act and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4361) to amend title 5, United States Code, to provide that an employee of the Federal Government may use sick leave to attend to the medical needs of a family member; to modify the voluntary leave transfer program with respect to employees who are members of the same family; and for other purposes.

AMENDMENT NO. 2644

(Purpose: To amend chapter 63 of title 5, United States Code, to provide that an employee of the Federal Government may use sick leave to attend to the medical needs of a family member, and for other purposes)

Mr. BREAUX. Mr. President, on behalf of Senator PRYOR, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] for Mr. PRYOR proposes an amendment numbered 2644.

Mr. BREAUX. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Family Friendly Leave Act".

SEC. 2. USE OF SICK LEAVE FOR PURPOSES RELATING TO A FAMILY MEMBER.

Section 6307 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) For the purpose of this subsection, the term 'family member' shall have such meaning as the Office of Personnel Management shall by regulation prescribe, except that such term shall include any individual who meets the definition given that term, for purposes of the leave transfer program under subchapter III, under regulations prescribed by the Office (as in effect on January 1, 1993).

"(2) Subject to paragraph (3) and in addition to any other allowable purpose, sick leave may be used by an employee—

"(A) to give care or otherwise attend to a family member having an illness, injury, or other condition which, if an employee had such condition, would justify the use of sick leave by such an employee; or

"(B) for purposes relating to the death of a family member, including to make arrangements for or attend the funeral of such family member.

"(3)(A) Sick leave may be used by an employee for the purposes provided under paragraph (2) only to the extent the amount used for such purposes does not exceed—

"(i) 40 hours in any year, plus

"(ii) up to an additional 64 hours in any year, but only to the extent the use of such additional hours does not cause the amount of sick leave to the employee's credit to fall below 80 hours.

"(B) In the case of a part-time employee or an employee on an uncommon tour of duty, the Office of Personnel Management shall establish limitations that are proportional to those prescribed under subparagraph (A).

"(4)(A) This subsection shall be effective during the 3-year period that begins upon the expiration of the 2-month period that begins on the date of the enactment of this subsection.

"(B) Not later than 6 months before the date on which this subsection is scheduled to cease to be effective, the Office shall submit a report to Congress in which it shall evaluate the operation of this subsection and make recommendations as to whether or not this subsection should be continued beyond such date.".

Mr. BREAUX. Mr. President, I ask unanimous consent that the amendment be agreed to; that the motion to reconsider be laid upon the table; that the bill, as amended, be read three times, passed and the motion to reconsider be laid upon the table; that the title amendment be agreed to; and that any statements relating thereto be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendment (No. 2644) was agreed to.

So the bill (H.R. 4361), as amended, was deemed read the third time and passed.

JUVENILE JUSTICE ACT

Mr. BREAUX. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from and the Senate proceed to immediate consideration of H.R. 3160, a bill relating to the Juvenile Justice Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to consider the bill.

Mr. BREAUX. Mr. President, on behalf of Senator SIMON, I send an amendment to the desk, I ask unanimous consent to proceed to its immediate consideration, that the amendment be agreed to, the bill be read a third time, passed, and the motion to reconsider be laid upon the tale, and any statement appear at an appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2645) was agreed to, as follows:

On page 4, strike line 17 through the "(B)" on page 5 of line 3.

On page 6, strike line 13 and insert the following:

SEC. 3. DRUG EDUCATION AND PREVENTION RELATING TO YOUTH GANGS.

Section 3505 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11805) is amended—

(1) by striking "$16,000,000 for fiscal year 1992 and"; and

(2) by striking "1993 and 1994" and inserting "1995".

SEC. 4. PROGRAMS FOR RUNAWAY AND HOMELESS YOUTH.

Section 3513 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11823) is amended—

(1) by striking "$16,000,000 for fiscal year 1992 and"; and

(2) by striking "1993 and 1994" and inserting "1995".

SEC. 5. EFFECTIVE DATES.

At the appropriate place set the following:

SECTION 1. FINDING AND PURPOSE.

(a) FINDING.—The Congress finds that Benchmark Rail Group, Inc., of St. Louis, Missouri, satisfactorily performed emergency work after the Northridge earthquake, but has not been reimbursed as a result of a technicality under California State law.

(b) PURPOSE.—The purpose of this Act is to fairly compensate Benchmark Rail Group, Inc., for the work for which, except for the technicality under California State law, it would otherwise have been paid under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

SEC. 2. PAYMENT.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the director of the Federal Emergency Management Agency shall pay to Benchmark Rail Group, Inc., of St. Louis, Missouri, an amount equal to the total amount owed to Benchmark Rail Group, Inc., by the Federal Emergency Management Agency and the State of California to compensate Benchmark Rail Group, Inc., for the emergency work and services performed at the request of the Southern California Regional Rail Authority, to the extent that such work and

services are otherwise eligible for reimbursement under the Robert T. Stafford Disaster and Emergency Assistance Act. The payment shall be made from funds appropriated to implement such Act.

(b) DEOBLIGATION OF FUNDS.—The Federal Emergency Management Agency shall deobligate an equal amount to that obligated previously for payment to the State of California to cover the costs of work performed for the Southern California Regional Rail Authority by Benchmark Rail Group, Inc., after the Northridge earthquake which would have been eligible for reimbursement under such Act.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 3160), as amended, was passed.

CONFEDERATED TRIBES OF THE COLVILLE RESERVATION GRAND COULEE DAM SETTLEMENT ACT

Mr. BREAUX. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 4757, the Confederated Tribes of the Colville Reservation Grand Coulee Dam Settlement Act, just received from the House, the bill be read three times, passed, and the motion to reconsider be laid upon the table, and further that any statements on this measure appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4757) was ordered to a third reading, was read the third time, and passed.

AUTHORIZING THE TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES

Mr. BREAUX. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 5155, a bill to authorize the transfer of naval vessels to certain foreign countries received from the House, that the bill be read three times, passed, the motion to reconsider be laid upon the table, and further that any statements relating to this measure be printed in the RECORD at the appropriate place, as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5155) was ordered to a third reading, was read the third time, and passed.

RECOGNITION OF ALASKAN NATIVE INDIAN TRIBES

Mr. BREAUX. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 4180, a bill related to recognition of Alaska native Indian tribes just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4180) to provide for the annual publication of a list of Federally recognized Indian tribes and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NOS. 2646, 2647, 2648

Mr. BREAUX. Mr. President I send three amendments to the desk and ask unanimous consent they be considered en bloc, agreed to en bloc, and the motions to reconsider be laid upon the table en bloc; also I send a title amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX], for Mr. STEVENS, proposes an amendment numbered 2646; for Mr. INOUYE, an amendment numbered 2647; and for Mr. AKAKA, an amendment numbered 2648, as follows:

AMENDMENT NO. 2646

(Purpose: to authorize appropriations for interest or earnings on trust funds created for the benefit of Alaska Indian, Aleuts, or Eskimo people)

At the appropriate place in the bill, add the following new section:

SEC. . AUTHORIZATION FOR INTEREST ON TRUST FUNDS.

(a) IN GENERAL.—There are authorized to be appropriated funds necessary to pay interest or earnings on any trust fund administered by the Secretary of the Interior for the benefit of Alaska Indian, Aleut or Eskimo people.

(b) DEPOSIT IN TRUST FUND.—Upon appropriation, the Secretary shall deposit in the appropriate trust fund such interest or earnings that have or should have accumulated during the period since any such trust fund was established.

(c) INTEREST OR EARNINGS.—Interest or earnings for each such trust fund shall be determined in accordance with section 9702 of title 31, United States Code.

(d) INTEREST ACCRUED.—Nothing in this section shall diminish any interest or earnings that have otherwise accrued on any trust funds administered by the Secretary for the benefit of Alaska Indian, Aleut or Eskimo people.

AMENDMENT NO. 2647

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

AMENDMENT NO. 2648

Strike title I, and redesignate titles II and III as titles I and II, respectively.

After title II, as so redesignated, insert the following new titles:

TITLE III—MISCELLANEOUS

SEC. 301. EDUCATIONAL ASSISTANCE.

Notwithstanding any deadline established under section 5(a)(2) of the Act of September 30, 1950 (64 Stat. 1100, chapter 1124), the Secretary of Education shall accept, as if timely received, applications from the Window Rock, Arizona, local educational agency for funding under section 3 of such Act for fiscal years 1994 and 1995.

SEC. 302. PUEBLO DE TAOS.

(a) TRANSFER.—The parcel of land described in subsection (b) is hereby transferred without consideration to the Secretary of the Interior to be held in trust for the Pueblo de Taos. Such parcel shall be a part of the Pueblo de Taos Reservation and shall be managed in accordance with section 4 of the Act of May 31, 1933 (48 Stat. 109, chapter 45) (as amended, including as amended by Public Law 91-550 (84 Stat. 1437)).

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is the land that is generally depicted on the map entitled "Lands transferred to the Pueblo of Taos—proposed" and dated September 1994. Such land comprises 764.33 acres, and is situated within sections 25, 26, 35, and 36, Township 27 North, Range 14 East, New Mexico Principal Meridian, within the Wheeler Peak Wilderness, Carson National Forest, Taos County, New Mexico.

(c) CONFORMING BOUNDARY ADJUSTMENTS.—The boundaries of the Carson National Forest and the Wheeler Peak Wilderness are hereby adjusted to reflect the transfer made by subsection (a).

(d) COMPLETION OF TRANSFER.—The Congress finds and declares that the lands described in subsection (b), which the United States shall hold in trust as part of the Pueblo de Taos Reservation pursuant to this section, complete the transfer effected by section 4 of the Act of May 31, 1933 (48 Stat. 109, chapter 45) (as amended, including as amended by Public Law 91-550 (84 Stat. 1437)).

Mr. DOMENICI. Mr. President, Section 402 of H.R. 4180 is essentially a substitute for S. 1509 which I am offering with my colleagues, Mr. BINGAMAN and Mr. DOLE. It will transfer 764 acres now locate in the Wheeler Peak Wilderness of the Carson National Forest to the Taos Pueblo, both in northern New Mexico.

The history of this area is fascinating and involves the only living culture in the United States to be recognized by the United Nations as a World Heritage Site. The United States of America can be very proud of the Taos Pueblo Indians who live in the Rocky Mountains of New Mexico. I know New Mexicans are proud of the Taos Pueblo for this most unique international honor in our Land of Enchantment.

Designation as a World Heritage Site is an honor we share with the Grand Canyon, Yosemite, the Statue of Liberty, and Independence Hall, to name several such sites in the United States. The Taos Pueblo, however, is the only living culture to be so honored in the Western Hemisphere.

A well-known cultural and religious attribute of this World Heritage Site at Taos Pueblo is the Blue Lake and its special spiritual significance to the Taos Pueblo and other New Mexico Indians. Blue Lake is nestled high in the Sangre de Cristo Mountains east of the Pueblo. The sacred ceremonies of the Taos Pueblo people at this site predate the signing of the Magna Carta.

The Bottleneck area is an integral part of Blue Lake and continues to be used by Taos Pueblo for religious pilgrimages. The sacred "Path of Life

Trail," connecting the Pueblo with Blue Lake, runs through the Bottleneck. The Blue Lake Wilderness includes Blue Lake, Star Lake, and Bear Lake. Headwaters to Rio Pueblo de Taos and the Rio Lucero are also in this sacred area. There is no doubt that he Blue Lake Wilderness, designated a wilderness area in the 1970 law, has been a vital source of livelihood and spiritual strength for the Taos Pueblo for over 1,000 years.

The bill pending before the Senate today is intended to complete the full transfer of the Blue Lake territory to the Taos Pueblo. The Path of Life Trail in the Bottleneck Tract will be returned to its rightful owners.

Most of the Blue Lake area transfer took place in 1970, when Public Law 91–550 was signed by President Richard M. Nixon. At the same time 48,000 of the 50,000 acres of Blue Lake Wilderness were returned to the Taos Pueblo. The entire 50,000 acre area known as the Blue Lake was acknowledged by the Indian Claims Commission in 1965 to be Taos Pueblo land. The creation of the Blue Lake Wilderness in 1970 by the Congress transferred 48,000 acres of the 50,000 acres back to back to Taos Pueblo to be held in trust by the United States for the Pueblo.

In 1979, the Federal District Court in Washington, DC, added 1,235 acres to the trust lands of Taos Pueblo in the Tract C transfer, leaving only the so-called Bottleneck Tract from the original 50,000 acre claim. Our legislation completes the Blue Lake transfer.

Drafted as an amendment to the Blue Lake Wilderness Act, our bill requires that the Bottleneck also be maintained as wilderness. The Taos Pueblo has an excellent record of maintaining the Blue Lake Wilderness. We have every confidence that adding the Bottleneck to the Blue Lake Wilderness will increase the enthusiasm of the Pueblo for continuing its excellent stewardship of the Blue Lake Wilderness.

The Wilderness Society, Audubon Society, Sierra Club, and the National Wildlife Federation support the return of the Bottleneck to Taos Pueblo.

Under the terms of this legislation, Taos Pueblo will hold the responsibility and right to manage and control the entire Blue Lake Territory. The Bottleneck Tract is currently a part of the Wheeler Peak Wilderness Area in the Carson National Forest, New Mexico, and is managed by the Forest Service. Taos Pueblo lands surround the Bottleneck on three sides (east, south, and west). Unfortunately, public access to this Bottleneck tract too often leads to unwelcome intrusions during Indian ceremonials into the surrounding Indian lands of the Blue Lake Wilderness Area.

The Bottleneck Tract, as managed by the Forest Service today, is essentially managed today as a scenic overlook. Taos Pueblo leaders are issued permits and the Forest Service closes the area for their pilgrimages. There are no public camping, fishing, or other recreational uses permitted, except hiking.

It is the intention of Taos Pueblo, under the terms of this bill, to continue to use these lands for traditional purposes only. These uses include religious and ceremonial pilgrimages, hunting and fishing, a source of water, forage for their domestic livestock, timber, and other natural resources for their personal use. These uses are all subject to such regulations for conservation purposes as the Secretary of the Interior may prescribe as managed by the Taos Pueblo under the terms of the Blue Lake wilderness legislation.

There is no intention in our legislation to change any water rights associated with the Blue Lake area or the Taos Pueblo. I have personally discussed this issue with the Taos tribal leaders who have assured me that the return of the Bottleneck will not alter their claims to water in the Taos Valley. There will be no adverse impact on downstream water users in the Taos Valley as a result of passage of this legislation. In fact, I remain optimistic about the on-going water negotiations in the Taos Valley and look forward to working with all parties to ratify a negotiated settlement in the Congress.

It is our intention that the lands shall remain forever wild and maintained as a wilderness.

Virtually identical legislation has been passed by the House on October 3, 1994, as Title VII of H.R. 4746, Gates of the Arctic National Park, and for other purposes. It is our hope that the Senate will pass this bill, return it to the House for final action, and then forward it to the President for signature.

We urge our colleagues to support our substitute bill for S. 1509, to transfer the last parcel of the Blue Lake Wilderness to the Taos Pueblo Indians of New Mexico.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendments.

The amendments (Nos. 2646, 2647, 2648) were agreed to en bloc.

Mr. BREAUX. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Without objection the bill is read for a third time and passed.

The amendment to the title is agreed to.

The bill (H.R. 4180) was ordered to a third reading, was read the third time, and passed.

The title was amended so as to read:

A bill to clarify the status of the Tlingit and Haida, and for other purposes.

AMERICAN INDIAN TRUST FUND MANAGEMENT REFORM ACT OF 1994

Mr. BREAUX. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 4833, the American Indian Trust Fund Management Reform Act of 1994 just received from the House, the bill be read three times and passed, and that the motion to reconsider be laid upon the table; and further that any statements on this measure appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4833) was ordered to a third reading, was read the third time, and passed.

INDIAN SELF-DETERMINATION ACT AMENDMENTS OF 1994

Mr. BREAUX. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 4842, a bill to specify the terms and contracts entered under the Indian Self-determination and Education Assistance Act just received from the House, the bill be read three times and passed, the motion to reconsider be laid upon the table; further, that any statements on this measure appear in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4842) was ordered to a third reading, was read the third time, and passed.

Mr. McCAIN. Mr. President, I rise today to make a few remarks concerning H.R. 4842, the Indian Self-Determination Act amendments of 1994. H.R. 4842 passed the House earlier this morning and combines two bills regarding Indian Self-Determination and Tribal Self-Governance.

Title I of H.R. 4842 is the Indian Self-Determination Contract Reform Act of 1994 and is virtually identical to S. 2036, a bill that passed the Senate last night. Title I incorporates technical changes that were inadvertently omitted from the Senate bill. Although I made a statement on S. 2036 last night, I want to repeat my comments today so that they parallel the bill that hopefully will be enacted into law this year.

Title I of H.R. 3842 reflects a good faith effort on the part of the Senate, House and the tribes to be responsive to the administration's concerns. With the inclusion of the changes incorporated in this amendment, I am advised that the administration is finally able to express its full support for the bill.

I want to comment on one aspect of H.R. 4842 which relates to the standards to be applied to the exercise of discretion by the Secretary. Under Public Law 93–638, the Secretary must

justify his decisions by a preponderance of the evidence. During the consideration of S. 2036 and H.R. 4842, the Indian tribes urged the Congress to raise this evidentiary standard to clear and convincing. The Department objected to this higher standard and suggested that it would compromise with the standard of clearly demonstrates which is included in H.R. 4842. Although this standard is not defined in the bill, it is clearly understood by all parties to mean more than a preponderance of the evidence, but less than clear and convincing evidence.

Although I am pleased that we are acting on H.R. 4842 today, I am deeply trouble by what has taken place during consideration of self-determination reform legislation. In my view, after the administration concluded that its attempts to indefinitely postpone the bill would be useless, the administration had one thing in mind with respect to self-determination reform: the administration's concerns were critical; tribal concerns were negotiable. I suspect the tribes themselves will be troubled by this because the administration has gone out of it way to proclaim itself as an administration that is more sensitive to tribal concerns. Frankly, if there is a unifying theme in this administration's Indian policy, it is the casual relationship between words and action.

Mr. President, this administration needs an Indian policy with fewer illusions and more attentiveness to the problems and opportunities that exist in Indian country today. If this administration really desires to match rhetoric with action, I encourage them to heed the advice contained in President Nixon's 1970 "Special Message to the Congress on Indian Affairs":

> For years we have talked about encouraging Indians to exercise greater self-determination, but our progress has never been commensurate with your promises. Part of the reason for this situation has been the threat of termination. But another reason is the fact that when a decision is made as to whether a Federal program will be turned over to Indian administration, it is the federal authorities and not the Indian people who finally make that decision.
>
> This situation should be reversed. In my judgment, it should be up to the Indian tribe to determine whether it is willing to assume administrative responsibility for a service program which is presently administered by a federal agency.

Mr. President, title II of H.R. 4842, the Tribal Self-Governance Act of 1994, is identical to H.R. 3508 and reflects the various agreements negotiated by the Senate Committee on Indian Affairs and the House Subcommittee on Native American Affairs with the Department of the Interior, Self-Governance tribes and the Senate Committee on Environment and Public Works. In addition, a new subsection (k) has been added which addresses further concerns raised by the International Association of Fish and Wildlife Agencies.

Title II is the culmination of months of hard work, persistence and determination by the self-governance tribes. Nearly 1 year ago I met with the leaders and representatives of these tribes to discuss the future of self-governance and their desire for legislation making self-governance permanent at the Department of the Interior. We had a frank and candid discussion about the possibility of extending self-governance to other Federal agencies, but in the end we agreed that, for now, the legislation would focus solely on the Department of the Interior. With the benefit of hindsight, I can say that we made a very wise decision, indeed. I know all of us who met that day fully anticipated that the Bureau of Indian Affairs as well as other Interior bureaus and offices would be resistant to the idea of establishing self-governance on a permanent basis. Nevertheless, I think all of us were a bit surprised at the level of resistance that came from an administration that takes pride in pointing out that reinventing government is one of its highest priorities. Perhaps changes are occurring in the operations of other Federal programs, but when it comes to the manner in which the Bureau of Indian Affairs administers Federal Indian programs, the old way of business—that is, the government knows best—still reigns at 1849 C Street.

Although the passage of permanent legislation has taken longer than I had expected, I never lost faith in the men and women who believe in self-governance and who have been committed to seeing this bill enacted into law. For them, the passage of this legislation is nothing less than the right of tribes to be self-governing. I am pleased to have played a small role in seeing that this legislation is passed by the Congress this year.

Mr. President, in recent weeks concerns have been raised by the International Association of Fish and Wildlife Agencies [IAFWA] about the potential impact of self-governance legislation on the existing jurisdiction and authority of the tribal, State and Federal governments over natural resources, including fish and wildlife resources. I ask unanimous consent that a copy of IAFWA's October 3, 1994, letter be printed in the RECORD immediately following my remarks.

Consequently, I asked Secretary Babbitt to review H.R. 3508 in light of IAFWA's concerns. Secretary Babbitt's letter of September 28, 1994, stated, in part, that

> Nothing in H.R. 3508 or Public Law 93-638 would change jurisdictional responsibilities for administering Federal laws governing natural resources, including fish and wildlife resources, or exempt Indian tribes from adhering to Federal laws and standards with respect to the protection and management of such resources.

Secretary Babbitt went on to state that

> * * * let me state a point which should be obvious to everyone—the Secretary of the Interior has no authority to change State law or jurisdiction. Consequently, I have no authority to confer on an Indian tribe jurisdiction exercised by a State government over any natural resource, including management of fish and wildlife resources. Nothing in Public Law 93-638 or H.R. 3508 confers such authority on the Secretary.

I ask unanimous consent that the Secretary's September 28, 1994, letter be printed in the RECORD immediately following the IAFWA letter.

I fully agree with the Secretary's construction of H.R. 3508—which also applies to title II of H.R. 4842—that the bill is not intended to change the jurisdictional authorities of the tribal, State, and Federal governments over natural resources, including fish and wildlife resources.

I am aware, for example, of reservations that are home to listed threatened or endangered species. Indian tribes are in a position to contribute data on those listed species that could be both helpful to the Secretary in carrying out his responsibilities under the Endangered Species Act, and beneficial to the Indian tribe in negotiating a compact for biological data collection. We also recognize that Indian tribes conduct conservation efforts on their reservations to benefit migratory birds, such as participation in the North American Waterfowl Management Plan. It is intended that H.R. 4842 facilitate such cooperation. This legislation is not intended to alter any existing State jurisdiction.

Concerns have been raised as to the scope of non-BIA programs, services, functions, and activities that are subject to compacts pursuant to sections 403(b)(2). Because National Parks and National Wildlife Refuges, for example, and programs such as the Endangered Species Act and the Marine Mammal Protection Act were established by Congress to benefit the general public, including Indians, a question could arise as to what elements, if any, of the Park and Refuge programs or the Endangered Species program fall within the scope of section 403(b)(2). It is not intended that the Secretary's authority to enter into compacts under section 403(b)(2) permit the transfer of inherently Federal responsibilities vested by Congress in the Secretary which are determined by the Federal courts not to be delegable under the constitution.

It is not possible at this time to list all the elements of Federal programs which may not be subject to self-governance compacts, but such a list certainly could include discretionary administration of Federal fish and wildlife protection laws, promulgation of regulations, obligation and allocation of Federal funds, the exercise of certain prosecutorial powers, and other discretionary functions vested in Federal officials. Thus, for example, with

respect to Federal apportionments made to States under the Federal Aid in Fish Restoration Act (Dingell-Johnson-Wallop-Breaux Program) or with respect to the Federal Aid in Wildlife Restoration Act (Pittman-Robertson Program) exclusive authority appears to relate to aid to the States, and therefore these programs would not be subject to inclusion in compacts under section 403(b)(2) of this act. However, where a tribe otherwise meets grant, contract, or other requirements for a program, a tribe, tribes or Indians do not have be identified in the authorizing statute to have said program included in a compact under section 403(b)(2).

To make clear that nothing in H.R. 4842 is intended to permit the Secretary to enter into a compact for the performance of responsibilities which are inherently Federal, that is, Federal responsibilities vested by the Congress in the Secretary which are determined by the Federal courts not to be delegable under the Constitution, section 403 is amended by adding a new subsection (k), as follows:

(k) Disclaimer—Nothing in this section is intended or shall be construed to expand or alter existing statutory authorities in the Secretary as to authorize the Secretary to enter into any agreement under sections 403(b)(2) and 405(c)(1) with respect to functions which are inherently federal or where legislation establishing the existing program does not authorize the participation sought by the tribe; Provided, however an Indian tribe or tribes need not be identified in the authorizing statute in order for a program or element of a program to be included in a compact under section 403(b)(2).

Mr. President, I ask unanimous consent that a copy of the letter from the Secretary of the Interior stating the administration's views on these amendments, with the exception of subsection (k), be inserted in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECRETARY OF THE INTERIOR,
Washington, September 22, 1994.

Hon. JOHN MCCAIN,
Vice Chairman, Senate Committee on Indian Affairs, Washington, DC.

DEAR MR. VICE CHAIRMAN: I am pleased to transmit to you the Department of the Interior's favorable response to your proposed amendments to sections 403(b) and 405 of H.R. 3508 of the Tribal Self-Governance Act of 1994. This attached suggested language encompasses the compromises reached by the Department, your staff, Mr. Richardson's staff and tribal representatives. With the inclusion of these amendments, the Administration strongly supports H.R. 3508, as amended.

Tribal Self-Governance is consistent with my commitment to enhancing the government-to-government relationship with Tribes. I believe that this legislation is the single most important piece of legislation to advance Indian self-determination since P.L. 93-638. Further, Tribal Self-Governance is consistent with the Federal government's efforts to reinvent itself, by shifting responsibility for use of federal resources to elected tribal leaders.

I realize that there are some who are concerned about the possibility that Self-Governance tribes may compact for national programs that benefit the public at large. I must point out that the only non-BIA programs that will be available are those listed by mutual consent of both the Department and the Self-Governance Tribes. In addition, actual negotiations between a Tribe and the Department regarding programs that are eventually included in a Self-Governance agreement will identify any special conditions or requirements that should be met. Consequently, I am confident that the attached language adequately protects the responsibilities that my Department has to the American people.

I appreciate the leadership of many Tribal leaders and especially the leadership that you have rendered in making the possibility of permanent Tribal Self-Governance a reality. The Department has also transmitted this response to Congressman Richardson.

The Office of Management and Budget advises that it has no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

BRUCE BABBITT.

SEC. 403 (b) CONTENTS.—Each funding agreement shall—

(1) authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior through the Bureau of Indian Affairs without regard to the agency or office of the Bureau of Indian Affairs within which it is performed, including funding for agency, area and central office functions in accordance with section 403(g)(3) and, also, including (but not limited to) those administered under the authority of * * *

A new 403(b)(2):

(2) subject to such terms as may be negotiated, authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities or portions thereof, administered by the Department of the Interior other than through the Bureau of Indian Affairs and that are otherwise available to Indian tribes or Indians as identified in section 405(c), except that nothing in subsection (b)(2) shall be construed to provide any tribe with a preference in its opportunity to administer programs, services, functions, activities or portions thereof, unless such preference is otherwise provided for by law;

A new 403(b)(3):

(3) subject to the terms of the agreement, authorize the tribe to redesign or consolidate programs, services, functions, and activities, or portions thereof, and to reallocate funds for such programs, services, functions, or activities, or portions thereof, except that reallocation, consolidation, and redesign with respect to 403(b)(2) programs shall require the joint agreement of the Secretary of the Interior and the tribe;

In section 403(g)(3), the first sentence should be changed to conform to the recommended changes above in the following manner:

(3) Subject to paragraph (4) of this subsection and paragraphs (1), (2) and (3) of subsection (b),

Revised Section 405(c)(1):

(1) In order to optimize opportunities for including non-Bureau Indian Affairs programs, services, functions, and activities, or portions thereof, in agreements with tribes participating in Self-Governance under this title, the Secretary—

(A) shall review all programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior other than through the Bureau of Indian Affairs, without regard to the agency or office concerned, and

(B) within 90 days after the enactment of this title, provide to the appropriate committees of the Congress a listing of all such programs, services, functions and activities, or portions thereof, which the Secretary determines with the concurrence of tribes participating in Self-Governance under this title, are eligible for inclusion in such agreements at the request of a participating Indian tribe.

SECRETARY OF THE INTERIOR,
Washington, September 28, 1994.

Hon. JOHN MCCAIN,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR MCCAIN: It has come to my attention that concerns have been raised about the potential impact of H.R. 3508 on the existing jurisdiction and authority of the tribal, state and federal governments over natural resources, including fish and wildlife resources.

It is important to note that the self-governance project is authorized as part of the Indian Self-Determination and Education Assistance Act, more commonly referred to as P.L. 93-638 or 638. This law was originally enacted in 1974 and was amended to include the self-governance demonstration project in 1988. As you know, H.R. 3508 would make the self-governance project permanent.

Nothing in H.R. 3508 or P.L. 93-638 would change jurisdictional responsibilities for administering federal laws governing natural resources, including fish and wildlife resources, or exempt Indian tribes from adhering to federal laws and standards with respect to the protection and management of such resources. Indeed, I am obligated by virtue of my oath of office to uphold and carry out these federal laws. This responsibility includes conditioning approval of self-determination and self-governance compacts as necessary to fulfill my responsibilities under such laws. Lastly, let me state a point which should be obvious to everyone—the Secretary of the Interior has no authority to change state law or jurisdiction. Consequently, I have no authority to confer on an Indian tribe jurisdiction exercised by a state government over any natural resource, including management of fish and wildlife resources. Nothing in P.L. 93-638 or H.R. 3508 confers such authority on the Secretary.

Thank you again for your leadership on this important legislation. I look forward to continuing to work with you to ensure its enactment.

The Office of Management and Budget advises that it has no objection to the presentation of this report from the standpoint of the Administration's program

Sincerely,

BRUCE BABBITT.

INTERNATIONAL ASSOCIATION
OF FISH AND WILDLIFE AGENCIES,
Washington, DC, October 3, 1994.

Hon. JOHN MCCAIN,
Co-Chairman, Committee on Indian Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: We sincerely appreciate your continuing efforts to address

our concerns regarding H.R. 3508 and your willingness to provide language and legislative history which ensures that the scope of programs eligible for compact are those to which the statute already reaches. We would like to particularly recognize that both Mr. Dan Lewis and Mr. Eric Eberhard of your staff have been particularly helpful in bringing consensus to the proposal. We do regret that the lateness of the session constrains the time over which we have to perfect this language.

One of the Association's interests is in facilitating cooperation between the States and the tribes regarding the conservation of fish and wildlife resources. As you are aware, this cooperation has been improving in recent years because both parties have endorsed the merits of working together to meet all of our citizens' needs and interests in the future of fish and wildlife resources.

As you know, we are concerned about the overly broad and ambiguous language in H.R. 3508 because of its impact on both the tribes and the States. From the tribes' perspective, this language could raise expectations about programs which are not intended to be eligible for compact, or the Secretary is otherwise constrained from compacting to the tribes. From the States' perspective, this same ambiguous language may raise concerns about the reach of language such as "otherwise available to Indian tribes or Indians" which has yet to be judicially interpreted.

As agreed with Mr. Dan Lewis of your staff and tribal representatives/attorneys this morning, we have made a good faith effort to draft some language which makes minimal changes to the bill, and addresses most of our concerns through furthering the legislative history. We would ask for your endorsement of this language in response to the efforts we have made to further passage of H.R. 3508.

We also request that this letter and suggested language, along with that of Secretary Babbitt to you of September 28, 1994, be made a part of the public record for H.R. 3508.

Thank you for your sincere interest in facilitating cooperation between the Indian tribes and the States on fish and wildlife issues.

Sincerely,

R. MAX PETERSON,
Executive Vice-President.

AUTHORIZING TESTIMONY OF A SENATE EMPLOYEE

Mr. BREAUX. Mr. President, on behalf of the majority leader and the distinguished Republican leader, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 281, a resolution relating to testimony of a Senate employee submitted earlier today, the resolution be adopted, the motion to reconsider be laid upon the table, the preamble be agreed to, and that explanatory statement by the majority leader appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 281) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

(The text of the resolution will be printed in a future edition of the RECORD.)

Mr. MITCHELL. Mr. President, a law enforcement entity has requested testimony from staff of the Permanent Subcommittee on Investigations relating to its 3-year investigation into the management and operations of the Blue Cross and Blue Shield insurance network. The Senate has previously authorized documents to be produced in this matter with Senate Resolution 179 of the last Congress.

In keeping with the Senate's customary practice with regard to similar requests, and with the concurrence of the chairman and ranking minority member of the subcommittee, this resolution would authorize staff of the subcommittee to testify in response to this request, and in any related proceedings, except concerning matters for which a privilege should be asserted. In order to protect the Senate's privileges, the resolution would authorize the Senate Legal Counsel to represent subcommittee staff in connection with any testimony.

AUTHORIZING SENATE LEGAL COUNSEL TO REPRESENT OFFICE OF SENATE FAIR EMPLOYMENT PRACTICES

Mr. BREAUX. Mr. President, on behalf of the majority leader and the Republican leader, I send a resolution to the desk relating to the Office of Fair Employment Practices and ask unanimous consent that the Senate proceed to its immediate consideration; that the resolution be agreed to; that the preamble be agreed to; that a statement by the majority leader explaining this matter appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 282) was agreed to.

The preamble was agreed to.

(The text of the resolution will be printed in a future edition of the RECORD.)

Mr. MITCHELL. Mr. President, the case of Rhonda Farmer versus Office of Senate Fair Employment Practices, No. 94-6005, pending in the United States Court of Appeals for the Federal Circuit, involves judicial review of a final decision issued under the process created by title III of the Civil Rights Act of 1991 for adjudication of claims of discrimination in Senate employment.

Petitioner, a member of the Capitol Police, filed a complaint in December 1992 pursuant to section 307 of the Government Employee Rights Act of 1991, naming the Sergeant at Arms as the respondent. Petitioner seeks judicial review of the final decision, entered in the records of the Office of Senate Fair Employment Practices, which affirms a hearing board's rejection of her claims of discrimination on the basis of race and sex in the denial of a promotion and with respect to certain negative performance evaluations and disciplinary actions, and affirms an award of damages to Officer Farmer based on the hearing board's determination that she had proven that negative performance citations placed by a supervisor in her personnel file constituted retaliation for her exercise of rights under the 1991 Civil Rights Act.

The accompanying resolution would authorize the Senate Legal Counsel to represent the Office of Senate Fair Employment Practices in defense of the final decision entered pursuant to the direction of the Ethics Committee. The resolution would also recognize the statutory right of the employing office, the Sergeant at Arms, to intervene and to be represented by its counsel of choice.

The Sergeant's at Arms choice of counsel in this case is the Senate Chief Counsel for Employment. The Office of the Senate Chief Counsel for Employment was established as a nonpartisan office in May 1993 at the direction of the joint leadership of the Senate. The Office of the Senate Chief Counsel for Employment is staffed by experienced attorneys who specialize in employment law matters and litigation. The Office was established to advise Senate Members, officers, administrators, and Senate employing offices regarding employment laws, to assist them in complying with those laws, and to defend them in administrative and judicial proceedings addressing employment matters.

The Emergency Supplemental Appropriations Act, 1994, Public Law 103-211, provided the initial funding for the compensation and expenses of this Office. Funding for this Office was included as part of the President's annual budget request and was appropriated in the Legislative Branch Appropriations Act for fiscal year 1995, Public Law 103-283.

CAPITOL PRESERVATION COMMISSION

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 283, a resolution introduced earlier today by Senator BYRD regarding the Capitol Preservation Commission; that the resolution and the preamble be agreed to; the motions to reconsider be laid upon the table en bloc; and that any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 283) was agreed to.

The preamble was agreed to.

(The text of the resolution will be printed in a future edition of the RECORD.)

CONSTITUTION DAY

NATIONAL WOMEN AND GIRLS IN SPORTS DAY

RELIGIOUS FREEDOM DAY

NATIONAL BURN AWARENESS WEEK

NATIONAL GOOD TEEN DAY

Mr. BREAUX. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged en bloc and the Senate proceed to the immediate consideration en bloc of H.J. Res. 390, S.J. Res. 186, S.J. Res. 218, S.J. Res. 225, and H.J. Res. 326, just received from the House; that these joint resolutions each be read a third time, passed, and the motion to reconsider be laid upon the table en bloc; and that any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolutions (H.J. Res. 390, S.J. Res. 186, S.J. Res. 218, S.J. Res. 225, and H.J. Res. 326) were deemed read the third time and passed.

(The text of the joint resolutions will be printed in a future edition of the RECORD.)

PROHIBITING DUPLICATION OF BENEFITS AND DISASTER PAYMENTS

MR. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2551, to prohibit the duplication of benefits and disaster payments, introduced earlier today by Senator HEFLIN; that the bill be read three times, passed, and the motion to reconsider be laid upon the table; and that any statements relating to this item be placed at the appropriate place in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2551) was deemed read the third time and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2461, a bill to provide for the transfer of surplus property for donation to providers of services to impoverished families and individuals, received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2461) to amend the Federal Property Administrative Services Act of 1949 to authorize the transfer to States of surplus personal property for donation to nonprofit providers of necessaries to impoverished families and individuals.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2649

(Purpose: To end the practice of imposing unfunded Federal mandates on States and local governments and to ensure that the Federal Government pays the costs incurred by those governments in complying with certain requirements under Federal statutes and regulations)

Mr. BREAUX. Mr. President, on behalf of Senator NUNN, I send to the desk an amendment, which is the text of S. 560 as passed by the Senate. I ask unanimous consent that the amendment be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2649) was agreed to.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BREAUX. Mr. President, I ask unanimous consent that the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table; and that any statements be inserted in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2461), as amended, was deemed read the third time and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

DEFENSE DEPARTMENT OVERSEAS TEACHER PAY AND PERSONNEL PRACTICES ACT

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 709, H.R. 3499, the Defense Department Overseas Teacher Pay and Personnel Practices Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2650

(Purpose: To provide that certain politically appointed Federal officers may not receive cash awards for a certain period during a Presidential election year, to prohibit cash awards to Executive Schedule officers, and for other purposes.)

Mr. BREAUX. Mr. President, on behalf of Senator LEVIN, I send an amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows.

The Senator from Louisiana [Mr. BREAUX], for Mr. LEVIN, proposes an amendment numbered 2650.

At the appropriate place insert the following:

SEC. . PROHIBITION ON CASH AWARDS TO CERTAIN FEDERAL OFFICERS.

(a) IN GENERAL.—Chapter 45 of title 5, United States Code, is amended by inserting after section 4507 the following new sections:

"§ 4508. Limitation of awards during a Presidential election year

"(a) For purposes of this section, the term—

"(1) 'Presidential election period' means any period beginning on June 1 in a calendar year in which the popular election of the President occurs, and ending on January 20 following the date of such election; and

"(2) 'senior politically appointed officer' means any officer who during a Presidential election period serves—

"(A) in a Senior Executive Service position and is not a career appointee as defined under section 3132(a)(4); or

"(B) in a position of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

"(b) No senior politically appointed officer may receive an award under the provisions of this subchapter during a Presidential election period.

"§ 4509. Prohibition of cash award to Executive Schedule officers

"No officer may receive a cash award under the provisions of this subchapter, if such officer—

"(1) serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53; or

"(B) a position for which the compensation is set in statute by reference to a section or level under subchapter II of chapter 53; and

"(2) was appointed to such position by the President, by and with the advice and consent of the Senate."

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 45 of title 5 of title 5, United States Code, is amended by inserting after the item relating to section 4507 the following:

"4508. Limitation of awards during a Presidential election year.

"4509. Prohibition of cash award to Executive Schedule officers."

Mr. BREAUX. I ask unanimous consent that the amendment be agreed to and the motion to reconsider be laid upon the table; that bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table; further, that any statements relating to this item be inserted in the Record at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, the request is agreed to.

So, the amendment (No. 2650) was agreed to.

So the bill (H.R. 3499), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

THEODORE LEVIN U.S. COURTHOUSE

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4967, designating the Theodore Levin U.S. Courthouse received from the House and at the desk, and that the bill be read three times, passed, and the motion to reconsider be laid upon the table, and that any statements relating to this matter be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4967) was passed.

COMPENSATION OF PERSIAN GULF WAR VETERANS

Mr. BREAUX. Mr. President, I ask unanimous consent that the Veterans Committee be discharged from consideration of H.R. 4386, relating to the compensation of Persian Gulf war veterans, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4386) to amend title 38, United States Code, and so forth, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2651

Mr. BREAUX. Mr. President, on behalf of Senator ROCKEFELLER, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX], for Mr. ROCKEFELLER, proposes an amendment 2651 in the nature of a substitute.

(The amendment is printed in today's RECORD under "Amendment Submitted.")

Mr. BREAUX. I also ask unanimous consent that the amendment be agreed to; that the bill be read a third time and passed, and the motion to reconsider be laid upon the table; that any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

So the amendment (No. 2651) was agreed to.

H.R. 4386: VETERANS' BENEFITS IMPROVEMENTS ACT OF 1994

Mr. ROCKEFELLER. Mr. President, as the Chairman of the Committee on Veterans' Affairs, I am enormously pleased that the Senate is considering H.R. 4386, a bill to amend title 38, United States Code, to provide the Secretary of Veterans Affairs with the authority to pay compensation to any Persian Gulf veteran suffering from a disability resulting from an undiagnosed, disabling health condition, to revise and improve the assessment of the health consequences of service during the Persian Gulf War, and for other purposes. I urge my colleagues to give their unanimous support to the Senate amendments to H.R. 4386, which I will offer shortly, and their unanimous support to final Senate passage of the bill as amended.

The pending measure, H.R. 4386, with a Senate amendment to the original House bill, represents a compromise that the Committees on Veterans' Affairs of the House and the Senate have reached on H.R. 4386 as originally passed by the House on August 8, 1994. This measure, which I will refer to as the compromise agreement, incorporates amendments to title 38 and freestanding provisions from: S. 2330, which the Committee reported to the Senate on September 28, 1994; S. 2325 and S. 2094, which the Committee reported to the Senate on September 27, 1994; S. 1546, which the Senate passed on March 25, 1994; H.R. 3313 which contained provisions originally reported in S. 1626 and which passed the Senate on June 8, 1994; H.R. 4088 which the House also passed on August 8, 1994; and H.R. 4724, H.R. 4768, and H.R. 4776 which passed the House on August 1, 1994.

SUMMARY

Mr. President, I will at this time summarize the provisions of the bill. Detailed descriptions of all of the provisions are set forth in the explanatory statement which was developed in cooperation with the House Committee on Veterans' Affairs. My counterpart on the House Committee on Veterans' Affairs, Chairman G.V. "Sonny" Montgomery, intends to insert the same explanatory statement in the RECORD when the House considers this measure.

Mr. President, the compromise agreement has 12 titles: Persian Gulf War Veterans; Board of Veterans' Appeals Administration; Adjudication Improvements; Veterans' Claims Adjudication Commission; Miscellaneous Provisions; Education and Training Programs; Employment Programs; Cemeteries and Memorial Affairs; Housing Programs; Homeless Veterans Programs; Reductions in Department of Veterans Affairs Personnel; and Technical and Clerical Amendments.

PERSIAN GULF WAR VETERANS

Mr. President, Title 1 of the compromise agreement contains provisions that would:

First, set forth specific congressional findings regarding Persian Gulf War veterans.

Second, state the purposes of the compromise bill.

Third, order the Secretary to (a) develop and implement a uniform and comprehensive evaluation protocol to provide extensive medical examinations to Persian Gulf War veterans who are suffering from illnesses the origins of which are unknown and that may be attributable to service in the Gulf War; (b) develop case definitions or diagnoses from such illnesses; and (c) ensure that VA provides the evaluations as many VA medical centers as possible. In order to make these evaluations as accurate and available as possible, the Secretary would be authorized to contract out these medical examinations, and any necessary treatment, to non-VA facilities, and to pay for travel and incidental expenses.

Fourth, require the Secretary to develop and implement a comprehensive outreach program to uniform Persian Gulf veterans and their families of medical care and other benefits that may be available to them from VA and DOD. the outreach program would include a semiannual newsletter to be prepared in consultation with veterans service organizations, and a toll-free number to provide any other information the Secretary considers appropriate.

Fifth, provide the Secretary with authority to pay compensation to any Persian Gulf War veteran suffering from a disability resulting from an undiagnosed illness that became manifest during active duty or to a degree of 10 percent or more within a period to be determined by the Secretary, and, if the Secretary determines that compensation should be paid to these Persian Gulf War veterans, would require the Secretary to publish proposed regulations under which compensation would be paid.

Sixth, direct VA to conduct a pilot study, whereby VA would develop an evaluation protocol and guidelines for medical examinations and tests for dependents of Gulf War veterans. These procedures would be restricted to those dependents whose illnesses, birth defects, or other disorders may be associated with the veterans' service in the Gulf War. It would authorize VA to pay for the medical examinations, tests, and consultations through contracts with non-VA facilities, and to use the data to determine whether Gulf War symptoms are being transmitted to family members.

Seventh, clarify that the Persian Gulf War Veterans Health Registry includes diagnostic tests in its definition of medical examinations

Eighth, authorize the Secretary of the Department of Veterans Affairs, in coordination with the Secretary of Defense, to carry out a survey of Gulf War veterans to gather information about their health problems and the health problems of family members.

Ninth, authorize VA to conduct an epidemiological study or studies of Persian Gulf War veterans if such a study is recommended by the National

Academy of Sciences in the report required by section 706(b) of the Veterans Health Care Act of 1992 (Public Law 102-585).

Tenth, amend section 1317 of title 38 to permit surviving spouses eligible to receive dependency and indemnity compensation (DIC) to elect to receive death pension under chapter 15 in lieu of DIC, and provide that, with respect to any cost-of-living adjustment in the rates of compensation and DIC provided for fiscal year 1995, all increased rates (other than those equal to a whole dollar amount) must be rounded down to the next lower dollar.

BOARD OF VETERANS' APPEALS ADMINISTRATION

Mr. President, Title 2 of the compromise agreement contains provision that would:

First, eliminate term limits for members of the Board of Veterans' Appeals other than the Chairman and provide that members of the Board would receive the same basic pay as received by administrative law judges, unless that would result in a reduction in pay.

Second, require the Chairman to establish a panel, including the Chairman and two other members of the Board, to conduct reviews of the job performance of Board members, establish job performance standards, and conduct reviews of the job performance of Board members within 1 year after the establishment of those job performance standards, and then at least every 3 years thereafter.

Third, specify that if the position of Chairman were to become vacant upon the expiration of the Chairman's term, the current Chairman would be authorized, with the approval of the Secretary, to continue to serve as Chairman until the Chairman is appointed to another term or a new Chairman is appointed (but not beyond the end of the Congress during which the term of office expired).

ADJUDICATION IMPROVEMENTS

Mr. President, title 3 of the compromise agreement contains provisions that would:

First, for purposes of claims for VA benefits, allow the Secretary to accept a written statement from the claimant as evidence of marriage, dissolution of a marriage, birth of a child, or death of a family member.

Second, allow the Secretary to accept the medical examination report of a private physician in support of any claim for VA disability benefits, without a requirement for confirmation by an examination by a VA physician, if the report is sufficiently complete to be adequate for purposes of adjudicating the claim.

Third, require the Secretary to take such actions as may be necessary to provide that claims remanded by the Board of Veterans' Appeals to regional offices or by the Court of Veterans Appeals to VA be treated expeditiously.

Fourth, permit the Board to screen cases on appeal at any point in the decision process (a) to determine whether the record is adequate for decisional purposes, or (b) for the development or attempted development of a record that is inadequate for decisional purposes.

Fifth, require the Secretary to submit to the House and Senate Committees on Veterans' Affairs a report addressing the feasibility and impact of a reorganization of VA claims adjudication divisions to a number of such divisions that would result in improved efficiency in the processing of claims.

VETERANS CLAIMS ADJUDICATION COMMISSION

Mr. President, title 4 of the compromise agreement contains provisions that would:

First, establish an independent commission to study VA's system for the disposition of claims for benefits, both at the regional office level and at the Board of Veterans' Appeals.

Second, describe the composition of the commission to be made up of nine members appointed by the Secretary of Veterans Affairs, to include the following: One member who is a former VA official; two members from the private sector who have expertise in the adjudication of claims relating to insurance or similar benefits; two members who are employed in the Federal Government, outside VA, who have expertise in the adjudication of claims for Federal benefits other than VA benefits; two members who are representatives of veterans service organizations; one member recommended by the American Bar Association or a similar private organization who has expertise in administrative law issues; and one member who currently is a VA official.

Third, direct the Commission to evaluate the entire adjudication system in order to determine the efficiency of its processes and procedures, including the impact of judicial review on the system, means for reducing the backlog of pending cases in the system, and means for improving timeliness and quality of the claims process by examining the VA's system for the disposition of claims and benefits delivery and any related issues the commission determines are relevant to such a study.

Fourth, order the Secretary to submit to the commission and the Committees on Veterans' Affairs of the Senate and House of Representatives any information which the Chairman of the study has determined necessary to carry out the study within 30 days of the Chairman's request for such information.

Fifth, require the Commission to present a preliminary report within 1 year of enactment of the act and a final report within 18 months of enactment.

Sixth, authorize that $400,000 be made available from amounts appropriated to VA for fiscal year 1995 for the payment of compensation and pension for the activities of the commission.

MISCELLANEOUS BENEFITS-RELATED PROVISIONS

Mr. President, title 5 of the compromise agreement contains provisions that would:

First, clarify that, for the purposes of a presumption of service connection based on exposure to ionizing radiation, participation in atmospheric testing of nuclear devices includes non-U.S. tests.

Second, provide that provisions of law requiring VA to establish a procedure for a particular type of claim may not be construed to prevent the establishment of service connection on a direct basis.

Third, extend the Secretary's authority to maintain the regional office in the Republic of the Philippines until December 31, 1999.

Fourth, provide that an application filed for non-service-connected pension or parents' DIC made within 1 year of a renouncement of such benefits will not be treated as an original claim, and benefits will be paid as though the renouncement had not occurred.

Fifth, clarify that an attorney may receive payment for representation in proceedings before VA or the Court of Veterans Appeals directly from VA out of a retroactive benefit award only if the total amount of the fee is contingent upon the claim being resolved in favor of the appellant.

Sixth, codify the presumptions of service connection based on exposure to herbicides for Hodgkin's disease, porphyria cutanea tarda, respiratory cancers—lung, trachea, bronchus, and larynx, and multiple myeloma established administratively by the Secretary.

Seventh, exclude payments received from Alaska Native corporations under the Alaska Native Claims Settlement Act from the calculation of income for purposes of determining eligibility for VA pension, but only to the extent that these payments are excluded for purposes of other means-tested Federal benefits programs as specified in ANCSA.

Eighth, eliminate the requirement that certain VA benefits paid to eligible veterans in the Republic of the Philippines be paid in pesos, thereby allowing VA to issue regulations in order to comply with the requests of the Departments of State and Treasury that such restrictions be eliminated.

Ninth, require an evaluation of the feasibility of a study of the health consequences for family members of atomic veterans of exposure of atomic veterans to ionizing radiation.

Tenth, establish a Center for Minority Veterans and a Center for Women Veterans.

Eleventh, require (a) the Secretary to establish an Advisory Committee for

Minority Veterans for a period of 3 years; (b) the Committee membership to represent certain groups relating to minority veterans; and (c) the Committee to submit a report to the Secretary, not later than July 1 of each even-numbered year, which assesses the needs of and programs for minority veterans, and require the Secretary to share this report with Congress.

Twelfth, require that a notice of appeal be deemed received by the Court on the date it is postmarked, if it is mailed. Only legible United States Postal Service postmarks would be sufficient.

EDUCATION AND TRAINING PROGRAMS

Mr. President, title 6 of the compromise bill contains provisions that would:

First, make permanent the program of vocational flight training available under chapters 30 and 32 of title 38, and chapter 106 of title 10.

Second, authorize the use of Indian reservations for the purposes of section 3115 of title 38, to allow eligible veterans to participate in program of on-the-job training on Indian reservations.

Third, add to the definition of the term "educational institution," for the purposes of chapters 34 and 36 and as described in section 3452(c), entities which provide training required for completion of any State-approved alternative teacher certification program, as determined by the Secretary.

Fourth, remove the requirement that courses offered by approved foreign universities and colleges be located at the site of the approved institution in order for such courses to be eligible for approval by the Secretary.

Fifth, require that correspondence programs and combination correspondence-residence courses may be approved by State Approving Agencies only if the educational institution is accredited by an entity recognized by the Secretary of Education, and that no less than 50 percent of such courses require a minimum of 6 months to be completed.

Sixth, increase the maximum amount available to State approving Agencies to $13,000,000 per fiscal year, and eliminate certain reporting and supervision requirements.

Seventh, add chapter 106 of title 10 to the sources of education and training benefits for which the Secretary will define full- and part-time training.

Eighth, extend the authority for the Veterans' Advisory Committee on Education through December 31, 2003, and make technical changes to the Committee's mandate.

Ninth, increase the level of funding available for contract educational and vocational counseling services from $5,000,000 to $6,000,000, effective October 1, 1994.

EMPLOYMENT PROGRAMS

Mr. President, title 7 of the compromise bill contains provisions that would:

First, create the position of Deputy Assistant Secretary of Labor for Veterans' Employment and Training who shall perform such duties as the Assistant Secretary of Labor for Veteran's Employment and Training prescribes and who shall be a veteran.

Second, provide that compensation for disabled veterans' outreach program [DVOP] specialists shall be set at rates comparable to the rates paid to professionals performing essentially similar duties in the State Government of the State in which that specialist is employed.

Third, expand the scope of the biennial study required under section 4110A to include (a) veterans of the Vietnam era who served outside the Vietnam theater of operations, (b) veterans who served after the Vietnam era, (c) veterans discharged or released from active duty within the 4 years prior to the study, and (d) a category for women veterans for each of the classifications of veterans.

Fourth, require Federal contractors to immediately list with the local employment service officer all open positions except executive and top management positions, those positions that will be filled from within the contractor's organization, and positions lasting 3 days or less.

Fifth, add benefits received under chapter 30 of title 38 and chapter 106 of title 10 to the amounts disregarded pursuant to section 4213.

CEMETERIES AND MEMORIAL AFFAIRS

Mr. President, title 8 of the compromise agreement would revise and improve matters relating to the national cemeteries. Specifically, the compromise agreement would:

First, restore the statutory eligibility for burial in national cemeteries of spouses who predecease veterans eligible for such burial.

Second, restore eligibility for burial in national cemeteries to surviving spouses whose subsequent marriage ended by death or divorce.

Third, extend the authorization of appropriations for the State Cemetery Grants Program from September 30, 1994 to September 30, 1999.

Fourth, authorize the use of flat grave markers at the Willamette National Cemetery in Oregon.

HOUSING PROGRAMS

Mr. President, title 9 of the compromise bill contains provisions that would:

First, add to the definition of "veteran" persons discharged or released from the Selected Reserves before completing 6 years of service because of a service-connected disability, and extend eligibility to surviving spouses of reservists who died on active duty or due to a service-connected disability.

Second, allow the Secretary to waive the precondition to restoration of loan guaranty entitlement contained in subsection 3702(b)(1)(A) once for each veteran.

Third, eliminate VA's prohibition against guaranteeing a loan to purchase or construct a home not served by public water and sewerage systems where such service is certified as economically feasible.

Fourth, allow for the costs of energy efficiency improvements to be added to the loan balance in connection with a loan refinanced for the purpose of reducing the interest rate.

Fifth, authorized the refinancing of adjustable rate mortgage loans to fixed rate mortgage loans at a higher interest rate.

Sixth, eliminate VA inspection requirements under section 3712(h)(2)(A), and provide that manufactured housing that is certified to conform to standard under section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 shall be deemed in compliance with requirements of subsection 3712(h)(1).

Seventh, permit VA to acquire property from the lender at the price provided for under current law, despite the fact that the lender's bid at the foreclosure sale might have exceeded that price.

Eighth, add an exception from the 2-year minimum service requirement with respect to eligibility under chapter 37 of title 38 for service members discharged because of reduction in force.

HOMELESS VETERANS PROGRAMS

Mr. President, title 10 of the compromise agreement would revise and improve programs to assist homeless veterans. Specifically, the compromise agreement would:

First, require VA to submit an annual report on its activities to assist homeless veterans, including information on the numbers of homeless veterans served and the costs to the Department of its activities, and to report biannually on the effectiveness of these activities.

Second, require that VA complete and assessment of the needs of homeless veterans, as required by Public Law 102–405, report its finding to the Senate and House Committees on Veterans' Affairs by December 31, 1994, and update this report annually for 3 years.

Third, raise the limit on the number of comprehensive homeless centers that VA may establish from four to eight.

Fourth, remove the requirement in the Homeless Veterans Comprehensive Service Programs Act of 1992 that funds for various initiatives in the law be specifically provided for in an appropriations law.

Fifth, express that it is the sense of the Congress that (a) of the funds appropriated for any fiscal year for programs to assist homeless individuals, a share more closely approximating the proportion of the population of homeless individuals who are veterans should be appropriated to VA for VA

homeless programs; (b) of the Federal grants made available to assist community organizations that assist homeless individuals, a share of such grants more closely approximating the proportion of the population of homeless individuals who are veterans should be provided to community organizations that provide assistance primarily to homeless veterans; and (c) the Secretary should encourage Federal agencies that assist homeless individuals, including homeless veterans, to be aware of and make appropriate referrals to VA for benefits, such as health care, substance abuse treatment, counseling, and income assistance.

REDUCTION IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL

Mr. President, title 11 of the compromise agreement would limit the number of personnel reductions in VA and set other requirements regarding VA staff. Specifically, the compromise agreement would:

First, limit the cuts in the VA workforce from fiscal years 1993–99 to a total of 10,051 full-time equivalent employees [FTEE].

Second, require that, in determining the total number of FTEE in VA for purposes of achieving Federal workforce reductions, only those employees whose salaries and benefits are paid with appropriated funds may be counted VA FTEE.

Third, require the Secretary to submit an annual report, through the year 2000, to the House and Senate Committees on Veterans' Affairs that describes the numbers and positions of all VA employees cut and the rationale behind such cuts.

Fourth, provide enhanced authority for VA to contract for services during fiscal years 1995–1999 in order to assist VA in achieving its work force reduction, and provide certain assistance and hiring preference to those employees who are displaced by contract workers.

Fifth, require the Secretary to contract with an appropriate non-Federal entity to study and report to Congress on the feasibility and advisability of alternative organizational structures, such as the establishment of a quasi-Government corporation, to provide health care to veterans.

COMPENSATION FOR PERSIAN GULF WAR VETERANS FOR DISABILITIES RESULTING FROM UNDIAGNOSED ILLNESSES

Mr. President, the provisions of the compromise agreement regarding Persian Gulf war veterans would clearly provide the Secretary with authority to pay compensation to any Persian Gulf veteran suffering from a disability resulting from an undiagnosed illness that became manifest during active duty, or to a degree of 10 percent or more within a period following service in the Persian Gulf war to be determined by the Secretary. This strongly bipartisan and bicameral provision is derived from provisions that Representatives MONTGOMERY, KENNEDY, and EVANS offered in the House which were incorporated into H.R. 4386 which passed the House on August 8, 1994, and from provisions that Senator DASCHLE and I offered at the September 23, 1994, Senate Committee on Veterans' Affairs meeting.

My distinguished colleague on the committee, Senator DASCHLE, worked extremely long and hard with me on this issue throughout the entire 103d Congress. During the past several weeks, he and his staff member, Rachel Graham, have devoted much time and energy to crafting the final Senate provisions relating to Persian Gulf veterans.

Mr. President, I regret that this situation requires a legislative remedy. However, I strongly believe this measure is the appropriate action to take because the Department of Veterans Affairs will not take action on its own to provide compensation to Persian Gulf war veterans clearly disabled following their service in the Gulf. Under this measure, the Secretary would be required to decide whether to compensate these veterans, and, if so, to prescribe regulations to implement the decision and thereby provide Persian Gulf war veterans the compensation they deserve. The Secretary would determine the appropriate period of time following service in the Southwest Asia theater of operations for a presumption of service connection. In addition, the regulations would have to include a description of the particular military service involved, the illness for which compensation may be paid, and the relevant medical characteristics associated with the illnesses. Of the various legislative options available, I believe this is a good approach because it avoids micromanagement of the Department by Congress, and validates VA's authority to make decisions concerning service connection for specific conditions.

Mr. President, I strongly believe that Congress should not be in the business of legislating service connection for every new disease that results from service in particular wars or military conflicts. That is simply not where our expertise lies. Although this measure is limited to Persian Gulf war veterans, it still leaves the discretion for such decisions to VA, where it rightfully belongs. Only when VA fails to act poorly in carrying out its obligations with respect to compensating veterans for service-related disabilities should Congress step in and take some corrective action.

Mr. President, this measure will not resolve all of the problems faced by Persian Gulf veterans. There are still many unanswered questions concerning the health effects of service in the Persian Gulf and whether conditions that take a longer time to show up can be connected to Persian Gulf service. As has been noted previously, we will have to wait for the scientific and medical evidence to provide us with answers. However, I am happy to note that, in addition to the many steps already being taken in this effort by VA, the Secretary of Defense, and the Secretary of Health and Human Services, this measure also would require VA to develop a uniform and comprehensive medical evaluation protocol, and would provide for the evaluation of the health status of spouses and children of Persian Gulf war veterans.

Mr. President, my hope is that we can enact this measure, so that VA can begin to compensate all veterans who are suffering from undiagnosed, service-connected conditions that have left them severely disabled. These deserving veterans should not be penalized simply because their diseases have no name. They are sick because of their military service, and therefore should receive compensation from the Government they served so bravely.

EDUCATION, JOB TRAINING, AND HOME LOANS

This bill also contains many technical corrections and improvements to programs which provide education benefits, job training, and home loan benefits to millions of our veterans.

Among these improvements—thanks to my colleague and good friend TOM DASCHLE—vocational flight training will be established as a permanent program under chapters 30 and 32 of title 38, and chapter 106 of title 10, United States Code. Nearly 1,800 veterans have benefited from the financial assistance these programs have provided under the Montgomery GI bill and the Veterans Educational Assistance Program, a majority of whom have gained employment in the aviation industry. However, authority to allow eligible veterans to use their education benefits for flight training expired on September 30.

It is important to provide as many options as possible for eligible veterans who wish to pursue approved programs of education or vocational training. Eligible veterans who wish to pursue careers in aviation should continue to be allowed to use their education benefits for approved programs of flight training, a result achieved by this bill.

This bill also makes improvements and technical corrections to the Service Members Occupational Conversion and Training Act [SMOCTA]. SMOCTA has been instrumental in helping over 7,000 former service members secure job placement in the private sector. However, some adjustments will make SMOCTA even more valuable for participants.

Under current law, the 18-month limitation on payment of the subsidy is phrased in terms of an 18-month limit on the period of training. This limitation prevents veterans from entering into some training programs for stable,

79-059 O—97 Vol. 140 (Pt. 21) 4

well-paying jobs. This bill allows employer and veteran to agree to a training program that lasts longer than 18 months if they are willing to do so without the benefit of a subsidy for the extended training period. While this will greatly improve the utility of the program for both veteran and employer, removing the 18-month cap on training will not increase the amount of the subsidy payable under a training program.

Mr. President, these are only a few examples of the adjustments made to VA education, home loan, and job training programs in this bill. While most are relatively minor, when taken together they will help VA maintain and improve services to many thousands of our veterans. I wish to recognize the hard work and dedication of GEORGE SANGMEISTER, chairman of the House Subcommittee on Housing and Memorial Affairs, who has made tremendous contributions to this bill and countless others which have benefited our veterans during his 6 years in Congress. He has been an active chairman, and I thank him for his good work.

REDUCTIONS IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL

Mr. President, title 11 of the compromise agreement would limit the number of personnel reductions in VA and set other requirements regarding VA staff. This agreement follows months of discussions among the two Committees on Veterans' Affairs, VA, and the Office of Management and Budget. I believe it strikes a reasonable balance between the two difficult and competing objectives of reducing the Federal work force and delivering health care to our Nation's veterans. I thank my good friend and chairman of the House Committee on Veterans' Affairs, Mr. MONTGOMERY, for his cooperation, hard work, and ceaseless advocacy for veterans and veterans' health care.

BACKGROUND

Mr. President, in March 1993, Vice President Albert Gore, Jr., launched a 6-month national performance review of the Federal Government with the aim of finding ways to make Government work better and cost less. The report of the performance review described numerous changes to the Government that, according to the report could, if implemented, achieve these aims. The report suggested that these changes would enable the Government, through greater program and management efficiency, to reduce the Federal work force by 252,000 positions by the year 2000.

Mr. President, let me reiterate this last point. The National Performance Review team stated, "* * * the reinventions we propose *will allow* us to reduce the size of the civilian * * * work force by 12 percent [252,000 FTEE] over the next 5 years." The report does not state that cutting the workforce will necessarily result in greater efficiency or improved service for our citizens. The NPR report correctly puts the horse before the cart—improvements would enable a workforce reduction, not result from a workforce reduction.

On March 30, 1994, Congress considered legislation which, in part, was designed to codify the Federal cutback into law. The Federal Workforce Restructuring Act of 1994 proposed a reduction in the Federal Government of 272,900 positions between fiscal years 1993 and 1999. This proposal received the overwhelming support of both Houses of Congress. Public Law 103-226 was enacted March 30, 1994.

Mr. President, this law gives the Office of Management and Budget the authority to determine how to distribute personnel cuts among the Federal agencies. Unfortunately, OMB planned an across-the-board cut of 12 percent for all agencies, instead of looking carefully at each agency's workforce and ability to sustain cuts without compromising the agency's mission. For VA, OMB proposed to cut 27,000 FTEE during the next 5 years. This proposed cut concerned me enormously, particularly in the context of health care reform, as it did my fellow committee members, the House Committee on Veteran's Affairs, and the many veterans who contacted me about this issue.

Mr. President, I note that, contrasted with OMB's proposal, a later, specific analysis of VA by the National Performance Review showed that, if VA fully implemented all management streamlining proposals, VA would be able to cut a total of only 289 FTEE.

Mr. President, in response to OMB's projected 27,000 FTEE cut, the chairman of the House Committee on Veteran's Affairs [Mr. MONTGOMERY] introduced H.R. 4013 on March 11, 1994, which would have exempted the Veterans Health Administration from work force reductions over the next 5 years, provided that appropriate funding was provided for these positions. The bill would have exempted over 211,000 employees. H.R. 4013 passed the House on May 3, 1994.

Mr. President, I share the concern of my friend, Chairman MONTGOMERY, that VA medical centers cannot afford drastic cuts in staff. We must strengthen the veterans health system by protecting hospitals from arbitrary across-the-board cuts in medical staff. We must search for a long-term solution that maintains the Federal Government's commitment to veterans and permits VA flexibility to staff, contract out, purchase, sell, and do whatever else a business delivering health care services is permitted to do, but without the constraints of Federal employment ceiling and other restrictions. Mr. President, we should not put an artificial cap on health care staffing and, at the same time, tell VA to be a competitive health care provider. The compromise agreement attempts to address this issue.

SUMMARY OF AGREEMENT

Mr. President, the compromise agreement would set a 5-year limit on the number of VA personnel cuts, not to exceed 10,051 FTEE. I and others participating in the negotiation believe that VA could sustain this level of cuts without affecting direct medical care for veterans.

The agreement would also require that, in determining the total number of FTEE in VA for purposes of achieving Federal work force reductions, only those employees whose salaries and benefits are paid with appropriated funds may be counted as VA FTEE. The Department currently counts approximately 5,400 positions that are paid with funds other than federally appropriated funds. In fiscal year 1993, the Veterans' Canteen Service employed 3,065 staff who were paid from the receipts of canteen sales, not from Federal appropriations. Employees of the nonprofit research corporations and Medical Care Cost Recovery Program are similarly paid with nonappropriated money. I strongly believe that, for purposes of determining an accurate estimate of the number of Federal employees in VA, those employees whose salaries and benefits are not paid with taxpayers' money should not be counted.

Mr. President, the compromise agreement also would waive certain conditions with which VA must comply in order to contract out for services that the Department could otherwise perform, provided that certain protections and assistance are provided to those former VA employees who are replaced by workers hired by contract. The Secretary would be required to ensure that, in any contract for services that had been provided by VA employees, the contractor would be required to give priority to former VA employees who were displaced by the award of the contract. The Secretary would also be required to provide to such former VA employees all possible assistance in obtaining other Federal employment or entrance into job training programs.

Finally, Mr. President, the compromise agreement would require the Secretary to contract with an appropriate non-Federal entity to study and report to Congress on the feasibility and advisability of alternative organizational structures, such as the establishment of a quasi-Government corporation, to provide health care to veterans.

Mr. President, as a Federal agency which is funded with federally appropriated money, VA has not had the proper incentives to perform as a business. VA hospitals receive appropriations and remain open generally without regard to how many veterans are

being served or the quality of service they provide. Although VA does collect a limited amount of third-party reimbursements and copayments, it does not need or rely upon such income. It does not need to attract a certain number of veterans to remain in service. In essence, VA does not have a bottom line to drive it to deliver high quality services for a competitive price.

The compromise agreement would require a study that assesses the management structures and organization of the VA health care delivery system. While there are many aspects of VA that should and must remain federally funded and centrally administered—such as programs to assist veterans who suffer from homelessness, posttraumatic stress disorder, or spinal cord injuries, or who need blind rehabilitation—certain aspects of VA's health delivery system could operate more like nongovernment businesses. I believe that VA should strive to serve veterans' health care needs in the best and most effective manner possible. Regardless of whether substantial changes occur in the Nation's health care system, this study should benefit the Department's health delivery system.

CONCLUSION

Mr. President, in closing, I again thank my good friends Representatives SONNY MONTGOMERY and BOB STUMP, the chairman and ranking minority member of the House Committee on Veterans' Affairs, for their cooperation and assistance as we have developed this compromise. I also thank our committee's ranking minority member, my good friend FRANK MURKOWSKI, and all the members of the Senate Committee for their support on this measure.

Mr. President, I also want to thank the staff who have worked extremely long and hard on this compromise—Mack Fleming, Jill Cochran, Ralph Ibson, Greg Matton, Winsome Packer, Gloria Royce, Pat Ryan, John Brizzi, Richard Jones, and Kingston Smith on the House committee, and Bill Brew, Meg Morrow, Tom Hart, Valerie, Kessner, Dan Rauh, Diana Zuckerman, Kim Lipsky, Patricia Olson, Lara Muldoon, Mary Schoelen, Jim Gottlieb, Bill Tuerk, Chris Yoder, Mickey Thursam, and John Moseman with the Senate committee. I also thank Robert Cover and Charlie Armstrong of the House and Senate Offices of Legislative Counsel for their excellent assistance and support in drafting the compromise agreement.

Mr. President, I ask unanimous consent that the explanatory statement that I mentioned earlier appear in the RECORD.

JOINT EXPLANATORY STATEMENT FOR H.R. 4386, THE VETERANS' BENEFITS IMPROVEMENTS ACT OF 1994

H.R. 4386 reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs have reached on certain bills considered in the Senate and the House of Representatives during the 103d Congress. These are the following: H.R. 4386, which the House passed on August 8, 1994; H.R. 4088, which the House Committee on Veterans' Affairs reported on August 4, 1994, and the House passed on August 8, 1994 as S. 1927; H.R. 4768, which the House passed on August 1, 1994; H.R. 4776, which the House passed on August 1, 1994; H.R. 4724, which the House passed on August 1, 1994; H.R. 949, which the House passed on September 21, 1993; H.R. 3013, which the House passed on June 13, 1994; H.R. 3456, which the House passed on November 16, 1993; S. 1908, which the Senate passed on August 19, 1994; S. 1546, which the Senate passed on March 25, 1994; S. 2330, which the Senate Committee on Veterans' Affairs reported on September 28, 1994; S. 2325, which the Senate Committee on Veterans' Affairs reported on September 27, 1994; S. 2094, which the Senate Committee on Veterans' Affairs reported on September 27, 1994; and S. 1626, which was reported by the Senate Committee on Veterans' Affairs on May 23, 1994, and passed by the Senate as part of H.R. 3313 on June 8, 1994.

The Committee on Veterans' Affairs of the Senate and House of Representatives have prepared the following explanation of H.R. 4386 as amended (hereinafter referred to as the "compromise agreement"). Differences between the provisions contained in the compromise agreement and the related provisions in the above-mentioned bills are noted in this document, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

TITLE I—PERSIAN GULF WAR VETERANS

Findings

Current law: No provision.

House bill: Section 2 of H.R. 4386 sets forth specific congressional findings regarding Persian Gulf War Veterans, including the following: (1) During the Persian Gulf War, members of the Armed Forces potentially were exposed to toxic substances and psychological stress; (2) Persian Gulf War veterans suffer from illnesses that cannot now be diagnosed or defined, and, as a result, VA does not consider these illnesses to be service connected for VA benefit purposes; (3) the National Institutes of Health Technology Assessment Workshop on the Persian Gulf Experience and Health, held on April 27–29, 1994, was unable to identify a single disease entity or syndrome responsible for these illnesses; (4) the workshop concluded that the data on the range and intensity of the exposure to toxic substances are limited and were collected after considerable delay; (5) under Public Law 102–585, VA established the Persian Gulf War Veterans Health Registry, authorized health examinations, and authorized NAS to conduct a review and assessment of the information about the health consequences of service during the Persian Gulf War, and to make recommendations for research; (6) Public Law 103–210 authorized priority health care for Persian Gulf War veterans; (7) Public Law 103–160, the National Defense Authorization Act for Fiscal Year 1994, provided funding for a specialized environmental research medical facility; and, (8) further research and studies must be undertaken and veterans must be given the benefit of the doubt and provided compensation.

Senate bill: No comparable provision.

Compromise agreement: Section 102 follows the House, adding that the National Defense Authorization Act for Fiscal Year 1995 authorizes the Secretary of Defense to provide research grants for three types of studies of the Gulf War syndrome, including the following: (1) an epidemiologic study or studies; (2) studies related to the health consequences of the use of pyridostigmine bromide; and (3) other studies on the causes, treatment, and possible transmission of Gulf War illnesses.

Purposes

Current law: No provision.

House bill: Section 3 of H.R. 4386 states the purposes of the House bill as follows: (1) To provide compensation to Persian Gulf War veterans suffering disabilities resulting from undiagnosed illnesses; (2) to require the development of case assessment strategies and definitions and diagnoses at the earliest possible date; (3) to promote greater outreach to Persian Gulf War veterans and their families; and (4) to fund research activities and surveys of Persian Gulf War veterans.

Senate bill: No comparable provision.

Compromise agreement section 103 follows the House bill.

Development of medical evaluation protocol

Current law: Title VII of the Veterans Health Care Act of 1992 (Public Law 102–585) requires the Secretary of Veterans Affairs to establish and maintain a Persian Gulf War Veterans Health Registry. Those individuals who served as a member of the Armed Forces in the Persian Gulf War become eligible for enrollment in the registry after they give historical information about their health and military exposures, receive a physical examination, and receive routine diagnostic testing.

On June 17, 1994, VA announced the implementation of a comprehensive case assessment protocol to be used by selected VA medical centers. The first phase of the protocol would continue to be the evaluation provided through enrollment into the VA Persian Gulf War Veterans Health Registry. If necessary, additional evaluations would be offered.

House bill: Section 104 of H.R. 4386 would require the Secretary of Veterans Affairs, in consultation with the Secretaries of Defense and Health and Human Services, to develop at the earliest possible date uniform case assessment protocols and case definitions or diagnoses for illnesses attributed to service in the Persian Gulf War. The Secretary of Veterans Affairs would be required to provide status reports on these activities, with the first such report due to the Committees on Veterans' Affairs of the House and Senate not later that 6 months after the date of enactment of the act.

Senate bill: Section 3 of S. 2330 is similar to the House bill and would require the Secretary to develop and implement a uniform and comprehensive evaluation protocol to provide extensive medical examinations to Persian Gulf War veterans who are suffering from illnesses the origins of which are unknown and that may be attributable to service in the Gulf War. It would not require VA to provide a case definition of the illness. Section 3 of S. 2330 also would require that the Secretary of Veterans Affairs, in consultation with the Secretary of Defense, ensure that information on the protocols of the two agencies is collected and maintained in a manner that enables the information to be analyzed together.

This section also would require that the VA provide the comprehensive clinical evaluations at as many VA medical centers are possible. This evaluation protocol must include evaluation for reproductive complaints, including but not limited to birth

defects, miscarriages, and abnormal semen. If a VA medical center were to be unable to provide the comprehensive clinical evaluation, VA would have the authority to provide funding for the veteran to travel to a VA medical center or non-VA facility that can provide the necessary assessment, diagnosis, and treatment. VA would also have the authority to pay for care at non-VA medical facilities. For individuals whose symptoms or illnesses remain undiagnosed or unresponsive to treatment after comprehensive clinical evaluations at VA medical facilities, the Secretary of Veterans Affairs would be authorized to provide funds for the veteran to be evaluated by a recognized medical institution outside of the VA medical system. All information gathered by non-VA medical facilities as part of these protocols would be required to be maintained by VA.

VA would be authorized to enter into an agreement with the National Academy of Sciences under which appropriate members of the Academy would review the adequacy of the comprehensive clinical evaluation protocol and its implementation by VA.

Compromise agreement: Section 104 includes the requirement that VA develop a medical evaluation protocol, which was included in both the House and Senate bills. It includes the Senate provision requiring VA to make the medical protocol available in as many VA medical centers as possible and to include examinations and tests for reproductive complaints. The compromise agreement specifies that the Secretary has authority to contract out these medical examinations, tests, and consultations, and any necessary treatment, to non-VA facilities, and to pay for travel and incidental expenses, under section 1703 and section 111 of title 38. The Senate provision regarding reviews by the National Academy of Sciences is also included. The compromise agreement includes the House provision requiring that VA develop a case definition of "Gulf War Syndrome."

Section 104 reflects the Committees' concerns about the letters and Congressional testimony they have received from Gulf War veterans who report that they have had difficulty in obtaining appropriate medical examinations or diagnoses at numerous VA medical centers.

Outreach to Persian Gulf Veterans

Current law: Section 702(f) of Public Law 102–585 required VA to notify periodically individuals listed in the Persian Gulf War Veterans Health Registry of significant developments in research on the health effects of military service in the Persian Gulf during the Persian Gulf War. Neither this provision, nor any other provision in law otherwise specifically requires VA to establish an outreach program for Persian Gulf War veterans and their families. There are a number of benefits and services available to these individuals, but there currently is no single source of VA information to ensure that they know about the benefits and services for which they may be eligible, as well as the scientific studies and research currently being conducted and any developments with respect to such research.

House bill: Section 5 of H.R. 4386 would require the Secretary to develop and implement a comprehensive outreach program and information system to provide Persian Gulf War veterans and their families with information regarding VA's Persian Gulf War Veterans Health Registry, access to health services and health-related benefits, compensation and other benefits, and developments in research regarding the health consequences of service in the Persian Gulf, and to establish a toll-free telephone number for Persian Gulf veterans and their families.

This section also would amend section 702(f) of Public Law 102–585 to require VA to establish a newsletter to be distributed at least quarterly to all veterans listed on the VA's Persian Gulf War Veterans Health Registry, or survivors of such veterans. The newsletter would provide updates on the status and findings of Government-sponsored research on illnesses which may be related to the veteran's service in the Persian Gulf theater of operations. The newsletter also would include information regarding any VA or DOD compensation and benefits, including health care and other health-related benefits which may be available to Persian Gulf War veterans or their family members from either VA or DOD. The newsletter would be required to be prepared in consultation with veterans service organizations.

Senate bill: Section 4 of S. 2330 would require the Secretary to develop and implement a comprehensive outreach program to inform Persian Gulf veterans and their families of medical care and other benefits that may be available to them from VA and DOD. Subsection (b) would require that this outreach program include a newsletter to be updated and distributed at least annually to all veterans listed on VA's Persian Gulf War Veterans Health Registry. The newsletter would provide summaries of the status and findings of Government-sponsored research on illnesses which may be related to the veteran's service in the Persian Gulf theater of operations. The newsletter would also include information regarding any VA benefits which may be available to Persian Gulf veterans and their families. The newsletter would be required to be prepared in consultation with veterans service organizations.

Subsection (c) of section 4 would require that the outreach program include establishment of a toll-free number within 90 days after the enactment of the act to provide Persian Gulf War veterans and their families information about the Persian Gulf War Veterans Health Registry, health care, and other benefits provided by VA. In addition, the toll-free number would provide any other information the Secretary considers appropriate.

Compromise agreement: Section 105 follows the Senate bill, except that the Secretary would be required to issue the newsletter at least twice a year, and this requirement would terminate on December 31, 1999.

Compensation benefits for disability resulting from illness attributed to service during the Persian Gulf war

Current law: There is no provision in current law relating specifically to compensation for Persian Gulf War veterans.

House bill: Section 6 of H.R. 4386 would amend title 38 to add a new section 1117 which would require the Secretary to pay compensation to any Persian Gulf veteran suffering from a disability resulting from an undiagnosed illness that became manifest to a degree of at least 10 percent before October 1, 1996, or within 2 years after the veteran last performed active service in the Southwest Asia theater of operations, whichever is later. A veteran would not receive compensation if there was affirmative evidence that the disability was not incurred during service in the Persian Gulf theater of operations during the Persian Gulf War or if there was affirmative evidence showing that the veteran suffered from an intercurrent injury or illness, recognized to be a cause of the disability, between the time of the veteran's departure from the Persian Gulf and the onset of the disability.

Payment of compensation under this provision would be for 3 years following enactment of the act, with an automatic extension of 3 years if the Secretary reports to the Committees on Veteran's Affairs of the Senate and the House of Representatives prior to the end of the first 3-year period that no diagnoses for the illnesses experienced by Persian Gulf veterans can be made, based on then-current medical knowledge. A report from the Secretary submitted to the Committees would be due by no later than April 1, 1997.

Senate bill: Section 2(a) of S. 2330 would amend title 38 to add a new section 1112A, which would provide the Secretary with express general authority to conduct an inquiry when the Secretary becomes aware of assertions that a group of veterans with the same or similar military service share similar diseases, illnesses, or medical signs or symptoms, and that such health conditions are related to their service. Such an inquiry would be carried out for the following purposes: To determine whether veterans with the particular military service in question have the claimed health conditions; to identify all veterans who had such service to determine which veterans have such health conditions; and to determine whether a presumption of service connection should be established for such health conditions.

Under this new authority, if the Secretary determines that a presumption of service connection for any such health condition should be established, the Secretary would be required to prepare a proposal for establishing such a presumption. The proposal would be required to include a description of the particular military service involved, the health condition at issue, the relevant medical characteristics associated with the health condition, and a statement of any limitations on the period for which the Secretary proposes to pay compensation.

After completion of the proposal, the Secretary would be required to submit a report to the Committees on Veterans' Affairs of the Senate and House of Representatives, including the proposal, as well as recommendations for legislation concerning the establishment of the presumption and the reasons for these recommendations.

With specific respect to veterans of the Persian Gulf War, section 2(c) of the Senate bill would require the Secretary to report to the Committees, within 30 days of enactment of the act, whether or not a presumption of service connection should be established between service in the Southwest Asia theater of operations and health conditions experienced by Persian Gulf War veterans. If the Secretary determines that such a presumption should be established, the Secretary, pursuant to section 2(d) of the bill, would be required to include in the report the elements of any report made under the provisions of the new section 1112A and publish proposed regulations relating to establishment of the presumption, allowing 30 days for public notice and comment on the proposed regulations. The Secretary would be required to publish final regulations within 30 days following the expiration of the public notice and comment period.

Section 2(e) would set certain requirements for the treatment of claims and compensation for Persian Gulf veterans if based on a presumption of service connection under the provisions of the Senate bill. First, an award of compensation under the new regulations would not preclude payment of retroactive benefits to a veteran with a claim pending on the date of enactment of these

provisions, if VA later determines that the condition is service connected. Second, the Secretary would be required to consider sending all claims for compensation under the new regulations to one regional office for adjudication for purposes of ensuring consistency in rating decisions. Finally, VA would be required to reopen and readjudicate any claims for service-connected disability compensation for a health condition covered in the new regulations that were denied prior to enactment of these provisions. These claims would be considered original claims, and if compensation is eventually awarded, the effective date of the award would be the date the original claim was filed.

Compromise agreement: Section 106 would amend title 38 to add a new section 1117 which would provide the Secretary with authority to pay compensation to any Persian Gulf veteran suffering from a disability resulting from an undiagnosed illness that became manifest during active duty in the Southwest Asia theater of operations during the Persian Gulf War or to a degree of 10 percent or more within a period to be determined by the Secretary, based on a review of any available credible medical or scientific evidence and a review of the historic treatment afforded disabilities for which manifestation periods have been established. The Secretary also would be required to take into account other pertinent circumstances regarding the experiences of Persian Gulf veterans. The Secretary would be required to prescribe regulations to implement this provision.

New section 1117 would require the Secretary to include in the regulations a specification of the manifestation period of time following service in the Southwest Asia theater of operations that the Secretary finds appropriate for a presumption of service connection. In addition, the regulations would have to include a description of the particular military service involved, the illnesses for which compensation may be paid, and the relevant medical characteristics associated with each such illness.

Section 106 also contains a freestanding provision that would require the Secretary, within 60 days of enactment of the act, to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report indicating whether or not the Secretary intends to pay compensation under new section 1117. If the Secretary states in the report to the Committees an intent to pay compensation under new section 1117, the Secretary must publish proposed regulations, as required by new section 1117, in the Federal Register within 30 days of the date of the report.

Evaluation of health status of spouses and children of Persian Gulf war veterans

Current law: Section 702 of Public Law 102–585 created a Persian Gulf War Veterans Health Registry. Only veterans can be included in this registry.

House bill: No comparable provisions.

Senate bill: Section 5 of S. 2330 would authorize the inclusion of up to 10,000 dependents in the Persian Gulf War Veterans Health Registry. VA would be required to conduct medical examinations and testing, consultation, and counseling for the dependent of any veteran who is listed in the registry if the veteran believes that the illness of any family member is related to the veteran's service in the Gulf War. The registry would also include information about miscarriages and stillbirths.

The Secretary would be required to determine the types of medical examinations and tests are appropriate in order to determine the nature and extent of the connection, if any, between the illness or disorder of the individual and the illness of the veteran. These examinations are expected to be similar to registry exams for gulf War veterans. These tests may be provided by VA facilities or through contract with non-Department facilities.

Compromise agreement: Section 107, which is derived from the Senate provision, would require VA to conduct a pilot study, whereby VA would develop an evaluation protocol and guidelines for medical examinations, tests, and consultations with dependents of Gulf War veterans. These procedures would be restricted to those dependents whose illness, birth defects, or other disorder cannot be disassociated from the veterans' service in the Gulf War. There is no limit on the number of dependents who could be included in the registry; however, the number may be limited by the cost since the bill authorizes $2 million for the pilot study from November 1, 1994, through September 30, 1996. It would authorize VA to pay for the medical examinations, tests, and consultations through contracts with non-VA facilities. In addition, information provided by medical facilities that follow the VA protocol or guidelines could also be included in the registry even if the examinations and tests were not paid for by VA. The compromise also includes a provision regarding outreach to ensure that the maximum possible number of dependents would be included in this research.

The Committees expect that objective medical information on miscarriages, stillbirths, and birth defects can be included in the registry at minimum cost. The Committees also urge the VA to ensure that the pilot study is administered in such a way as to ensure that the medical information that is collected is sufficiently uniform, accurate, and appropriate to the goals of the study.

The purpose of the pilot study is to ensure that the VA conduct research on the illnesses of Gulf War veterans' spouses and children, using an existing data base and objective medical information. The VA is required to prepare a report to Congress describing the results of the pilot study, focusing on any information about the possible transmission of diseases associated with the Gulf War.

The Committees expect VA to use funds from the medical care account for the medical examinations and tests, data analysis, and administration of the pilot study.

Clarification of scope of health examinations provided for veterans eligible for inclusion in health-related registries

Current law: Under section 703 of the Persian Gulf War Veterans' Health Status Act (Title VII of Public Law 102–585), VA is required to conduct medical examinations for any veteran and the information from those exams must be included in the Persian Gulf War Veterans' Health Registry.

House bill: No comparable provision.

Senate bill: Section 108 would clarify that the Persian Gulf War Veterans' Health Registry includes diagnostic tests in its definition of medical examinations.

Compromise agreement: The compromise follows the Senate provision.

Survey of Persian Gulf veterans

Current law: There is no authorization in current law for VA to carry out a survey of Persian Gulf War veterans to gather information about their health status.

House bill: Section 8 of H.R. 4386 would require the Secretary of VA, in coordination with the Secretary of Defense, to carry out a survey of Gulf War veterans to gather information about their health problems and the health problems of family members.

Senate bill: No comparable provision.

Compromise agreement: Section 109 amends the House provision, so that it authorizes the survey as described in Section 8.

The Committees note that under the National Defense Authorization Act for FY 1995, Public Law 103–337, the Department of Defense will be providing research grants to non-Federal researchers to conduct similar research on Gulf War veterans, and encourages VA to ensure that VA funded research contributes unique information that will not be available from DoD-funded research.

Authorization for Epidemiological studies

Current law: Section 722 of the National Defense Authorization Act for FY 1995, Public Law 103–337, requires the Department of Defense to provide research funds to non-Federal scientists to conduct an epidemiological study or studies of U.S. service members and civilians who participated in the Persian Gulf War, and their families.

House bill: Section 9 of H.R. 4386 would authorize VA to conduct an epidemiological study or studies if such a study is recommended by the National Academy of Sciences in the report required by section 706(b) of the Veterans Health Care Act of 1992 (Public Law 102–585).

Senate bill: No comparable provision.

Compromise agreement: Section 110 follows the House provision.

The Committees note that the National Defense Authorization Act for FY 1995, Public Law 103–337, requires the Department of Defense to provide research grants to non-Federal researchers to conduct an epidemiological study or studies of Gulf War veterans and their families. The Committees therefore encourage the VA to coordinate their research efforts to ensure that any epidemiological research funded by VA contributes unique information that will not be available from DoD-funded research.

Cost savings provisions

Current law: The Omnibus Budget Reconciliation Act of 1990 (OBRA 90), Public Law 101–508, amended section 3203 (now section 5503) of title 38 to limit monthly VA pension payments to $90 for Medicaid-eligible veterans with no dependents who are in nursing homes. Previously, veterans receiving nursing home care covered by Medicaid did not have their pension benefits reduced; however, the amount of their pension had to be applied toward the cost of the nursing home care. No part of that $90 payment can be applied to the cost of the veteran's nursing home care.

Under OBRA 90, this provision was originally due to expire September 30, 1992. The Veterans' Benefits Act of 1992 extends the provision through September 30, 1997, and added a provision applying the limitation to payment of pension to surviving spouses who have no dependents and are receiving nursing home care covered by Medicaid. OBRA 93 extended the provision through September 30, 1998.

There is no comparable protection for any amount of dependency and indemnity compensation (DIC) received by surviving spouses in nursing homes participating in Medicaid. The amount of their benefit payments, minus any amount allowed by the State for personal use, is available to be applied to the cost of their nursing home care.

Section 1317 of title 38 prohibits any person eligible to receive DIC based on a death after

December 31, 1956, from being eligible for death pension.

There is no provision in current law which requires an adjustment of the rates of compensation and DIC based on an increase in the cost of living. However, Congress has passed legislation providing for a cost-of-living adjustment in these rates every year since 1976. With respect to calculating the annual cost-of-living adjustment in the rates of compensation and DIC, the Congressional Budget Office budget baseline assumes normal rounding, under which fractional dollar amounts of less than $0.50 are rounded down and fractional dollar amounts of $0.50 and more are rounded up.

House bill: Section 11(a) of H.R. 4386 would amend section 1317 of title 38 to permit surviving spouses eligible to receive DIC to elect to receive death pension under chapter 15 in lieu of DIC. This would permit surviving spouses who are in Medicaid-covered nursing homes and who receive DIC to elect to receive death pension, in order to be able to retain $90 of their monthly benefits.

Section 11(b) of H.R. 4386 would provide that, with respect to any cost-of-living adjustment in the rates of compensation under chapter 11 and DIC under chapter 13 provided for fiscal year 1995, all increased rates (other than those equal to a whole dollar amount) must be rounded down to the next lower dollar.

Senate bill: No comparable provision.

Compromise agreement: Section 111 follows the House bill.

TITLE II—BOARD OF VETERANS' APPEALS ADMINISTRATION

Current law: Before 1990, members of the Board of Veterans' Appeals (BVA) had received pay and benefits comparable to those received by Administrative Law Judges (ALJ's). However, the pay Act of 1990, Public Law 101–194, removed ALJ's from the General Schedule, and thereby eliminated pay comparability between BVA members and ALJ's.

In 1988, Congress enacted the Veterans' Judicial Review Act of 1988, Public Law 100–687, which changed Board members' status (other than that of the Chairman) from permanent appointments to 9-year terms, subject to the possibility of reappointment. Under section 7101(b)(1) of title 38, the Chairman is appointed by the President, with the advice and consent of the Senate, for a term of 6 years.

Currently, a member of the Board may be removed by the Secretary, upon the recommendation of the Chairman. There are no standards that govern removal or reappointment of members. There is no statutory process for removal of a Board member. However, section 7101(b) provides grounds under which the President may remove the Chairman.

House bill: Sections 301 through 303 of H.R. 4088 would restore the pay comparability between members of BVA and ALJ's and eliminate term limits for Board members (other than the Chairman). These provisions also would require the Chairman to establish job performance standards, with the approval of the Secretary, and would require that reviews be conducted not less than every 3 years. If the Chairman recommended that the member be noncertified, the Secretary would establish a panel of non-BVA employees of the Department or Federal employees from outside the Department, or a combination of VA and other Federal employees, to review the member's case.

Senate bill: Sections 302 through 304 of S. 2325 would restore the pay comparability between members of BVA and ALJ's, eliminate term limits for Board of Veterans' Appeals members (other than the Chairman), require the establishment of a peer review panel to periodically review the performance and fitness of Board members, and clarify that those BVA members who hold appointments through the Senior Executive Service (SES) retain their SES pay and status.

Compromise agreement: Section 201 would amend title 38 to add a new section 7101A which would eliminate term limits for Board members other than the Chairman and provide that members of the Board (other than the Chairman and Board members who are members of the SES) would receive the same basic pay as received by ALJ's (unless that would result in a reduction in pay). The pay provision would be effective on the first day of the first pay period beginning after December 31, 1994.

Under new section 7101A, the provisions for pay comparability with ALJ's and the elimination of term limits would be accompanied by new provisions instituting a system for periodic job performance review and recertification of members of the Board (other than the Chairman and any member who is a member of the SES). Section 7101A would require the Chairman to establish a panel, to include the Chairman and two other members of the Board (other than the Vice Chairman), that would conduct reviews of the job performance of Board members. The membership of this panel (other than the Chairman) would rotate among all members of the Board.

Section 7101A also would require that the Chairman, with the approval of the Secretary, establish job performance standards for Board members (except the Chairman and Board members who are members of the SES), which are to be objective and fair criteria for the evaluation of job performance. Section 202 would require that the job performance standards be established not later than 90 days after the enactment date of this act. This section also would require that the Secretary submit a report describing these standards to the Senate and House Committees on Veterans' Affairs no later than the date on which these standards take effect.

With 1 year after the establishment of the job performance standards, section 7101A would require that the panel complete a review of the job performance of each member of the Board. Reviews would then have to be conducted and completed at least once every 3 years thereafter. If the panel determines that a Board member meets the performance standards, the Chairman would recertify the Board member. If a Board member does not meet the performance standards, the Chairman would be required either to grant the Board member conditional recertification or to recommend to the Secretary that the member be noncertified. A conditional recertification would require another review within 1 year after the conditional recertification. If the Board member does not meet the job performance standards after the period of conditional recertification, the Chairman must recommend to the Secretary that the member be noncertified.

If the Chairman recommends to the Secretary that a member be noncertified, either after a performance review or after a period of a conditional recertification, the Secretary would be authorized to grant a conditional recertification or determine that the member should be noncertified. If the Secretary grants a conditional recertification, the performance review panel would review the member's job performance within 1 year and if the member still does not meet the standards, the Chairman would be required to recommend to the Secretary that the member be noncertified.

If the Secretary determines that the member should be noncertified, the member's appointment would be terminated and the member removed from the Board. Any Board member whose appointment is terminated and who was a career or career-conditional employee in the civil service prior to service on the Board would revert to the civil service grade and series held prior to appointment to the Board.

Section 7101A would require the Secretary to prescribe procedures for carrying out the provisions of the section, including the deadlines and times schedules for the actions required.

Section 203 would amend section 7101(b)(3) to specify that if the position of Chairman were to become vacant upon the expiration of the Chairman's term, the current Chairman would be authorized, with the approval of the Secretary, to continue to serve as Chairman until the Chairman is appointed to another term or a new Chairman is appointed. However, this section would provide that the Chairman would not be able to continue to serve under this provision beyond the end of the Congress during which the term of office expired.

TITLE III—ADJUDICATION IMPROVEMENTS

Acceptance of certain documentation for claims purposes

Documents to be accepted as proof of relationships

Current law: Until recently, VA's regulations did not allow acceptance of photocopies of documents that were not certified as evidence to show marriage, the annulment of a marriage, birth, the relationship of a child to the veteran, or death, or of any evidence from a foreign country (sections 3.202(c); 3.204(b) and (c); 3.205(a); 3.207(b); 3.209; 3.210; and 3.211 of title 38, Code of Federal Regulations). A photocopy could only be accepted if the original document had been viewed by an authorized individual and was certified as a true and exact copy of the original document. This requirement of certification existed only in VA's regulations; it was not a statutory requirement.

On September 8, 1994, VA published interim regulations to amend sections 3.202(c), 3.204(b) and (c), 3.205(a), 3.207(b), 3.209(a) and (b), 3.210(b) and (c), and 3.211(a) and (d) of title 38, Code of Federal Regulations, to implement the Secretary's decision to allow VA to accept photocopies of documents necessary to establish marriage, the annulment of a marriage, birth, the relationship of a child to the veteran, or death, or of any evidence from a foreign country for purposes of processing claims for VA benefits. Under these regulations, VA would still have the authority to request certified documentation in cases in which it is questionable whether the photocopies are genuine and free from alteration.

House bill: Section 405(a) of H.R. 4088 would amend title 38 to add a new section 5124 which would provide that, for purposes of determining eligibility for benefits, VA must accept a written statement from a claimant as proof of marriage, dissolution of a marriage, birth of a child, and death of any family member. The Secretary would be authorized to require the submission of documentation in support of the claimant's statement if the claimant does not reside in a State, or if the statement on its face raises a question as to its validity.

Senate bill: Section 202 of S. 1908 is a free-standing provision that would allow VA to accept photocopies of documents as proof of marriage, dissolution of marriage, birth, or death for purposes of determining eligibility for certain VA benefits. The Secretary would be authorized to require the claimant to submit additional supporting documentation if the document on its face raises a question with respect to its validity, or if there is reasonable indication of fraud or misrepresentation, in the document or otherwise.

Compromise agreement: Section 301(a) would amend title 38 to add a new section 5124 which would allow the Secretary to accept a statement from the claimant as evidence of marriage, dissolution of a marriage, birth of a child, or death of a family member for purposes of VA benefits. The Secretary would be authorized to require documentation in support of the statement if the claimant does not reside in a State, if the statement on its face raises a question as to its validity, if there is conflicting information in the record, or if there is reasonable indication of fraud or misrepresentation in the document or otherwise.

The Secretary is encouraged to exercise the authority granted under this section to the maximum extent feasible.

Acceptance of private physician examinations

Current law: Currently, under section 3.326 of title 38, Code of Federal Regulations (as amended by 59 Fed. Reg. 35851 (July 14, 1994)), VA generally requires a VA examination for purposes of determining eligibility for disability benefits. However, section 3.326(d) permits VA to accept the statement of a private physician in the following cases: (1) A claim for increased compensation due to an increase in the severity of a service-connected disability or due to the need of the veteran's spouse for aid and attendance; (2) a veteran's pension claim, including a claim for housebound or aid and attendance benefits; (3) a surviving spouse's claim for housebound or aid and attendance benefits; (4) a surviving parent's claim for aid and attendance benefits; or (5) a claim by or on behalf of a child who is permanently incapable of self-support.

House bill: Section 405(b) of H.R. 4088 would amend title 38 to add a new section 5125 which would required VA to accept the medical examination report of a private physician in support of a claim for benefits, without further examination by a physician employed by the Veterans Health Administration, if the report is sufficiently complete to be adequate for disability rating purposes.

Senate bill: Section 203 of S. 1098 is a free-standing provision which would allow VA to accept the medical examination report of a private physician in support of a claim for disability compensation or pension. Under this provision, a private physician's report would be required to contain sufficient clinical data to support the diagnosis or provide a reliable basis for a disability rating.

Compromise agreement: Section 301(b) would amend title 38 to add a new section 5125 which would allow the Secretary to accept the medical examination report of a private physician in support of any claim for VA compensation or pension, without a requirement for confirmation by an examination by a VA physician, if the report is sufficiently complete to be adequate for purposes of adjudicating the claim.

It is the express intention of the House and Senate Committees on Veterans' Affairs that, to the maximum extent feasible, the Secretary exercise the authority provided under this section as being in the best interest of veterans in furthering the timely adjudication of their claims for compensation by reducing the need for duplicative medical examinations by VA physicians.

Expedited treatment of remanded claims

Current law: Section 7101 of title 38 provides that appeals to the Board of Veterans' Appeals (BVA) will be considered and decided in order according to their docket number. There is no statutory requirement governing the treatment of claims on remand to the Board from the Court of Veterans Appeals or to regional offices from the Board.

House bill: Section 406 of H.R. 4088 is a freestanding provision that would require the Secretary to take such actions as may be necessary to provide that claims remanded by the BVA to regional offices or by the Court of Veterans Appeals to the Board be treated expeditiously.

Senate bill: No comparable provision.

Compromise agreement: Section 302 follows the House bill.

Screening of appeals

Current law: Under section 7107 of title 38, appeals are considered and decided in order according to their docket numbers.

House bill: Section 407 of H.R. 4088 would amend section 7107 to permit the Board to screen cases on appeal at any point in the decision process (a) to determine whether the record is adequate for decisional purposes or (b) for the development or attempted development of a record that is inadequate for decisional purposes.

Senate bill: No comparable provision.

Compromise agreement: Section 303 follows the House bill.

Report on feasibility of reorganization of adjudication divisions in VBA regional offices

Current law: Currently, the administration of VA's compensation and pension programs is carried out in the 58 regional offices of the Veterans Benefits Administration, located in the 50 states, the District of Columbia, Puerto Rico, and the Republic of the Philippines. Each of these offices, except one, has an adjudication division.

House bill: Section 402 of H.R. 4088 would require the Secretary of Veterans Affairs to submit to the House and Senate Committees on Veterans' Affairs, within 180 days of enactment of this act, a report addressing the feasibility and impact of a reorganization of VA claims adjudication divisions to a number of such divisions that would result in improved efficiency in the processing of claims.

Senate bill: No comparable provisions.

Compromise agreement: Section 304 follows the House bill.

TITLE IV—VETERANS' CLAIMS ADJUDICATION COMMISSION

Current law: There is no provision in current law relating to a study of VA's system for adjudicating claims for benefits.

House bill: No comparable provisions

Senate bill: Section 101 of S. 1908 is a free-standing provisions that would require an independent, comprehensive 18-month study by the Administrative Conference of the United States of VA's system for adjudicating benefit claims at the regional office level and the appellate process at the Board of Veterans' Appeals (BVA).

The purpose of the study would be to evaluate the entire adjudication system in order to determine the efficiency of its processes and procedures, including the impact of judicial review on the system, means for reducing the backlog of pending cases in the system, and means for improving timeliness and quality of the claims process.

The study would be required to contain an evaluation and assessment of the entire claims adjudication system, including its historical development and the effect that the Veterans' Judicial Review Act of 1988 has had on the system; how claims are prepared and submitted; the procedures that exist for processing claims; the participation of attorney and nonattorney advocates in the system; VA's efforts to modernize its information management system; the impact of work performance standards at all levels of the claims process; the extent of implementation of the recommendations of the Blue Ribbon Panel on Claims Processing; the application of pilot programs initiated in regional offices; and the effectiveness of quality control and assurance practices.

In the course of its evaluation and study, ACUS would be required to consult with representatives of veterans service organizations and other organizations and entities representing veterans before VA, to include individuals who furnish such representation.

No later than 90 days following the enactment date of the legislation, VA would be required to provide ACUS and the Senate and House Committees on Veterans' Affairs with information deemed Necessary by the chairman of ACUS for purposes of conducting the study, including specific statistical information concerning the adjudication of claims during the 5-year period October 1, 1998, through September 30, 1993.

Within 1 year after the date of enactment, ACUS would be required to submit to the Secretary and the Committees a preliminary report on the study. This preliminary report would contain the initial findings and conclusions of ACUS regarding the evaluation and assessment required. The preliminary report would not be required to include any recommendations for improving the system.

Within 18 months following enactment, ACUS would be required to submit a full report on its study to the Secretary and the Committees. The report would include: (1) The findings and conclusions of ACUS with respect to the study; (2) the recommendations of ACUS for improving the VA adjudication system; and (3) any other information and recommendations concerning the system that ACUS deems appropriate.

An appropriation of $150,000 would be authorized to VA for payment to ACUS for the costs associated with conducting the study and completing and report to be submitted to the Secretary and the Committees.

Compromise agreement: Title IV would require the establishment of an independent comission to study VA's system for the disposition of claims for benefits, both at the regional office level and at the Board of Veterans' Appeals. Section 401 would require that the commission be composed of nine members, all to be appointed by the Secretary of Veterans Affairs by February 1, 1995. The membership of the commission would be required to be composed of the following: One member who is a former VA official; two members from the private sector who have expertise in the adjudication of claims relating to insurance or similar benefits; two members who are employed in the Federal Government, outside VA, who have expertise in the adjudication of claims for Federal benefits other than VA benefits; two members who are representatives of veterans service organizations; one member recommended by the American Bar Association or similar private organization who has expertise in administrative law issues; and one member who currently is a VA official.

Section 401 also would require that the commission hold its first meeting within 30

days after the last of the members has been appointed. Meetings would take place at the call of the chairman. The Secretary would be required to designate a member of the commission, other than the member who is a current official of the Department, to be the chairman.

Section 402(b), regarding the purposes of the study, is generally similar to section 101(b) of the Senate bill.

Section 402(c), regarding the contents of the study, is substantively similar to section 101(c) of the Senate bill. This section would require that the study consist of a comprehensive evaluation and assessment of VA's system for the disposition of claims and benefits delivery and any related issues the commission determines are relevant to such a study. However, section 402(c) would not include a specific requirement that the commission evaluate the historical development of the system and the effect that the Veterans' Judicial Review Act of 1988 has had on the system.

Section 402(d) would require the Secretary to submit to the commission and the Committees on Veterans' Affairs any information which the Chairman has determined necessary to carry out the study, not later than 30 days from the date on which the Chairman makes a request for such information.

Section 402(e), regarding the contents and timing of the preliminary and final reports required of the commission, is identical to section 101(f) of the Senate bill, requiring a preliminary report within 1 year of enactment of the act and a final report within 18 months of enactment.

Section 407 would authorize that $400,000 be made available from amounts appropriated to VA for fiscal year 1995 for the payment of compensation and pension for the activities of the commission.

TITLE V—MISCELLANEOUS BENEFITS-RELATED PROVISIONS

Restatement of Intent of Congress Concerning Coverage of Radiation-Exposed Veterans Compensation Act of 1988

Radiation Risk Activities

Current law: The Radiation-Exposed Veterans Compensation Act of 1988, Public Law 100-321, enacted on May 1, 1988, added a subsection (c) to section 1112 of title 38 which established a presumption of service connection for 13 cancers suffered by veterans who participated in a "radiation risk activity," defined as participation in an atmospheric test of nuclear devices, involvement in the occupation of Hiroshima and Nagasaki following World War II, or internment as a prisioner of war in Japan during World War II that might have resulted in exposure comparable to the occupation forces. Two additional cancers were added to this subsection by Public Law 102-578. On September 8, 1994, the Secretary published in the Federal Register a proposed amendment to section 3.309(d), Code of Federal Regulations, which would extend the presumption of service connection, and therefore eligibility for compensation, to U.S. veterans who participated in atmospheric nuclear tests conducted by Allied Governments.

House bill: Section 501(a) of H.R. 4088 would amend section 1112(c) of title 38 to clarify that participation in atmospheric testing of nuclear devices includes non-U.S. tests. The effective date of the amendment would be May 1, 1988, the date of enactment of Public Law 100-321.

Senate bill: No comparable provision.

Compromise agreement: Section 501(a) follows the House bill, except that the effective date of the amendment would be the date of enactment of the act.

Service connection for certain disabilities relating to exposure to ionizing radiation

Current law: The "Veterans' Dioxin and Radiation Exposure Compensation Standards Act," Public Law 98-542, required VA to establish standards for adjudicating claims based on exposure to Agent Orange and radiation. VA adopted regulations for those claims in sections 3.311a and 3.311b of title 38, Code of Federal Regulations.

The United States Court of Veterans Appeals in *Combee* v. *Principi*, 4 Vet. App. 78 (1993), held that a veteran may not establish direct service connection for a disability based on radiation exposure unless the disability is on VA's regulatory list of "radiogenic diseases" issued pursuant to Public Law 98-542. The essence of the Court's decision was that by establishing a process in Public Law 98-542 relating to claims based on radiation exposure, Congress repealed the general compensation law as to such claims. This decision was reversed by the United States Court of Appeals for the Federal Circuit in *Combee* v. *Brown*, No. 93-7101 (Fed. Cir. Sept. 1, 1994).

At a March 24, 1994, hearing of the Senate Committee on Veterans' Affairs on this bill and other pending legislation, Under Secretary for Benefits R. John Vogel announced Secretary Brown's intention to publish a proposed amendment to the regulation to "permit a veteran to establish direct service connection for disability resulting from a disease claimed to be caused by radiation exposure even if that disease is not included in the list of diseases VA already recognizes as radiogenic." As of the date of passage of this legislation, VA has not published a proposed regulation to implement this change.

House bill: Section 501(b)(1) of H.R. 4088 would amend section 1113(b) of title 38, which provides that the provisions of law governing statutory presumptions may not be construed to prevent the establishment of service connection on a direct basis. The amendment would add a reference to the provisions of Public Law 98-542 to the provisions governing statutory presumptions, thereby affirming a claimant's right to attempt to establish direct service connection for a disability associated with exposure to ionizing radiation. This section applies to claims submitted after the date of enactment.

Senate bill: Section 301 of S. 1908 has the same intent as the House provision, but accomplished that goal through a proposed amendment to Public Law 98-542 in order to clarify Congress' intent in enacting the law. The amendment to Public Law 98-542 would add a new section, specifying that the regulations adopted by VA under the statute may not prohibit a veteran who served during an eligible period of service from establishing direct service connection for a disease or disability based on exposure to radiation, even though the veteran's condition is not considered by VA to be a "radiogenic disease."

Compromise agreement: Section 501(b) follows the House bill.

Extension of authority to Maintain Regional office in the Philippines

Current Law: Under section 315(b) of title 38, the Secretary currently has the authority to maintain a regional office in the Republic of the Philippines until December 31, 1994.

House bill: Section 502 of H.R. 4088 would extend the Secretary's authority to maintain the regional office in the Republic of the Philippines until December 31, 1999.

Senate bill: No comparable provision.

Compromise agreement: Section 502 follows the House bill.

Renouncement of benefits rights

Current law: Under section 5306 of title 38, if a claimant renounces his or her right to VA pension, compensation, or dependency and indemnity compensation, and subsequently reapplies, the new claim is treated as an original claim. Therefore, for purposes of any income-based program (pension or parents' DIC), only prospective income may be considered in determining the claimant's eligibility.

House bill: Section 503 of H.R. 4088 would amend section 5306 to provide that an application filed for non-service-connected pension under chapter 15 of title 38, or parents' DIC under chapter 13 of title 38, made within 1 year of a renouncement of such benefits, will not be treated as an original claim and benefits will be paid as though the renouncement had not occurred.

Senate bill: No comparable provision.

Compromise agreement: Section 503 follows the House provision.

Clarification of payment of attorney fees under contingent fee agreements

Current law: Under section 5904(d) of title 38, an attorney otherwise authorized to collect a fee for representation in a VA case may receive payment for such representation directly from VA out of a retroactive benefit award, provided that the total fee not exceed 20 percent of the amount of any past-due benefits awarded to the appellant, and provided that the fee is contingent upon whether or not the claim is ultimately resolved in favor of the appellant.

House bill: No comparable provision.

Senate bill: Section 4 of S. 1546 would amend 4904(d) to clarify that an attorney may receive payment for representation in proceedings before VA or the Court of Veterans Appeals directly from VA out of a retroactive benefit award only if the total amount of the fee is contingent upon the claim being resolved in favor of the appellant.

Compromise agreement: Section 504 follows the Senate bill.

Codification herbicide-exposure presumptions Established administratively

Current law: The Agency Orange Act of 1991, Public Law 102-4, enacted on February 6, 1991, established a statutory presumption of service connection for three conditions resulting from exposure to herbicides in the Republic of Vietnam during the Vietnam era: chloracne, soft-tissue sarcoma, and non-Hodgkin's lymphoma. In addition, the act required VA to contract with the National Academy of Sciences for a review of the scientific literature on the health effects of exposure to herbicides. NAS was required to report its findings to the Secretary, who then was required to decide whether presumptions of service connection should be established for any of the conditions considered by NAS. In 1993, following the submission by NAS of the first report under the act, the Secretary announced decisions to add to the presumptive list Hodgkin's disease, porphyria cutanea tarda, respiratory cancers (lung, trachea, bronchus, and larynx), and multiple myeloma. VA has finalized regulations to implement these decisions, found in section 3.309(e) of title 38, Code of Federal Regulations.

House bill: Section 201 of H.R. 4088 would amend section 1116 of title 38 to codify the presumptions of service connection based on exposure to herbicides for Hodgkin's disease, porphyria cutanea tarda, respiratory cancers (lung, trachea, bronchus, and larynx), and

multiple myeloma established administratively by the Secretary.

Senate bill: No comparable provision.

Compromise agreement: Section 505 follows the House bill.

Treatment of certain income of Alaska natives for Purposes of Needs-based benefits

Current law: Under current law, VA pays disability pension to non-service-connected wartime veterans whose annual incomes fall below levels specified in section 1521 of title 38 and who meet other qualifying criteria specified by statute. For purposes of computing annual income (and, thus, determining eligibility for pension and the amount of benefits paid), VA takes into account "all payments of any kind or from any source" received by the veteran, except as specified in section 1503 of title 38, or as otherwise excepted by law.

The Alaska Natives Claims Settlement Act, Public Law 92-203, codified at 43 U.S.C. section 1601 et seq. (ANCSA), sets forth the provisions under which the aboriginal land claims of Alaska's Native peoples were settled. ANCSA authorized the creation of 12 Native-owned and -operated regional corporations to administer assets transferred under the act for the benefit of Alaska Native shareholders. These corporations continue to exist today, and they distribute funds received in settlement of Native land claims and funds generated from corporate earnings to native village corporations and to Alaska Native shareholders.

House bill: No comparable provision.

Senate bill: Section 5 of S. 1626 would amend section 1503(a) by adding a new paragraph (11), to exclude payments received from Alaska Native corporations under ANCSA from the calculation of income for purposes of determining eligibility for VA pension, but only to the extent that these payments are excluded for purposes of other means-tested Federal benefits programs as specified in ANCSA.

Compromise agreement: Section 506 would establish a freestanding provision of law which reflects the intent of the Senate bill.

Elimination of requirement for payment of certain benefits in Philippine Pesos

Current law: Sections 107, 3532(d) and 3565(b)(1) of title 38, provide that VA benefits paid to certain eligible veterans in the Republic of the Philippines will be paid in Philippine pesos.

House bill: No comparable provision.

Senate bill: Section 402 of S. 2325 would amend sections 107, 3532(d), and 3565(b)(1) of title 38 to eliminate the requirement that certain VA benefits paid to eligible veterans in the Republic of the Philippines be paid in pesos, thereby allowing VA to issue regulations in order to comply with the requests of the Departments of State and Treasury that such restrictions be eliminated.

Compromise agreement: Section 507 follows the Senate bill.

Study of health consequences for family members of Atomic Veterans of Exposure of Atomic Veterans to ionizing radiation

Current law: There is no provision in current law relating to a study of the family members of atomic veterans.

House bill: No comparable provision.

Senate bill: Section 401 of S. 2325 would require the VA to enter into a contract with the Medical Follow-up Agency of the National Academy of Sciences, or a similar research entity, to convene an expert panel to determine the feasibility of a study of reproductive problems among atomic veterans. MFUA would be required to convene the panel and report their findings to Congress within 180 days. If MFUA concludes that such a study would be feasible, VA would be required to seek to enter into a contract with MFUA or a similar research entity to conduct such a study.

Compromise agreement: Section 509 is derived from the Senate provision but would delete the authorization for the research project itself, while maintaining the requirement that VA enter into a contract with MFUA to convene an expert panel to determine the feasibility of such research.

Center for Minority Veterans and Center for Women Veterans

Current law: Section 317 of title 38 requires the Secretary to designate one Assistant Secretary as VA's Chief Minority Affairs Officer (CMAO) with overall responsibility for assessing the needs of minority and women veterans, and for evaluating VA policies, regulations, programs, and other activities as they affect such veterans. Section 542 of title 38 establishes a VA Advisory Committee on Women Veterans and requires that the Committee consist of representatives of women veterans, experts in fields pertinent to the needs of women veterans, and representatives of both male and female veterans with service-connected disabilities.

House bill: H.R. 3013 would add a new section to Chapter 3 of title 38 to (a) establish a Center for Women Veterans in the Department of Veterans Affairs; (b) provide that the Director of the Center would report directly to the Secretary or the Deputy Secretary concerning the activities of the Center; (c) specify the functions for which the Director would be responsible; (d) require the Secretary to ensure that the Director is furnished with sufficient resources in order to carry out the functions of the Center in a timely manner; and (e) require that VA's documents regarding the budget include information about the Center.

Senate bill: S. 2429 would (a) create an Office for Minority Veterans which is similar in structure and purpose to the Center for Women Veterans in the House bill, in order to assist minority veterans; (b) establish an Advisory Committee on Minority Veterans; (c) designate a minority veterans representative at each VA facility; (d) create an Office for Women Veterans, which is substantively identical to the Center for Women Veterans established in the House bill; and (e) require that a representative of women veterans who have served in combat and a representative of those who have not served in combat serve on the Advisory Committee on Women Veterans.

Compromise agreement: Section 509 contains provisions derived from the House bill and the Senate bill which would establish a Center for Minority Veterans and a Center for Women Veterans.

Advisory Committee on Minority Veterans

Current law: There is no current law regarding the establishment of a VA Advisory Committee for Minority Veterans.

House bill: No comparable provision.

Senate bill: Section 2 of S. 2429 would (a) require the Secretary to establish an Advisory Committee for Minority Veterans; (b) require the Committee membership to represent certain groups relating to minority veterans; and (c) require the Committee to submit a report to the Secretary, not later than July 1 of each even-numbered year, which assesses the needs of and programs for minority veterans, and require the Secretary to share this report with Congress.

Compromise agreement: Section 510 follows the Senate bill, except that the statutory requirement to have an Advisory Committee for Minority Veterans would be for a period of three years.

Mailing of Notices of Appeal to the Court of Veterans Appeals

Current law: Under section 7266 of title 38, in order to obtain review of a final BVA decision by the United States Court of Veterans Appeals, an appellant must file a notice of appeal with the Court within 120 days after the date on which the notice of the BVA decision is mailed under section 7104(e). The Court implemented this statutory provision through adoption of Rule 4 of the Court's Rules of Practice and Procedure, which requires that a notice of appeal must actually be received by the Court within the statutory time limit in order to be timely filed. In a series of decisions, the Court has dismissed for lack of jurisdiction appeals that were mailed before, but received by the Court after, the 120-day limit had expired. (See, e.g., *DiDonato* v. *Derwinski*, 2 Vet. App. 42 (1991)).

Rule 4 of the Court's Rules of Practice and Procedure also allows the filing of a notice of appeal by "facsimile or other printed electronic transmission."

House bill: No comparable provision.

Senate bill: Section 3 of the S. 1546 would amend section 7266(a) of title 38 to require that a notice of appeal be deemed received by the Court on the date it is postmarked, if it is mailed. Only legible United States Postal Service postmarks would be sufficient. The Court's determination as to the legibility of a postmark would be final and not subject to review by any other court.

Under amended section 7266(a), if a notice of appeal is delivered to the Court (for example, by private courier or delivery service), it would be considered timely filed if it is received by the Court within the 120-day limit established by Congress.

Section 3(b) of the Senate bill would provide that the effective date of the amendment to section 7266(a) would be the date of the enactment of the act and would apply only to notices of appeal delivered or mailed to the Court on or after that date.

Compromise agreement: Section 511 follows the Senate bill, except that it also would require specifically that the notice of appeal be properly addressed to the Court.

TITLE VI—EDUCATION AND TRAINING PROGRAMS

Flight training

Current law: Sections 3034(d) and 3241(b) of title 38, and Section 2136(c) of title 10, allow eligible persons to use VA educational benefits for approved programs of vocational flight training commencing before October 1, 1994.

House bill: Section 2 of H.R. 4768 would establish vocational flight training as a permanent program under chapters 30 and 32 of title 38, and chapter 106 of title 10.

Senate bill: Section 1 of S. 2094 is substantively identical to the House provision, except that the Senate bill specifies that the provision would take effect on October 1, 1994.

Compromise agreement: Section 601 follows the Senate bill.

Training and Rehabilitation for Veterans with Service-connected disabilities

Current law: Section 3115 of title 38 authorizes vocational rehabilitation programs providing training or work experience for service-disabled veterans to be implemented through Federal, State, city, and local governments.

House bill: Section 3 of H.R. 4768 authorizes the use of Indian reservations for the purposes of section 3115 of title 38, in order to

allow eligible veterans to participate in non-pay programs of on-the-job training on Indian reservations.

Senate bill: No comparable provision.

Compromise agreement: Section 602 follows the House bill.

Alternative teacher certification programs

Current law: Section 3452(c) of title 38 defines the term "educational institution" for the purposes of chapters 34 and 36 of title 38.

House bill: Section 4 of H.R. 4768 would add to the definition of the term "educational institution" as described in section 3452(c), for the purposes of chapters 34 and 36, entities which provide training required for completion of any State-approved alternative teacher certification program as determined by the Secretary, effective upon enactment for the period ending September 30, 1996.

Senate bill: No comparable provision.

Compromise agreement: Section 603 follows the House bill.

Education outside the United States

Current law: Section 3476 of title 38 denies education benefits to eligible individuals who pursue a course of education not in a State unless that course is pursued at an approved institution of higher learning and the course if approved by the Secretary.

House bill: Section 5 of H.R. 4768 would amend section 3476 to remove the requirement that courses offered by approved foreign universities and colleges be located at the site of the approved institution in order for such courses to be eligible for approval by the Secretary.

Senate bill: No comparable provision.

Compromise agreement: Section 604 follows the House bill.

Correspondence courses

Current law: Section 3672 of title 38 does not specifically address the requirements for approval of correspondence or combination correspondence-residence programs or courses.

House bill: Section 6 of H.R. 4768 would add to section 3672 of title 38 a provision requiring that a correspondence program or combination correspondence-residence course is eligible for approval by State Approving Agencies only if the educational institution offering such program or course is accredited by an agency recognized by the Secretary of Education. This section would also add a provision to section 3672 requiring that no less than 50 percent of the graduates of any such program or course take a minimum of 6 months to complete the program or course.

Senate bill: No comparable provision.

Compromise agreement: Section 605 follows the House bill except that the word "agency" is changed to "entity."

State approving agencies

Current law: Section 3674(a)(4) of title 38, relating to payments by VA to State and local agencies for reasonable expenses associated with approval of courses of education, limits the total amount made available under that section to $12,000,000 per fiscal year. Section 3674A(a)(3) requires the Secretary to functionally supervise course approval services.

House bill: Section 7 of H.R. 4768 would amend section 3674(a)(4) to increase the maximum amount available under the section to $13,000,000 per fiscal year, and would strike sections 3674A(a)(3)(B) and 3674(a)(3), thereby eliminating the reporting and supervision requirements contained therein.

Senate bill: No comparable provision.

Compromise agreement: Section 606 follows the House bill.

Measurement of Courses

Current law: Under Section 3688(b) of title 38, the Secretary defines full and part-time training for purposes of courses pursued under chapter 30, 32, 35, or 36.

House bill: Section 8 of H.R. 4768 would add chapter 106 of title 10 to the sources of educational and training benefits for which the Secretary will define full and part-time training.

Senate bill: No comparable provision.

Compromise agreement: Section 607 follows the House bill.

Veterans' Advisory Committee on Education

Current law: Section 3692 of title 38 establishes a Veterans' Advisory Committee on Education which shall remain in existence until December 31, 1994. The Secretary is required to consult with and seek the advice of the committee with respect to the administration of chapters 30, 32, 34, 35, and 36 of title 38.

House bill: Section 9 of H.R. 4768 would extend the Advisory Committee until December 31, 2003, and make technical changes to the Committee's mandate.

Senate bill: No comparable provision.

Compromise agreement: Section 608 follows the House bill.

Contract Educational and Vocational Counseling

Current law: Section 3697(b) of title 38 limits payments made under section 3697 for contractual educational and vocational counseling services to $5,000,000 in any fiscal year.

House bill: Section 10 of H.R. 4768 would amend section 3697(b) to raise the payment limitation to "$6,000,000," effective October 1, 1994.

Senate bill: No comparable provision.

Compromise agreement: Section 609 follows the House bill.

Service Members Occupational Conversion and Training Act of 1992

Current law: The Service Members Occupational Conversion and Training Act (SMOCTA), enacted by Public Law 102-484, authorizes payment of a subsidy to employers who train recently separated service members who are unemployed, whose military skills do not transfer to the civilian job market, or who are disabled. The subsidy is 50 percent of the starting training wage payable over a period of 18 months up to a maximum of $10,000 ($12,000 for disabled veterans). Under current law, the 18-month limitation on payment of the subsidy is phrased in terms of an 18-month limit on the period of training.

House bill: Section 11 of H.R. 4768 would allow the employer and veteran to agree to a training program that lasts longer than 18 months, but with no payment of a subsidy for the extended training period. The provision would also: a) Clarify that the requirement in current law that employers pay a comparable wage refers to wages paid in the community where the veteran is being trained; b) clarify that payment of the subsidy is limited to an 18-month period, or the equivalent where the length of a training program is calculated in hours; c) amend the requirement that a portion of the reimbursement be retained until the 4th month of the veteran's employment by also permitting payment 4 months after completion of the 18th month of training, whichever is earlier; d) allow a trainee to switch into an alternative approved training program with the employer; and e) permit an eligible veteran to begin an approved training program on the date that the notice of approval is transmitted.

Senate bill: Section 2 of S. 2094 is substantively identical to the House provision, except that: a) The amount of payment an employer may receive would be measured in the number of hours equivalent to 18 months, rather than in months; b) the provision for retaining a portion of the reimbursement until the fourth month of employment would not be changed; c) and the limit on assistance paid to employers would include amounts received but not amounts due.

Compromise agreement: Section 610 follows the House bill except that it includes the Senate provision which measures the amount of payment an employer may receive in the number of hours equivalent to 18 months.

TITLE VII—EMPLOYMENT PROGRAMS

Job counseling, training, and placement

Deputy assistant secretary of labor for veterans' employment and training

Current law: There is no provision in law for a Deputy Assistant Secretary for Veterans' Employment and Training.

House bill: Section 2(a) of H.R. 4776 provides that there shall be a Deputy Assistant Secretary of Labor for Veterans' Employment and Training who shall perform such duties as the Assistant Secretary of Labor for Veterans' Employment and Training prescribes, that the position shall be a career position, and that the Deputy Assistant Secretary shall be a veteran.

Senate bill: No comparable provision.

Compromise agreement: Section 701(a) follows the House provision, except that the Deputy Assistant Secretary for Veterans' Employment and Training shall not be a career position.

DVOP specialists' compensation rates

Current law: Section 4103(a)(1) of title 38 provides that compensation for disabled veterans' outreach program (DVOP) specialists shall be set at a rate not less than the rate prescribed for an entry level professional in the State Government of the State in which the DVOP is employed.

House bill; Section 2(b) of H.R. 4776 would require compensation for DVOP's to be set at rates comparable to those paid other professionals in the State Government.

Senate bill: No comparable provision.

Compromise agreement: Section 701(b) follows the House provision with an addition providing that compensation shall be set at rates comparable to those paid other professionals performing essentially similar duties.

Special unemployment study

Current law: Section 4110A requires the Secretary, through the Bureau of Labor Statistics, to conduct a biennial study of unemployment among special disabled veterans and veterans who served in the Vietnam theater of operations during the Vietnam era.

House bill: Section 2(c) of H.R. 4776 expands the scope of the study to include veterans who served after the Vietnam era and veterans discharged or released from active duty within the 4 years prior to the study, and requires that information regarding women veterans shall be compiled for each category.

Senate bill: No comparable provision.

Compromise agreement: Section 701(c) provides that the scope of the study shall be expanded to include veterans of the Vietnam era who served outside of the theater of operations, veterans who served after the Vietnam era, and veterans discharged or released from active duty within the 4 years prior to the study. It requires that, for each of the

classifications of veterans, there shall be a category for women veterans.

The Committees recognize that the Bureau of Labor Statistics uses a survey methodology that produces a small sample size for women veterans.

Employment and Training of Veterans

Federal contracts

Current law: Section 4212(a) of title 38 requires, among other things, that the President promulgate regulations which require Federal contractors to list all "suitable" job openings with the local employment service office.

House bill: Section 3(a)(1)(C) of H.R. 4776 would strike the word "suitable" from section 4212(a).

Senate bill: No comparable provision.

Compromise agreement: Section 702(a) would amend section 4212(a) to require Federal contractors to immediately list all open positions except executive and top management positions, those positions that will be filled from within the contractor's organization, and positions lasting three days or less.

It is the Committees' intent that Federal contractors may not exclude from the listings positions at the middle management and supervisory level.

Eligibility requirements for veterans under federal employment and training programs

Current Law: Section 4213 of title 38 excludes certain pay and other amounts received by veterans and eligible persons when determining the needs or qualifications of participants in employment or training programs financed in whole or in part with Federal funds.

House bill: Section 3(b) of H.R. 4776 would add benefits received under chapter 30 of title 38 and chapter 106 of title 10 to the amounts disregarded pursuant to section 4213, and would delete reference to chapter 34.

Senate bill: No comparable provision.

Compromise agreement: Section 702(b) follows the House bill, and, in addition, would delete the words "the needs or qualifications of participants in" in section 4213, and would insert, in lieu thereof, the words "eligibility under."

TITLE VIII—CEMETERIES AND MEMORIAL AFFAIRS

Eligibility for Burial in National Cemeteries of Spouses who Predecease Veterans

Current law: Section 2402 of title 38 specifies who is eligible to be buried in an open national cemetery. The Veterans' Benefits Improvement and Health Care Authorization Act of 1986, Public Law 99-576, made a technical correction in section 5 in order to make the section gender neutral. However, the change unintentionally deleted the statutory eligibility for burial in a national cemetery for a veteran's spouse who predeceases the veteran.

House bill: No comparable provision.

Senate bill: Section 403 of S. 2325 would restore the statutory eligibility for burial in national cemeteries of spouses who predecease veterans eligible for such burial.

Compromise agreement: Section 801 follows the Senate bill.

Restoration of burial eligibility for unremarried spouses

Current law: Section 2402 of title 38 permits the surviving spouse of a veteran to be buried in any open national cemetery. The term "surviving spouse" is currently defined in section 101(3) of title 38 as one who is the spouse of a veteran at the time of the veteran's death and who has not remarried. Section 8004 of the Omnibus Reconciliation Act of 1990, Public Law 101-508, precluded eligibility for certain benefits under title 38, including eligibility for burial in national cemeteries, for remarried surviving spouses whose subsequent marriages were ended by death or divorce.

House bill: Section 4 of H.R. 3456 would reinstate eligibility for burial in national cemeteries of surviving spouses whose subsequent marriage ended by death or divorce.

Senate bill: No comparable provision.

Compromise agreement: Section 802 follows the House bill.

Extension of authorization of appropriations for State cemetery grant program

Current law: Section 2408(a)(2) of title 38 authorizes appropriations of such funds as may be necessary for fiscal year 1985, and for each of the 9 succeeding fiscal years, for the purpose of making grants to any State in establishing, expanding, or improving veterans' cemeteries owned by such State.

House bill: Section 7 of H.R. 949 would extend the authorization of appropriations for the State Cemetery Grants Program from September 30, 1994, to September 30, 1999.

Senate bill: No comparable provision.

Compromise agreement: Section 803 follows the House bill.

Authority to use flat grave markers at the Willamette National Cemetery, Oregon

Current law: Section 2404(c)(2) of title 38 requires that all grave markers in national cemeteries be upright for interments on or after January 1, 1987, except that flat grave markers may be used (a) in any section of a cemetery that used flat grave markers prior to October 28, 1986, (b) in any cemetery located on the grounds of or adjacent to a VA health care facility, or (c) at those grave sites where cremated remains are interred.

House bill: No comparable provision.

Senate bill: Section 404 of S. 2325 would authorize the use of flat grave markers at the Willamette National Cemetery in Oregon, notwithstanding section 2404(c)(2) of title 38.

Compromise agreement: Section 804 follows the Senate bill.

TITLE IX—HOUSING PROGRAMS

Eligibility

Current law: Subsections (b)(2) and (b)(5)(A) of section 3701 of title 38 expand the definition of the term "veteran" for purposes of chapter 37.

House bill: Section 1 of H.R. 4724 would add to the definition of veteran, persons discharged or released from the Selected Reserves before completing 6 years of service because of a service-connected disability, and would extend eligibility to surviving spouses of reservists who died on active duty or due to a service-connected disability.

Senate bill: No comparable provision.

Compromise agreement: Section 901 follows the House bill.

Revision in computation of aggregate guaranty

Current law: Section 3702 of title 38 provides for the calculation of the loan guaranty entitlement. Subsection (b)(1)(A) of section 3702 requires that any home acquired with a VA-guaranteed loan must have been disposed of or destroyed as one precondition to the restoration of entitlement.

House bill: No comparable provision.

Senate bill: Section 2 of S. 1626 would eliminate the precondition to restoration of loan guaranty entitlement provided for in subsection 3702(b)(91)(A).

Compromise agreement: Section 902 follows the Senate bill, but provides that the Secretary may waive the precondition to restoration of loan guaranty entitlement contained in subsection 3702(b)(1)(A) once for each veteran.

Public and community water and sewerage systems

Current law: Section 3704(e) of title 38 prohibits VA from guaranteeing a loan to purchase or construct a home not served by public water and sewerage systems where such service is certified as economically feasible.

House bill: Section 4 of H.R. 4724 would eliminate the prohibition contained in section 3704(e).

Senate bill: No comparable provision.

Compromise agreement: Section 903 follows the House bill.

Authority to guarantee home refinance loans for energy efficiency improvements

Current law: Section 3710 of title 38 identifies the types of loans that may be guaranteed under the VA home loan program, and establishes certain conditions and restrictions with respect to such loans.

House bill: Section 3(a) of H.R. 4724 would allow for the costs of energy efficiency improvements to be added to the loan balance in connection with a loan refinanced for the purpose of reducing the interest rate.

Senate bill: Section 3 of S. 1626 would allow for the costs of energy efficiency improvements to be added to the balance of a loan being refinanced, and would provide an exception for such purposes from the maximum loan amount as provided in section 3710(e)(1)(C).

Compromise agreement: Section 904 follows both bills, except that it includes the exception to the maximum loan amount in a refinance as provided in the Senate bill.

Authority to guarantee loans to refinance adjustable rate mortgages to fixed rate mortgages

Current law: Subsection 3710(e)(1)(A) of title 38 requires that the interest rate of a loan which is guaranteed in order to refinance an existing loan must be lower than the rate of the loan which is being refinanced.

House bill: Section 3(b) of H.R. 4724 would authorize the refinancing of adjustable rate mortgage loans to fixed rate mortgage loans at a higher interest rate.

Senate bill: No comparable provision.

Compromise agreement: Section 905 follows the House bill.

Manufactured home loan inspections

Current law: Section 3712(h)(2)(a) of title 38 requires the Secretary to make certain inspections with respect to the financing of loans for the purchase of manufactured housing.

House bill: Section 4 of H.R. 4724 would eliminate VA inspection requirements under section 3712(h)(2)(A), and would provide that manufactured housing that is certified to conform to standards under section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 shall be deemed in compliance with requirements of subsection 3712(h)(1).

Senate bill: No comparable provision.

Compromise agreement: Section 906 follows the House bill.

Procedures on default

Current law: Section 3732(c) of title 38 permits the Secretary to acquire property from a loan holder who has purchased the property at foreclosure for a price not exceeding the lesser of the net value of the property or the total indebtedness.

House bill: Section 5 of H.R. 4724 would permit VA to acquire property from the lender at the price provided for under current law, despite the fact that the lender's

bid at the foreclosure sale might have exceeded that price.

Senate bill: No comparable provision.

Compromise agreement: Section 907 follows the House bill.

Minimum active-duty service requirement

Current law: Section 5303A establishes, with certain exceptions, a minimum of 24 months of active duty service for eligibility for benefits under title 38.

House bill: Section 6 of H.R. 4724 would add an exception from the 2-year minimum service requirement with respect to eligibility under chapter 37 of title 38 for service members discharged because of a reduction in force.

Senate bill: No comparable provision.

Compromise agreement: Section 908 follows the House bill.

TITLE X—HOMELESS VETERANS PROGRAMS

Reports on activities of the Department of Veterans Affairs to assist homeless veterans

Current law: Section 10 of the Homeless Veterans Comprehensive Service Programs Act of 1992, Public Law 102-590, requires VA to submit, no later than May 1 of each year 1994, 1995, and 1996, reports to the Senate and House Committees on Veterans' Affairs on the implementation of that act, including the numbers of veterans served, the services provided, and an analysis of the clinical value and cost effectiveness of the programs authorized under that act. However, there is no other provision in current law that requires VA to submit a report to Congress on all of the Department's activities to assist homeless veterans.

House bill: No comparable provision.

Senate bill: Section 105 of S. 2325 would require VA to submit an annual report by April 15 on its activities to assist homeless veterans, including information on the numbers of homeless veterans served and the costs to the Department of its activities, and to report biannually on the effectiveness of these activities.

Compromise agreement: Section 1001 follows the Senate bill and repeals the reporting requirement under section 10 of Public Law 102-590.

It is the Committees' intention that the information that VA is required to furnish to the Committees under section 10 of Public Law 102-590 would be contained, along with other matters, in the reports required under this section of the compromise agreement.

Report on assessment and plans for response to needs of homeless veterans

Current law: Section 107 of the Veterans' Medical Programs Amendments of 1992, Public Law 102-405, enacted on October 9, 1992, requires the Secretary to assess programs developed by VA facilities which have been designed to assist homeless veterans. In carrying out this assessment, the Secretary is directed to require the director of each VA medical center and regional office (a) to assess the needs of homeless veterans within the area served by the facility, including veterans' needs for health care, education and training, employment, shelter, counseling, and outreach services; and (b) to develop, along with other local officials and providers of services to the homeless, a list of all public and private programs to assist homeless persons in the areas served by the VA facilities. Public law 102-405 does not set a date for submission of this report.

House bill: No comparable provision.

Senate bill: Section 106 of S. 2325 would require VA to submit the report described above to the Senate and House Committees on Veterans' Affairs by December 31, 1994, and update this report annually thereafter, through December 31, 1997.

Compromise agreement: Section 1002 follows the Senate bill.

Increase in number of demonstration programs under Homeless Veterans Comprehensive Service Programs Act of 1992

Current law: Section 2 of the Homeless Veterans Comprehensive Service Programs Act of 1992, Public Law 102-590, requires VA to establish no more than four demonstration programs to be centers for the provision of comprehensive services to homeless veterans.

House bill: No comparable provision.

Senate bill: Section 108(a) of S. 2325 would raise the limit on the number of comprehensive homeless centers that VA may establish from 4 to 12.

Compromise agreement: Section 1003 follows the Senate bill, except that the limit would be raised to eight centers.

Removal of funding requirement of Homeless Veterans Comprehensive Service Programs Act of 1992

Current law: Section 12 of the Homeless Veterans Comprehensive Service Programs Act of 1992, Public Law 102-590, specifies that no funds may be used to carry out certain provisions in that law unless expressly provided for in an appropriations statute.

House bill: Section 8 of H.R. 949 would delete this requirement.

Senate bill: Section 108(b) of S. 2325 is identical to the House bill.

Compromise agreement: Section 1004 contains this provision.

Sense of Congress

House resolution: H. Res. 503 would express the sense of the House of Representatives that Congress, in providing funds for any fiscal year for programs to assist homeless individuals, should ensure that these funds are fairly apportioned for homeless veterans to help return homeless veterans to selfsufficient and productive lives.

Senate bill: No comparable provision.

Compromise agreement: Section 1005 is derived from the House resolution and would express that it is the sense of the Congress that (a) of the funds appropriated for any fiscal year for programs to assist homeless individuals, a share more closely approximating the proportion of the population of homeless individuals who are veterans should be appropriated to VA for VA homeless programs; (b) of the Federal grants made available to assist community organizations that assist homeless individuals, a share of such grants more closely approximating the proportion of the population of homeless individuals who are veterans should be provided to community organizations that provide assistance primarily to homeless veterans; and (c) the Secretary should encourage Federal agencies that assist homeless individuals, including homeless veterans, to be aware of and make appropriate referrals to VA for benefits, such as health care, substance abuse treatment, counseling, and income assistance.

TITLE XI—REDUCTIONS IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL

Requirement for minimum number of full-time equivalent positions

Current law: There is no provision in current law relating to the specific number of personnel in VA.

Section 5(b) of the Federal Workforce Restructuring Act of 1994, Public Law 103-226, requires the President, through the Director of the Office of Management and Budget, to ensure that the total number of full-time equivalent employees (FTEE) in all Federal agencies not exceed specified levels set for each of fiscal years 1994 through 1999. The Office of Management and Budget has the authority to determine how and from where these cuts will be taken.

House bill: Section 2 of H.R. 4013 would (a) prohibit, during fiscal years 1995 to 1999, any reduction in the number of FTEE in the Veterans Health Administration (VHA) other than as specifically required by a law directing a reduction in personnel from VHA or by the availability of funds; and (b) require that the personnel of VHA be managed on the basis of the needs of eligible veterans and the availability of funds. Section 3 of H.R. 4013 would require the Secretary to submit, not later than January 15, 1995, a report to the Senate and House Committees on Veterans' Affairs on streamlining activities in VHA.

Senate bill: Section 7 of S. 2330 would limit the number of FTEE cuts in VA over the next 5 years, and impose certain requirements relating to VA personnel.

Specifically, section 7(b) would set the number of FTEE in VA between the date of enactment of this measure and September 30, 1999, at 224,377 (which is 10,051 FTEE lower than VA's personnel level during fiscal year 1993).

Section 7(c) would require that, in determining the number of FTEE in VA during a fiscal year for purposes of achieving Federal workforce reductions, as required by section 5(b) of Public Law 103-226, only those VA employees whose salaries and benefits are paid with appropriated funds may be counted as VA FTEE. In fiscal year 1993, the administration counted 5,375 positions in VA (including 3,065 in the Veterans Canteen Service, 2,066 in the Medical Care Cost Recovery program, and 244 in the Medical Center Research Organizations) that were paid with funds other than federally appropriated funds.

Section 7(d) would allow the level of VA FTEE to fall below 224,377 if cuts are necessary due to a reduction in funds available to the Department, or if a law enacted after the enactment of this measure specifically requires additional cuts.

Section 7(e) would require the Secretary to submit an annual report, through the year 2000, to the Senate and House Committees on Veterans' Affairs that describes the numbers and positions of all VA employees cut and the rationale behind such cuts. This information would be required to be contained in the annual President's budget submitted to Congress pursuant to section 1105 of title 31, United States Code.

Compromise agreement: Section 1102 follows the Senate bill.

The Committees believe that, for purposes of determining an accurate estimate of the number of Federal employees in VA, those employees whose salaries and benefits are not paid with taxpayers' money should not be counted. The Committees note VA's intention to pay 2,218 medical residents in VA medical centers on a contract basis with the residents' medical schools.

The Committees strongly discourage VA from achieving the workforce reduction required under this section by cutting staff in an arbitrary, across-the-board manner. Such arbitrary cuts cause indefensible staffing imbalances among VA programs and facilities, and hurt VA's ability to provide services to veterans. Although this section does not direct the Secretary how to implement personnel reductions, section 7(e) would require VA to share with the Committees the numbers

and positions of any personnel cuts, and to justify such cuts. The Committees also believe that section 1103 of the compromise agreement would give VA a mechanism to avoid implementing across-the-board cuts.

Enhanced authority to contract for necessary services

Current law: Subsection 8110(c) of title 38 precludes VA from entering into contracts under which VA direct patient care or activities incident to direct patient care would be converted to activities performed by non-VA providers. For services other than those services, this section requires (a) that VA receive at least two bids from financially autonomous bidders; (b) that the cost to the Government of such contract service over the first 5 years to be 15 percent lower than the cost of Federal employees performing such services; and (c) that the quality and quantity of health care provided to veterans at the facility where such contract work is to be performed would be maintained or enhanced. Before carrying out a study in connection with a decision to consider entering such a contract, VA must submit notice to the appropriate Committees of the Congress of its intention to carry out such a study.

House bill: No comparable provision.

Senate bill: Section 8 of S. 2330 would (a) waive, during fiscal years 1995 to 1999, the limitations provided for under section 8110(c) of title 38; (b) require the Secretary to ensure that, in any contract for services that had been provided by VA employees, the contractor give priority to former VA employees who were displaced by the award of the contract; and (c) require the Secretary to provide to such former VA employees all possible assistance in obtaining other Federal employment or entrance into job training programs.

Compromise agreement: Section 1103 follows the Senate bill. The Committees note that providing VA enhanced authority to contract for services will assist VA in achieving its workforce reduction.

Study

Current law: No provision in current law requires a study of the feasibility and advisability of alternative organizational structures, such as the establishment of a quasi-Government corporation, to provide health care to veterans.

House bill: No comparable provision.

Senate bill: Section 9 of S. 2330 would (a) require the Secretary to contract with an appropriate non-Federal entity to study and report to Congress on the feasibility and advisability of alternative organizational structures, such as the establishment of a quasi-Government corporation, to provide health care services to veterans; and (b) authorize appropriations of $1 million for this purpose.

Compromise agreement: Section 1104 follows the Senate bill.

The Committees intend by this provision to draw on the expertise of an independent management consultant to study and assess the management structures and organization of the VA health care delivery system with particular reference to the likelihood that VA will need to compete with private health care providers. The Committees anticipate receiving a detailed evaluation of VA from a business perspective and recommendations on how VA's health care system might be improved and altered, if appropriate, to provide the highest quality medical services to our Nation's veterans in the most effective and efficient manner possible. It is the Committees' view that certain aspects of VA's health delivery system likely could operate more like nongovernment businesses.

Any analysis of VA's health care system must be made in the context of VA's overall mission to help veterans, especially those with service-connected disabilities. In this context, the Committees note that there are many aspects of VA that should and must remain federally funded and centrally administered, particularly programs to assist veterans who suffer from post-traumatic stress disorder, spinal cord dysfunction, or who need blind rehabilitation. VA provides a public good—a necessity which may or may not be adaptable to a competitive business environment. This study would attempt to find the most effective and efficient health delivery mechanism given this reality.

Mr. AKAKA. Mr. President, I rise in strong support of the pending measure, H.R. 4386, the Veterans Benefits Improvement Act of 1994. This is an omnibus measure that includes initiatives that have been considered and approved by the Senate Veterans' Affairs Committee.

Most importantly, this bill authorizes disability compensation for illnesses attributed to service during the Persian Gulf War; it also authorizes an outreach program to inform veterans and their families of research and other information relating to Persian Gulf syndrome. These provisions are based on separate legislation introduced by the distinguished chairman of the Committee, Senator ROCKEFELLER, and by my friend and colleague, Senator DASCHLE. Both deserve credit for making the health of Persian Gulf veterans a top priority of the 103rd Congress.

In addition, H.R. 4386 contains a provision that enables the President to continue efforts to downsize government, but wisely limits the number of personnel cuts that can be implemented at VA. The bill also makes various improvements relating to VA's adjudication system, education and training programs, burial benefits, and home loan guaranty program.

As the author of the underlying legislation, I note that H.R. 4386 incorporates provisions of S. 2305, the Veterans Law Judge Act of 1994, which I introduced earlier this year. S. 2305 called for re-establishing the historical parity in compensation which existed between members of the Board of Veterans Appeals and administrative law judges [ALJs] until 1990, when Congress raised the pay of ALJs above that of Board members. S. 2305 also provided for the reappointment of Board members at the expiration of their statutory 9-year terms, unless they were unable to meet certain performance criteria.

As called for under S. 2305, H.R. 4386 restores pay equity between Board members and ALJs; however, unlike my bill, the omnibus measure eliminates term limits for Board members altogether. To ensure continued accountability, the compromise measure provides for periodic recertification of Board members.

I believe that the BVA provisions included in H.R. 4386 represent an improvement on my original legislation. By simultaneously raising Board members' pay and eliminating term limits, the pending bill will enable VA to retain experienced Board members and recruit qualified candidates—problems which, if left unaddressed, will deplete the ranks of Board members and further exacerbate an already-enormous claims backlog.

H.R. 4386 also incorporates provisions derived from S. 2529, legislation I introduced on August 25 calling for the establishment in law of a minority veterans office, a women veterans office, and an advisory committee for minority veterans.

Specifically, H.R. 4386 establishes the existing minority and women's offices, which were created administratively pursuant to enactment of the Chief Minority Affairs Officer Act (Public Law 102–218), as statutory entities, redesignates them as "centers", and elevates them from the Assistant Secretary level to the Secretarial level. The omnibus bill also authorizes, for an initial 3 years, the establishment of an advisory committee for minority veterans. The function of this committee is to provide independent oversight of VA activities with respect to minorities—comparable oversight for women's activities is already undertaken by an existing advisory committee for women veterans.

It is my hope that, together, the minority and women veterans centers and minority advisory committee provisions will further raise the visibility of minority and women's issues within the Department, thus ensuring that the special needs and circumstances of these often overlooked groups receive full and appropriate consideration.

Mr. President, in closing, I would like to thank Chairman ROCKEFELLER and his fine staff for their work on this bill, particularly with respect to the BVA and women/minority veterans provisions. I understand that the negotiations with the House on this measure were long and arduous. Senator MURKOWSKI, the ranking member, and his staff also deserve credit for bringing this measure to the floor. This bill is ample proof that the welfare of veterans is not, and should never be, a partisan issue.

Thank you, Mr. President. I yield the floor.

So the bill (H.R. 4386), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD).

MENTAL HEALTH AND SUBSTANCE ABUSE PROGRAMS REAUTHORIZATION ACT

Mr. BREAUX. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 698, S. 2352, a bill to reauthorize certain programs relating to

the Substance Abuse and Mental Health Services Administration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2352) to amend the Public Health Service Act to reauthorize certain programs relating to the Substance Abuse and Mental Health Services Administration, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2652

Mr. BREAUX. Mr. President, I send a substitute amendment to the desk on behalf of Senators KENNEDY and KASSEBAUM.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX], for Mr. KENNEDY for himself and Mrs. KASSEBAUM proposes an amendment numbered 2652:

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. FAILURE TO COMPLY WITH MAINTENANCE OF EFFORT PROVISIONS.

(a) MENTAL HEALTH.—Section 1915(b)(3)(A) of the Public Health Service Act (42 U.S.C. 300x-4(b)(3)(A)) is amended—

(1) by striking "material"; and

(2) by inserting before the period at the end thereof the following: ", except that the Secretary may defer the reduction for a reasonable period of time, but in no event to exceed 1 year, to afford the State an opportunity to correct or mitigate the violation of the agreement that the State made for the preceding year under paragraph (1), and the Secretary shall recalculate the reduction accordingly".

(b) SUBSTANCE ABUSE.—Section 1930(c)(1) of the Public Health Service Act (42 U.S.C. 300x-30(c)(1)) is amended—

(1) by striking "material"; and

(2) by inserting before the period at the end thereof the following: ", except that the Secretary may defer the reduction for a reasonable period of time, but in no event to exceed 1 year, to afford the State an opportunity to correct or mitigate the violation of the agreement that the State made for the preceding year under subsection (a), and the Secretary shall recalculate the reduction accordingly".

SEC. 2. BLOCK GRANTS TO STATES REGARDING MENTAL HEALTH AND SUBSTANCE ABUSE.

Section 205(b) of the ADAMHA Reorganization Act (42 U.S.C. 300x(b) note) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2), the following new paragraph:

"(3) FISCAL YEAR 1995.—With respect to an allotment for fiscal year 1995 under section 1911 or 1921, the Secretary shall, upon the request of the chief executive officer of a State, make a transfer as described under paragraph (1) or (2) in the case of any State for which such an allotment for fiscal year 1995 is—

"(A) in the case of an allotment under section 1911, at least 20 percent less than the amount of the allotment for such State under such section for fiscal year 1994; or

"(B) in the case of an allotment under section 1921, at least 20 percent less than the amount of the allotment for such State under such section for fiscal year 1994.".

Mr. KENNEDY. Mr. President, I am pleased to join the ranking member of the Labor Committee, Senator KASSEBAUM, in proposing a substitute amendment to S. 2352. As introduced, S. 2352 was a simple 1-year reauthorization of certain mental health and substance abuse programs in the Department of Health and Human Services. The bill was reported favorably by the Labor Committee in August, but there is not unanimous consent to pass this bill in the Senate.

There is agreement, however, to address two short-term problems in the administration of the mental health substance abuse block grant programs, and this substitute amendment will accomplish that goal.

First, several States are in violation of a provision in current law requiring them to maintain their own substance abuse and mental health expenditures as a condition of receiving Federal funding. Some of these States may have remedied this violation after being notified of it, but current law does not permit subsequent remedial spending to be considered in assessing compliance with the maintenance of effort requirement. Section 1 of the substitute amendment would clarify this requirement and permit the Secretary to consider remedial spending in assessing compliance.

Second, current law does not permit States to transfer money between their substance abuse and mental health allotments in fiscal year 1995, and authority they were granted until this fiscal year. The expiration of the transfer authority is causing hardship to States, such as Vermont, which lose money in fiscal year 1995 under the operation of the current formula. Section 2 of the substitute amendment will extend the transfer for 1 more fiscal year for especially hard-hit States.

I expect the Labor Committee to take up a comprehensive, multiyear reauthorization of these mental health and substance abuse programs next year. In the meantime, I urge my colleagues to support this interim measure.

AMENDMENT NO. 2653

(Purpose: to increase the required rate of cases of AIDS in a State for purposes of the funding agreement concerning prevention and treatment grants)

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator HATCH.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. HATCH, proposes an amendment numbered 2653 to amendment No. 2652:

The amendment is as follows:

At the end of the amendment add the following new sections:

SEC. 3. PREVENTION AND TREATMENT GRANTS.

Section 1924(b)(2) of the Public Health Service Act (42 U.S.C. 300x-24(b)(2)) is amended by striking "10 or more" and inserting "15 or more".

SEC. 4. EFFECTIVE DATE.

This Act shall take effect as if enacted on September 30, 1994.

Mr. HATCH. Mr. President, by way of background. Under current law, States which have an annual incidence of AIDS cases exceeding 10 cases per 100,000, must integrate HIV early intervention services into their substance abuse programs which can be funded by their Substance Abuse and Mental Health Services block grant funds.

Earlier this year, CDC broadened the case definition of AIDS, thereby causing several States which otherwise would not have had to meet the above requirement. States are concerned that the "trigger" of this requirement and the expenditure of funds for the early intervention services would lessen the amount of funds they would have otherwise had available under the block grant.

Amendment: The amendment would raise the "trigger point" from 10 cases per 100,000 to 15 cases per 100,000. The intent is that States which previously did not have to comply with the early intervention provision would not have to do so this year simply because CDC had changed the case definition.

Based on 1993 data, the States this would affect are as follows:

Alaska	11.7
Kansas	14.1
Maine	12.0
Minnesota	14.5
Nebraska	11.1
New Hampshire	11.0
Ohio	14.3
Utah	14.2
Vermont	12.9
Wisconsin	14.5

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. BREAUX. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BREAUX. Mr. President, I think at this time I can safely say there is no more business at this point as if in morning business.

I yield the floor.

Mr. SIMPSON. To Senator GRASSLEY.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Iowa is recognized.

NOMINATION OF BUSTER C. GLOSSON

Mr. GRASSLEY. For the benefit of people who maybe want to speak on any of the subjects that are before the Senate tonight, three nominations and the national park bill, I am going to speak just for 3 or 4 more minutes on Glosson, and then I hope to later on involve myself with some questioning of the chairman of the committee, after he has spoken. I still have not spoken at all on the Barry nomination or the Bolton promotion, and I have in that area a lot of things that I wish to say, as well. So I will be speaking just for 3 or 4 more minutes, finishing up one point that I wish to make on Glosson, and then I intend to yield the floor.

Before I yielded to the distinguished floor managers to take care of a lot of other business, I was complimenting the Armed Services Committee for all the efforts they had put forth to clean up the promotion process and some of the problems connected with it.

I see the Glosson nomination as something sitting there reminding us all the time that this situation has not improved from the problems that were brought up as far back as Secretary Weinberger.

So we have had these three senior Air Force generals step forward and they blew the whistle. They did that at great personal risk.

That is how this whole process is supposed to work. I think that is the way the committee wanted it to work. That is the way it should work. And that is how we want it to work. As General Sullivan testified before the committee when the committee was holding hearings on this subject, honesty in the officer corps depends upon an honest promotion process. I think he was saying that honesty breeds honesty. And honesty is the cornerstone of leadership. A good leadership is key to a strong military force.

All of the committee's hard work will go down the drain, in my estimation, if we let this bad example of Glosson abusing the system, trying to peddle influence—if this nomination goes through and the stamp of approval is on it, it is just like the Senate has turned its back on all those problems that have been so well exposed by the Senate Armed Services Committee. It is just a step backwards. The entire Armed Forces and, most importantly, senior Air Force officers I believe are watching us closely, waiting to see what we do on the Glosson nomination.

Now, as I said earlier, maybe you do not get a clear picture of these junior officers and other military people calling your office and telling you of problems like this, and that Glosson should not get a nomination, and it sends a bad signal—or letters that I have received. Maybe I should not make my judgment that that is the basis for saying that this is a bad example, but I have to draw that conclusion.

I know that because of these many telephone calls and letters that I have received. That is the message I am getting. I think it is loud and clear. If we reject the nomination, I think that would be a stern warning that if anybody is going to tamper with the board, you will get nailed. That would deter others from tampering with selection boards down the road. That is the signal that I believe we in the Senate should be sending when we consider this nomination. If we approve of the Glosson nomination, I think senior officers may say to themselves, well, if Glosson can do it and get away with it, then I am going to do it.

In a sense, Mr. President, this is where the rubber meets the road. Do we hold Glosson accountable and keep trying to bring integrity to the selection process or do we cave in to pressure? Do we reward Glosson and do we forget about integrity in the process?

Mr. President, in my mind, we do not have a choice. We have a responsibility to hold General Glosson accountable for misconduct, as unpleasant as that may be.

Misconduct must have unpleasant consequences. Without accountability, nothing else the Senate does will count for much. All of the fancy words and all of the well-meaning legislation will be nothing more than hollow promises.

Rules must be followed, rules must be enforced, and when rules are broken, those responsible must be held accountable. That is where we are with the Glosson nomination. General Glosson broke the rules. It seems to me he must face the music. Confirmation by the Senate is a reward and an honor, a reward and an honor given only to those who have demonstrated the highest levels of integrity and outstanding performance of duty.

Lt. Gen. Buster Glosson does not meet those standards. General Glosson does not deserve the honor of Senate confirmation.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Idaho.

THE FOREST HEALTH OF THE WEST

Mr. CRAIG. Mr. President, for a few moments this evening I would like to visit with the Senate about a problem that is plaguing the intermountain West that I believe this administration is not willing to address or be responsive to.

I say that in your presence, Mr. President, because it is fortuitous that you are in the chair at this moment in time because on August 29 you came to Boise with me and brought along the Forestry Subcommittee of the Senate Agriculture Committee, which you chair. At that time we held some very critical hearings in Idaho pertaining to the forest health of the West, and especially the intermountain West, an area of the Western United States that for the last 8 years has been plagued with an unprecedented drought that has plunged the forests of that area of Montana, Idaho, Oregon, Washington, and northern California into a tremendous state of illness that has in part produced the tragedy and the catastrophic events of this past summer.

What am I talking about? As the chairman knows, in August when he flew into Boise, ID, he flew across a blanket of smoke that was spread across the Western States from Oregon to Yellowstone and through Wyoming that was a product of forest fires that were burning at an unprecedented rate in total acreage that region of the country had never witnessed. Over 3.7 million acres of forested lands and rangelands burned in the States that I have just mentioned this past summer.

As we speak in the early part of October, fires are still smoldering in the unroaded forested areas of Idaho only to be put out by the snows that are beginning to fall in the high country of the Bitterroots and the Rockies of this inland area. Three point seven million acres of land, primarily forested land, has burned; 26 firefighters have lost their lives; $700 million in fire suppression costs have been extended to date and 5 billion board feet of timber—5 billion board feet of timber—have been tremendously damaged or destroyed.

Those were the statistics that were building on August 29 when you, Mr. President, and I held that hearing in Boise, ID. It was at that time that the chief of the Forest Service Jack Ward Thomas came before that hearing to announce a western forestry health initiative that he was going to put together in a team-like fashion to deal with the forest health problem that that hearing was speaking to and that you and I have been concerned about for nearly a year now as we held hearings and attempted to examine what the condition of these forests were, not just in my State or in that region, but in your own region, and also to understand what kinds of practices and policies were coming forth from the U.S. Forest Service that might in some way begin to alleviate this catastrophic problem.

The chief said at that time:

> I will put together a western forest health initiative team, and I will report to you initial recommendations by September 30.

It takes a simple glance at the calendar to know that September 30 has come and gone. And it was then because of that concern that staffs of myself, you, Senator DASCHLE, Senator LUGAR and Senator LEAHY arranged for a briefing on this very subject on the 4th of October of this past week. The Forest Service sent an individual to the Hill who, in my opinion, had never had any experience on the ground, and

suggested to us that they were not ready yet to make their presentation, that it was proprietary information, and that sometime in the future, 30 or 40 days out, they might consider the possibility of being able to make their first presentation to us.

I would guess, Mr. President, that in the normal span of time that sounds a little reasonable; 30 to 40 days off from the mark that the chief had set for himself and for us on August 29.

Why then am I here at this late hour of the session talking about this issue? The reason I am or for all the figures that I have just given, the 3.7 million acres of land that has been destroyed or damaged, the 26 forest fighters' lives that were lost, the $700 million spent in fire suppression, but more importantly the 5 billion acres of timber that is standing out there at this moment that must be addressed and a solution must be brought as to how that timber will be managed.

This past week, yesterday to be exact, a group of forest industry representatives from my State brought back by Attorney General Larry Evelhoff, met in the Executive Office Building of this Presidency with Katie McGinty and a variety of other people from the administration to talk about this urgent problem. They brought with them a proposal that I have in my hand tonight that I would like to ask unanimous consent become part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UP FROM THE ASHES—ECOSYSTEM RESTORATION, REHABILITATION, AND TIMBER RECOVERY IN WESTERN NATIONAL FORESTS

SUMMARY

This summer's wildfires have created challenges that require decisive, prompt action. Huge volumes of burned timber now stand dead in forests throughout the west. This timber is still valuable, if it can be recovered before it deteriorates. Thousands of acres of watersheds are denuded, the soil to be washed into important spawning streams unless the are stabilized and reforested. Clearly, it is a time for leadership from the Administration to not only meet these challenges, but to use them as opportunities for developing innovative, constructive land management policies.

There are barriers to implementing the needed on-the-ground actions. They include:

Pending injunctions against logging in salmon habitat until consultations on comprehensive forest plans can be completed (Pacific Rivers Council v. Thomas).

The requirement for complete environmental analyses of the potential affects of salvage logging and watershed rehabilitation efforts.

The likelihood that salvage logging decisions will be stalled by administrative appeals, and thereby delayed until the timber no longer has commercial value.

Leadership and firm decisions from the Administration can help overcome these barriers, and, in fact, will be vital to the success of the effort to recover the value of the burned timber and rehabilitate damaged watersheds. A comprehensive strategy is needed in order to assure that fire damaged timber can be sold by June 1, 1995. Specific actions needed include:

A statement of policy from the Administration setting timely rehabilitation, reforestation and the salvage of burned timber for commercial use as the principal objectives to guide federal agency actions on post-fire projects.

Direct the National Marine Fisheries Service and the Forest Service to develop a plan that will lift any injunctions against logging based on Endangered Species Act consultation requirements and which expedites this process as it applies to salvage operations and rehabilitation of burned watersheds.

Where it is legally sufficient, order the use of relatively simple "environmental assessments" to meet NEPA requirements for salvage ad rehabilitation plans and assign additional staff to update this work.

Exempt, using emergency rulemaking authority, salvage and rehabilitation decisions from the administrative appeals process.

Approve and encourage the use of a "single-contract" approach to implementing all aspects of post-fire treatment plans. This would include watershed rehabilitation, reforestation, and salvage recovery to allow industry diversification and participation in the full range of post-fire treatment needs.

Earmark receipts from the sale of burned timber for investment in fire rehabilitation projects and for appropriate thinning and prescribed burning of overcrowded, high fire-risk timber stands.

Move quickly to assess the burned timber values and watershed rehabilitation needs of each area affected by this summer's wildfires. The assessment and action plan for each area should be completed and ready for implementation by June 1, 1995, in order to ensure the viability of salvage logging.

PROPOSAL FOR EXPEDITING SALVAGE, RESTORING WATERSHEDS IN WESTERN FORESTS

Problem: This summer's wildfires have killed valuable stands of trees and wreaked havoc with watersheds in many western national forests. Forest Service managers are now faced with a dual challenge—recovering burned timber which will quickly deteriorate, and assuring that burned watersheds are rehabilitated before erosion damages important fisheries, including endangered salmon.

Unfortunately, it is almost certain that the Forest Service will encounter numerous obstacles as they try to meet these challenges. Those who oppose logging and other well-established uses of the national forests will use all avenues the law provides to stop those activities with which they disagree. Because of the time sensitive nature of logging burned timber, even delaying the Forest Service's efforts can effectively stop proposed salvage of burned timber. Perhaps nowhere will the essence of the debate over the national forests—whether to log or not to log on these public lands—become clearer than in the struggle to decide how to deal with the aftermath of the fires of 1994.

While the challenges are great, the discussion over logging fire-killed timber provides the opportunity to explore new, efficient, economically and environmentally sound ways to manage the national forests. Salvage logging, if it can proceed, can serve as a way to not only utilize the dead timber, but to fund needed rehabilitation efforts, as well as to treat overcrowded, unhealthy forests to reduce the risk of future catastrophic fires where the danger is now unacceptably high.

THE BARRIERS

There exist in either case law or in administrative regulations all the tools necessary to enable those who disagree with salvage efforts to stop them. They are:

(1) As a result of the Federal Court's decision in Pacific Rivers Council v. Thomas an injunction is pending that would stop all logging and road building activities in salmon spawning drainages in six national forests in Idaho. These same forests hold most of the region's burned timber. If such an injunction is granted—and it likely will be—it can only be lifted through a court-approved process for consultation on the effects of the implementation of these comprehensive forest plans on salmon recovery.

(2) In addition to consultation on forest plans, the Forest Service and the National Marine Fisheries Service must also complete consultation on individual timber sales envisioned in these plans. This process is proving cumbersome and unclear even to those who must adhere to it.

(3) Irrespective of the Endangered Species Act requirements for consultation on the effects of logging on listed species, each proposed timber sale is subject to a rigorous analysis of its effects on the environment. Through this process, an adequate array of alternatives must be examined, and the effects of each recorded. This can easily become a time consuming process.

(4) Once the Environmental Assessments or Environmental Impact Statements and any required consultation among the involved federal agencies for the proposed action are complete, the ultimate decision is subject to administration appeals. Those who disagree with the decision can appeal the decision to higher levels of the Forest Service. This process, so long as the appellants choose to pursue it, can forestall actual logging beyond the point which the dead timber still has merchantable value.

THE SOLUTIONS

The Administration can take actions to either remove each of the barriers to logging the burned timber and rehabilitating watersheds or make them easier to overcome. Specific actions might include:

Clear direction from the Administration is needed. A statement of policy confirming the goals of prompt rehabilitation, reforestation and the salvage of commercial timber killed by the fires is a critical first step in assuring that the U.S. Forest Service understands the urgency of the situation.

The Federal Court's recent decision in Pacific Rivers Council v. Thomas will likely require that the Forest Service and the National Marine Fisheries Service develop a process for consultation on all forest plans in forests where salmon spawn. Leadership from the Administration is needed to assure that development of an adequate process is given a high priority within the two agencies and that the process itself can be completed quickly and efficiently.

Apart from the need to consult on forest plans, consultation on specific projects between NMFS and the Forest Service needs clarification and direction. The Administration can plan a key role in facilitating a process that is simple and effective.

The Forest Service has some flexibility in determining the level of environmental analysis that will be given each salvage timber sale and rehabilitation project. With direction from the Administration, the agency can choose less expensive and time consuming Environmental Assessments as opposed to the more expensive and time consuming effort to produce full Environmental Impact Statements, where it is legally appropriate to do so.

The Forest Service can define the harvest of all timber burned in this summer's fires as

an emergency. Through emergency rulemaking, the Administration can exempt such timber sales from the appeals process. With an emergency declaration it is also possible to shorten the time period for filing and deciding appeals or limiting appeals to only one level of review.

These actions would expedite the harvest of timber that has been killed by the fires and now must be salvaged while it still has value (approximately one to two years). There are two other aspects of national forest management consequential to the fires that demand equal attention.

First, burned watersheds need stabilization and rehabilitation. Erosion must be checked with barriers to deflect running water or to capture the sediment and ash it will carry. Bare soil must be seeded and reforestation initiated. In addition, plans are needed to monitor burned watersheds, both to gauge levels of damage to wildlife habitat and streams, but also to assess the effectiveness of various rehabilitation efforts.

Second, it is essential that we learn from the fires of 1994 and begin now to prevent such devastating fires in the future. We now know that by controlling wildfires in the past, we have allowed many forests to accumulate fuels and grow more trees than natural for the site. Coupled with that, some of these now overcrowded, stressed stands are close to homes and other human developments. The combination of such fire prone stands in areas of high human use constitutes a risk that is now unacceptable. The Forest Service has a clear obligation to identify these stands, thin them and use prescribed fire to lower fuel levels to an acceptable, and more natural range.

A STRATEGY FOR SUCCESS

Foremost among the Administration's efforts to resolve the issues raised by the fires of 1994 must be a process to categorize the burned areas and identify appropriate land management practices for them. Again, timeliness is the byword; unless the assessment of salvage opportunities and rehabilitation can be completed promptly, salvage values will disappear and the ravages of weather will complete the damage to watersheds where ground cover has been burned away. The process should assess several key variables, among them:

The value and technical feasibility of logging specific stands of burned timber,

Watershed values that are at risk from accelerated erosion,

The types of watershed stabilization or rehabilitation work needed for each drainage,

The type of environmental analysis needed to allow recovery of burned timber or watershed rehabilitation work to proceed,

The nature of any needed consultation to assess impacts to species listed under the Endangered Species Act, and,

Any ancillary issues that may be specific to a burned area but which must be addressed.

The forest industry stands ready to become a partner with the Forest Service in meeting the challenges posed by this year's fires.

Salvage logging can be a source of both income and manpower for completing watershed rehabilitation work. There are three ways to utilize the helpful potential of salvage logging. First, logging, thoughtfully planned and carefully conducted, can actually help stop erosion from burned lands. Fires harden the soil surface and water flows across it unless there are areas for it to permeate the soil. Skid trails and roads built perpendicular to the natural flow of water slows runoff and allows it to sink into the subsoil.

Second, proceeds from logging, can be utilized to fund current rehabilitation efforts. Wildlife and watershed management funds are always lacking within the Forest Service's normal budget. With the Administration's direction, salvage sale proceeds can help support critical projects in these areas. Funds could be used for stream cleanup, reforestation, grass seeding on erosive areas, and plantings of wildlife food. Moneys should also be earmarked to monitor burned watersheds, both to gauge the levels of damage to wildlife habitat and streams, but also to assess the effectiveness of various rehabilitation measures in limiting the fires' impact.

Provisions should be made to use some of the money from salvage sales to treat overstocked timber stands where the risk of future fires is unacceptably high. Such stands include those where fuel loads are abnormally high and where fires, if they occurred, would threaten private lands or high fisheries or wildlife values in adjoining stands. Timber lands meeting "high risk" criteria should be thinned and/or lightly burned under controlled conditions to reduce the hazard.

Finally, through the use of a "single-contract" concept, salvage logging could not only fund, but also complete watershed rehabilitation work. Such contracts would include not only the right to harvest salvageable timber at some specified dollar amount, but also the obligation by the purchaser to actually complete the rehabilitation projects specified in the contract. Forest products companies would bid for the timber offered in these contracts knowing that the contract obligated them to also build erosion control structures, reforest or reseed burned areas, or otherwise help reach the Forest Service's rehabilitation goals for the area. The rehabilitation objectives in the contract would reduce the price paid for the timber (thus, the value of the timber helps fund the work), and the Forest Service can specify and supervise not only the timber to be harvested, but the rehabilitation work to be completed.

CONCLUSION

The Forest Service has long been heralded for its unique ability to fight wildfires. The skill, energy and resources they apply to this task is remarkable. But the fires of 1994 call for the same dedication and ingenuity to be directed toward both forest rehabilitation, the recovery of burned timber, and forest treatments that will prevent such fires in the future. Meeting that challenge is a major issue as the U.S. Forest Service moves toward "ecosystem management" in the 1990s. It is a task that will require firm leadership and decisive action.

Mr. CRAIG. Mr. President, it was a simple proposal. It talked about the fires of the summer of 1994. It talked about the billions of board feet of timber that had been lost. It talked about the lives that had been lost. It talked about the thousands of denuded acres of land, soil, spawning beds in streams that were now at risk unless there was an immediate management proposal put in place that would begin to redress the problems of these destroyed or damaged acreages. It talked about what National Marine Fisheries was attempting to do with the Forest Service in developing a plan to respond to all of these issues consistent with the endangered species issues out in the Western States.

While that plan was presented in a comprehensive and well-thought-out way, the word that came from this administration was very simple. We are not yet ready to respond. We have at least a 30- to 60-day need to consult with friends of ours in the environmental community and to decide what they want to do as it relates to the possibility of the management of these lands that would deal with civil cultural practices and salvage sales and a variety of other things.

Mr. President, that kind of response is irresponsible. That kind of lack of interest or lack of care is almost unbelievable coming from an administration that places its mark high on the environmentalist as someone who is responsive and caring about the lands of the West and the lands of our country to say we are not yet ready to talk about a problem; that we are not yet ready to even begin to look at a plan to respond to the 3.7 million acres of charred and destroyed land of the Western intermountain States, both for environmental reasons and for management reasons.

Why am I concerned? A lot of that land lies within the boundaries of the State of Idaho. But I am concerned well beyond that because our Nation today cries out for a responsible and reasonable management plan for our forested public lands that recognizes salvage sales, that says there is a need to respond quickly when you have a bug infestation or when you need to change the nature of a forest because of a catastrophic event that will result in negative environmental activity. That catastrophic event has occurred. It occurred in the summer of 1994 when these lands with huge fuel buildups of trees and underbrush began to burn in the drought States of Idaho, Oregon, Washington, Montana, and northern California.

What is the problem? Why can I not wait? Why cannot everyone wait for the 30 or 60 days that this administration talks about? For just a moment, let me tell you what that problem is.

It is demonstrated on this diagram tonight because this administration—and I would not ask them to do otherwise—should stay within the laws of the land that this Congress has created for the purposes of managing our public lands. I am talking about the Forest Planning Act. I am talking about the National Environmental Policy Act. I am talking about a course of activity that is standard when you ask for a human activity on the public land. But there is a problem in using the time line with an administration that simply wishes to drag its feet until it is consulted appropriately with the environmental community as to what they ought or ought not do on this 3.7 million acres. Here is the problem.

If they consult now, and they begin to act with all of the natural analyses that are necessary under existing law and the National Endangered Species

Act, here is a time line that would suggest that if all worked well without appeals, without any objections, we might actually be able to have a management plan in place in a year and 4 or 5 months. What is wrong with that, Senator CRAIG? Why can you not accept that? Is that not a reasonable approach to management? That is an entire seasonal cycle. That is the winter and the spring and the summer and the fall and the winter and the spring again. And that is moisture and runoff and erosion, and the lands go unmanaged, and the lands go untreated for environmental purposes, and to protect the ecosystems and to protect the critical habitat in the stream beds where fish are trying to spawn, and the environment is trying to rejuvenate.

I say to Katie McGinty and this administration: You are doing the most antienvironmental act I have yet to see. Do not hide behind your green cloak. Come forward with a reasonable management plan that does a variety of things. Let me suggest to you what they ought to be. That is to move immediately—I mean tomorrow —to work with the professionals on the grounds of the U.S. Forest Service that have the talent and the unique quality we have demanded over the years, to put together a management plan that does a variety of things, and does not just cut trees. It begins to stabilize the streams and the banks. It begins to take the steep hillsides and to make sure that this fall, before the winter snows come, that grasses are seeded so that they can sprout in the spring and build a root base that will disallow the kind of erosion that can happen as a result of these catastrophic fires. But, no, that will not happen because they will be caught up in the business of a bureaucratic morass, because they are afraid to lead, based on the policy that is available to them today. That is one side of the story.

Here is the other side of the story, and I will be brief. Five-billion board feet of timber; it is burned and it is dead. But much of it is still standing, and much of it still has a commercial value. But that window of opportunity, before that commercial value will fade, is less than a year—in some species, it may be a little more—before it is worthless, before it could only be cut for firewood.

So what I am suggesting to this administration is the reason why their 30- or 60-day timeframe is simply too long is because that plan needs to be in place now. Some of that logging could occur this winter, and some of it could be done on the snow and frozen ground, where it would not damage the environment at all. Yet, it could remove a variety of those types of fiber that could be used for paper or dimensional timber or all of those kinds of things.

What does it mean in my State? It literally means thousands of jobs. It means millions of dollars to the U.S. Treasury. It means hundreds of thousands of dollars in stumpage fees to the counties and schools and road systems of my State. In Grangeville, ID, today, a small logging community and agricultural community in north central Idaho, just this last week, Ida Pine Mill gave the 60-day notice to its 100 employees that the mill was shutting down. There was no more timber. As far as they were concerned, that would be a permanent shutdown.

That mill is located less than 100 miles from nearly 500 million board feet of the very kind of timber that I have just described—less than 100 miles from enough timber to keep that mill operating for 4 or 5 years. Yet, not one signal, not one green light from this administration have we heard. When our staffs came together and asked for a briefing, we were told: Oops, priority information, cannot talk to you. We do not have our act together.

When my forest products people came back here yesterday, they were told: Stand in line until the environmental communities of this country tell us what to do. Since when do the environmental communities of this country run the public policy as administered by any President or administration? They do now, apparently. That is what we heard yesterday.

Well, OK, 100 workers at Ida Pine Mill in Grangeville, ID. That is in the mill, and there are 100 others in the woods. Over 200 families in Grangeville, ID, you are going to be out of work, and you are not going to be able to put food on the table this winter. Happy Thanksgiving and Merry Christmas from the Clinton administration.

Is that tough talk? No, it is angry, frustrated talk. It is not me understanding what they are doing, because they are not giving us any signal that they are doing anything. And we know now that you act when these things occur. On the State lands in Idaho right now, the State Lands Department is out and the trees are being marked that ought to be pulled out. They are even logging today in the burns. Grass is being seeded, and stream banks are being stabilized. That is what is going on on the State lands.

On the millions of acres of Federal land, not one thing is going on. Until the management team is put together—and I assume it is now, although we do not know—and until we get a policy put together—because this appears to be some extraordinary event; yet, it really is not—we cannot do anything.

Well, let me close at this moment. The Senator from Georgia has been more than patient. I know he has some issues to talk about. I will conclude with these thoughts:

We are talking about 5 billion board feet of charred timber that could be logged and turned into dimensional lumber. A million homes in America could be built from the trees that were burned this summer in that intermountain area on the 3.7 million acres that I am talking about. I would not expect that all of those trees could or should be logged. But I would expect that a good many or a good amount should come out, because that would be the right practice. If they are left, they will rot and die, and they generate bug populations and endanger surrounding forests that were not burned, and it all goes on in a very damaging way.

There is the time track that apparently they are going to stay on board with, because that is in the law. But they have not even started. Mr. President, a few years ago, when I and others here worked to change the appeals process in the U.S. Forest Service, we made sure that within it was a clause that said in salvage sales, it would be unappealable, that up to a certain amount of board feet, that was an administrative action, a decisionmaking process on the part of the professionals inside the Forest Service, and that they could go ahead with salvage sales. This administration said "no" when they wrote the regulations to that new law. Even though we in the Senate said "yes," Jim Lyons of the Forest Service, an appointee of this administration, said "no." Therefore, he subjected all of what needs to be done in the intermountain West to the ability of a 29-cent stamp and a group that wants to appeal, outside the professional judgment and the necessary actions of the professionals of the U.S. Forest Service.

We had a crisis all summer in the West. Tragically enough, that crisis has not gone away. The crisis of the summer was 3.7 million acres of land, timberland, that burned; the loss of 26 firefighters' lives; the unprecedented expenditure of $700 million of taxpayers' money to extinguish those fires. That was the crisis of the summer of 1994.

What will the crisis of the winter of 1994 and 1995 be? The inability of this Clinton administration to make a simple management decision about the responsibility that they must undertake in the management of the public lands of the West, and to the thousands of people that could lose their jobs, and to the economy of regions that are threatened, simply because they will not act in a responsible fashion?

Well, I know by direct conversation with Jack Ward Thomas that he means well. When he said, "On August 29, I will assemble a team and I will have you an answer by September 30," he meant it. The problem is that he has not been able to do it. It has not been because of him. It has been because of others, in my opinion, who have disallowed his ability to make those kinds of sound decisions and move us ahead in a direction that will resolve that problem.

Mr. President, that is the issue. I have sent a letter, along with other Senators, to Jack Ward Thomas asking that we get a quick response. I hope he can fulfill that, and I hope this administration can be responsible in the wise and appropriate balanced management of our critical public lands. We have a crisis, and it needs to be resolved in an expedited fashion. I hope they can respond.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

NOMINATION OF LT. GEN. BUSTER C. GLOSSON

NOMINATION OF COL. CLAUDE M. BOLTON, JR.

NOMINATION OF LT. GEN. EDWARD P. BARRY, JR.

Mr. NUNN. Mr. President, I will speak briefly this evening on three nominations, all of which are subject to extended debate, although two of them have not been discussed, and I am not sure how much the Senator from Iowa is planning on discussing the Barry nomination and the Bolton nomination. But I will discuss those first and then make some remarks on the Glosson nomination, in the hope we can get a vote on all three of these individuals that have come out of committee with strong support.

The nomination, Lt. Gen. Edward P. Barry, U.S. Air Force, is a retirement nomination, to retire in grade. For people who do not follow these procedures, retiring in grade means the officer would be able to retire with the same number of stars—in this case as a three-star general—that the officer earned while on active duty. If do you not get confirmed by the Senate in grade, you revert to a two-star position for retirement. So that is what we mean when we say retire in grade. It is not a promotion. It is a retirement at the rank earned in active duty. The Barry nomination came out of the Armed Services Committee with a 22 to 0 vote. It was unanimous, Republicans and Democrats alike.

The second nomination I will discuss briefly is Col. Claude Bolton, U.S. Air Force. This is a promotion to the grade of brigadier general. In other words, he will stay in the service. He is not retiring.

The third nomination is another retirement question, and that is on Lt. Gen. Buster C. Glosson. The question is whether he will be able to retire with three stars, which he earned on active duty, or whether he will revert permanently to two stars at retirement. So those are the questions. One promotion in active duty, and two retirements.

First, I will discuss the nomination of Gen. Edward P. Barry, U.S. Air Force. As I mentioned, his nomination received unanimous support in the Armed Services Committee.

In a September 30, 1994, letter to that committee, Deputy Secretary of Defense John Deutch outlined the highlights of Lieutenant General Barry's military record. I quote from that letter:

> LTG Barry has had a 33-year distinguished career serving our country. His accomplishments have directly impacted our national security. For example, in 1982 he received the Air Force Association's National Award for Program Management as Program Director for the Defense Support Program. The system's detection of Iraqi-launched SCUD missiles during Desert Storm provided crucial advance notice of attack, which saved lives and enabled our air defense system to react. As Commander of the Ballistic Missile Division, he successfully fielded 50 Peacekeeper ICBMs, on schedule and under cost, while sustaining Minuteman II/III operational requirements.

Other highlights of his career include service as the Program Director of the NAVSTAR Global Positioning Satellite at its inception in 1978, Vice Commander of the Aeronautical Systems Division, and Commander of the Air Force Space and Missiles Systems Center.

Lieutenant General Barry's nomination has been pending since October 29, 1993—almost a year. The reason for the delay has been the committee's review of issues raised in connection with the C–17 program.

Mr. President, from 1990 to 1991, Lieutenant General Barry served as the Air Force's first program executive officer for Tactical and Airlift Systems. In that position, he had general oversight of a number of major programs, including the F–22, the F–15, the F–16, and the C–17. These are all programs under his jurisdiction. During this period, as Members well know, and as the Senator from Iowa has pointed out, the C–17 contractor experienced a variety of cost, schedule, and performance problems. These problems were examined in detail in 1993 by the inspector general of the Department of Defense.

So the controversy concerning Lieutenant General Barry, in spite of the fact that he had a number of systems, the F–22, F–16, F–15 all under his jurisdiction, the controversy as I understand it, relates to one of those, the C–17 program.

Although the IG issued over 60 pages of findings on problems in the C–17 program, the only specific discussion of Lieutenant General Barry involved an assessment he made that the risks of the contractor meeting its estimate of cost at completion was moderate to high. That was his risk assessment on the C–17 program.

Then the IG said they did not believe this was a strong enough assessment of risk. In other words, they believe moderate to high was not sufficient. It should have been higher than that. The Air Force then reviewed the inspector general report and concluded that the facts supported Lieutenant General Barry's assessment.

So the total case as I understand it against Lieutenant General Barry, that the IG said that his risk assessment was not high enough, the Air Force reviewed it and said they did not agree with the IG. They agreed with Lieutenant General Barry. If there is any further case against him, perhaps somebody could inform us.

Secretary Aspin reviewed the IG report and the Air Force's response on the range of individuals responsible for the C–17 program. He removed the program manager from his duties, and the program manager then retired. So when we talk about accountability, the program manager was forced off the job and forced to retire.

Secretary Aspin also stated that in order to restore confidence in the acquisition system, he would direct that a number of individuals no longer perform acquisition management functions, including Lieutenant General Barry. Secretary Aspin, however, made no specific findings with respect to Lieutenant General Barry.

Lieutenant General Barry then submitted a request to retire. The request was approved by the Department of Defense with a recommendation that he retire in grade, meaning that he could keep the number of stars he had earned under active duty.

The President approved this DoD recommendation and submitted the retirement nomination. Our committee took note of the Secretary's administrative action concerning Lieutenant General Barry's acquisition duties and asked Secretary Aspin for his views. Secretary Aspin affirmed his strong support for Lieutenant General Barry to retire in grade, which is what the committee has recommended to the Senate.

This nomination remained pending in the committee while the Department of Defense addressed a variety of questions regarding the management of the C–17 programs. None of these subsequent reviews found any culpability on the part of Lieutenant General Barry.

I note my friend and colleague from Iowa mentioned he was prepared to vote on the nomination last year. But the committee did not complete its review until after the C–17 inquiries were completed with respect to this nomination. If we had brought this nomination to the floor when the Senator from Iowa mentioned—I do not remember what he said, April or when he said he was ready to debate it—then we would not have had the benefit of these reviews and we would not have been able to tell our colleagues the facts relating to the findings in regard to Lieutenant General Barry and his part on the C–17 program.

The nomination remained pending in the committee while the Department

of Defense went through the numerous management questions relating to the management of the C–17 program. None of these subsequent reviews found any culpability on the part of Lieutenant General Barry.

On September 30, 1994, Deputy Secretary Deutch advised the committee that he had personally reviewed Lieutenant General Barry's role in the C–17 program. This is the Deputy Secretary of Defense. He concluded that "if Lieutenant General Barry had not elected to retire, I would have returned him to acquisition duties." Secretary Deutch then added that his "performance in his current position of the Commander of the Space and Missile Systems Center in Los Angeles has further demonstrated his professionalism and his dedication to duty."

In effect, Mr. President—and this is no exaggeration—if we reject this nomination, Secretary Deutch—and this is the nomination for retirement in grade, not a promotion, this man is retiring from active duty if we approve it—but, if we reject it, Secretary Deutch says he wants him to serve out his remaining 3 years in acquisition, because he has full confidence in him. So if this nomination is rejected on the belief that he made a mistake in acquisition—to the IG rejected by the Air Force, made one mistake in all his career, if he did it all—if we reject it, it would result in his going into the acquisition system for 3 more years.

Now, I do not know whether that is what the Senator from Iowa wants, because he is opposed to this nomination I understand. But it would be the ultimate paradox if we rejected the nomination on the basis that he made a mistake in procurement and then he stays in procurement for 3 more years. It would not bother me because I think he has had an outstanding career, but for those who voted to reject him it would be the ultimate paradox. We have no authority to remove him from the military service. That is not in the power of the Senate. We have the authority to not approve his nomination to retire in grade.

That is our question. The Secretary of Defense has the authority to keep him on. I do not believe my colleagues who perhaps have opposition to this nomination would find that result to their liking if they really do believe he has made a serious mistake. I do not. I think with the outstanding record he has had in all these programs, that he has managed to have only one such allegation by the IG in all of this time—and, remember, he said the risk was moderate to high; that was the range. It turned out it was high. If he had not had the word moderate in there, perhaps there would have been no finding by the IG.

Mr. President, it is important to remember that the C–17 program was a troubled program long before Lieutenant General Barry became the program executive officer, and the decisions regarding cost, schedule and performance were not his. They were made at the highest levels of the Air Force.

It is certainly possible, with hindsight, as the IG did, to suggest that Lieutenant General Barry could have done more to address the problems in the C–17 program. I do not believe however, it is wise or desirable to insist that military officers achieve a standard of perfection in order to retire in grade. How many of us would like to be held to a standard of perfection in terms of the United States? How many of us have never made a single error in our careers?

There has been no showing that he acted or failed to act in any manner that would cast doubt upon his professionalism or integrity. I repeat that. There has been no showing that he failed to act in any manner or acted in any manner that would cast doubt upon his professionalism or integrity.

Lieutenant General Barry served the Nation with distinction and has had many successful tours of duty. He has contributed to the strength of our Armed Forces and to our national security through the development of sound and successful acquisition programs. In view of his overall career and in view of the high degree of confidence that the current leadership of Department of Defense has expressed in his abilities, I strongly endorse his nomination to be retired in grade.

Mr. President, I assume we will vote on this nomination, either on the nomination itself, I hope, or perhaps on the cloture motion, I hope, in the next several hours or perhaps even the next several days. That is up to the people who oppose the nomination.

Mr. President, the second nomination I will discuss this evening is the nomination of Col. Claude Bolton in the U.S. Air Force, for promotion to the grade of brigadier general. This is a different nomination.

This is one to stay in the military and move up a notch to brigadier general from colonel.

Colonel Bolton is a Vietnam combat veteran where he flew over 200 combat missions, including 40 missions over North Vietnam. Following his service in Vietnam, he served as a test pilot for the F–4, F–11, and F–15 aircraft. More recently, he was the first program manager for the Advanced Tactical Fighter Program, which evolved into what we now call the F–22. He then served as the program manager for the Advanced Cruise Missile Program.

According to Deputy Secretary of Defense Deutch, Colonel Bolton "turned around a troubled program and produced technically sound missiles regarding meeting the requirements of the Air Force. Since May 1993, he has served as commandant of the Defense System Management College. Deputy Secretary Deutch has advised the committee that he has "had the opportunity to personally observe Colonel Bolton's performance over the last 18 months in his capacity as the commander of the Defense System Management College. His service in that capacity, as in earlier assignments," according to Secretary Deutch, "has been outstanding."

Colonel Bolton was selected for promotion by a duly authorized selection board. His nomination for promotion was submitted to the Senate. The nomination has been pending in the committee since January 7, 1993. The committee withheld action on this nomination due to the reviews by the Air Force and the Department of Defense concerning the Advanced Cruise Missile Program, including the period during which he was program manager. That is the reason this nomination has not come before us. The Senator from Iowa said he was prepared to vote on it earlier. Perhaps he was, but it would have been without full information because the committee was waiting for the reviews concerning the Advanced Cruise Missile Program, the program he was associated with. On September 30, 1994, a week ago, Deputy Secretary Deutch described the results of those reviews.

And I quote Secretary Deutch again:

I have personally reviewed the issues that have been raised about his management of the ACM (advanced cruise missile) program as a result of a DOD Inspector General Report on Air Force missile procurement. The report, which did not allege any misconduct or other deficiency by Colonel Bolton, recommended that the Air Force review and report on violations of the Anti-Deficiency Act. The Air Force conducted the review, and determined that the actions taken to fund the program did not violate the Anti-Deficiency Act. The Department of Defense General Counsel and DOD Comptroller have both concurred in this determination.

Secretary Deutch added:

It is important to note that the funding decisions at issue were not made by Colonel Bolton; rather, they were made by the Secretary of the Air Force, with the advice and concurrence of the senior leadership of the service. Colonel Bolton reasonably and properly relied on their decisions and direction in his implementation of the program.

Mr. President, in summary, Colonel Bolton is a combat veteran, an acquisition specialist whose record has been characterized by the leaders of the Department of Defense as "outstanding."

With respect to the Advance Cruise Missile Program, the Deputy Secretary has noted that there is "no basis . . . for concluding that there was any significant deficiency in Colonel Bolton's management of the program. On the contrary, . . . he acted with professionalism and integrity to identify problems and implement the decisions made by authorized superior officials."

Secretary Deutch concluded:

Colonel Bolton has served his Nation with skill and dignity. I am confident that he has much more to offer our Nation.

Mr. President, in summary, what happened was this program had a funding problem. Colonel Bolton properly brought it to the attention of his superiors, the Secretary of the Air Force and others. They came up with a funding plan and told him what to do. This was his superiors. He reports a problem. He gets an order from the top that says, "This is what you are supposed to do." Then the IG criticized the funding of the program and said that there was a violation of the Anti-Deficiency Act, which is serious.

But Colonel Bolton did not make that decision. The Secretary of the Air Force did. The Air Force has now said there was no violation; and the DOD General Counsel said there was no violation—so that dispute has pretty much been laid to rest. But whether it has or not, Colonel Bolton had nothing to do with it.

I do not know what you can ask of a man any more than he report a problem to his superiors. And when they basically review it and tell him what to do, he does it. That is what he did.

He did not do anything wrong. He has not been accused of doing anything wrong by anyone. I repeat that. He has not been accused of doing anything wrong by anyone—by the IG, by the Air Force, by DOD, by the committee, by anyone.

So I certainly urge that this nomination for promotion to brigadier general be approved.

Mr. President, the third nomination is the one that my friend and colleague from Iowa has talked about at length on the floor. I know that the people who have heard this now, I think, pretty much understand his view of the nomination, and that is a view that all my colleagues should consider. I do not agree with it, but this is a closer case and it deserves consideration of those here on the floor of the Senate, as well as those who will be voting.

Mr. President, there are a couple of things that the Senator from Iowa said over and over again. I will address some of the other points he made in more detail, but he mentioned two or three of what I used to call back in my law practice days "straw man" arguments that he proceeded to knock down very hard. But the difficulty with citing those arguments, from the committee point of view, is we did not rely on them.

One was so the so-called conspiracy theory. And the Senator made a strong case that there was no conspiracy among the officers who were accusing General Glosson of misconduct. We agree with that. That is not part of our committee report. We did not in any way say there was a conspiracy.

The other one that he mentioned and then knocked down, was that the IG was biased. As the Senator knows in reading the report, I am sure, that we did not say in the report that the IG was biased.

So the main arguments he used on those two points, the committee did not in any way rely on those. We did not even mention those in our discussion of the merits of the nomination, although those were questions that came up in the overall investigation. But that was not the basis of the majority's opinion on this.

This was a vote that passed in the committee by 14 to 7. People on both sides of the aisle voted yes and people on both sides of the aisle voted no.

I want to emphasize, before I begin my remarks—and I will make short remarks tonight on this subject and then I will have perhaps more remarks tomorrow, depending on when we vote.

I want to emphasize to my colleagues again that this is not an active duty promotion. This is a retirement nomination.

The question here is not whether General Glosson stays in the Air Force. He is already out of the Air Force. The question is whether General Glosson retires with three stars, which were earned while he was on active duty, or whether he permanently retires with two stars because we disapprove his nomination for retirement in grade.

He is going to retire as a general. He is going to retire either as a two-star general—if we reject his nomination—or as a three-star general. He is not going to be court-martialed. He is not going to face any kind of criminal charges. There has been no charge like that.

The question we have before us is whether General Glosson is going to retire as a three-star or a two-star general.

Mr. WARNER. Mr. President, will the Senator yield for one added clarification?

Mr. NUNN. Yes.

Mr. WARNER. There is also a serious financial implication, which is not only shared by the service person but by his family, also.

Mr. NUNN. The Senator from Virginia is correct. There is approximately a $6,700 a year difference. So we are deciding, in terms of money, whether General Glosson gets $6,700 less, he and his family, as the Senator from Virginia said.

Mr. WARNER. I urge, Mr. President, the emphasis on the family, because they, in most instances, have worked throughout this 30-plus year career, moved hundreds of odd times, and borne the burdens of service life.

Mr. NUNN. I thank my friend from Virginia. And I certainly concur in that.

Mr. President, Lt. Gen. Glosson has served our Nation in uniform for over 29 years. The highlights of his career—and it has been an outstanding career—include: Combat in Vietnam as an F–4 pilot, for which he was awarded the Distinguished Flying Cross for 139 missions—139 missions in Vietnam.

Deputy Commander of the Joint Task Force, Middle East, United States Central Command, during the Persian Gulf conflict. General Glosson was responsible for planning and implementation of the Allied air campaign during Operation Desert Storm.

He was the individual in charge of Operation Desert Storm, the entire air campaign. He was responsible for planning and implementation right under General Horner. That team probably did as fine a job as any team has ever done in the history of warfare in terms of a complicated, complex operation. And we saw the results of an awful lot of it on our television screens. He served as the Deputy Chief of Staff of the Air Force for Plans and Operations. That is the job he had when he left the Persian Gulf war.

As Deputy Secretary of Defense John Deutch stated in support of the nomination, Lieutenant General Glosson's record of service in Vietnam and Desert Storm is impressive. This is a quote: His "record of service in Vietnam and Desert Storm is impressive."

Secretary Deutch added:

"His demanding style and frankness contributed to protecting and saving the lives of American pilots during the Gulf War. This was part of a 29-year military career that has been distinguished * * * and justifies a retirement with a rank of lieutenant general."

Mr. President, I could make a 4-hour speech about General Glosson's military record. I could go through everything that was happening in Desert Storm. I could go through his whole career in Vietnam. But I think it should just be said for the record that this has been an outstanding military officer.

That does not decide the question tonight. That does not decide the question we must address. But it is certainly a relevant fact.

When you look at a mistake that an individual made, and he did make a mistake. I think it was a serious mistake. But when you look at that mistake, I think you also have to weigh that against a 29-year career. I hope my colleagues will do that.

There are people who will come to one or the other conclusion, but to me you have to consider the entire spectrum when you are considering retirement.

This is not a question of whether he is going to stay in the military. He has already paid a price. This individual is one of the few people in the Air Force who would probably have been in the final two or three—looking at the new Chief of Staff of the Air Force. He was going to be a four-star general. Everybody in the Air Force knew that.

So the question in people's minds is going to be did he do something wrong? In my opinion, he did not do anything

that violated the Uniform Code of Military Justice in terms of any court-martial offense. The Senator from Iowa made some comments regarding that. But he did make a mistake, and I will get into that in a moment. He made a mistake which I think was a serious mistake.

The question will then be has he paid a price for that? The answer is he has paid an enormous price. He was basically retired from the military 6 years earlier than his career would otherwise have terminated. He was basically not given the opportunity to be a four-star general. He was basically removed from his outstanding potential career.

So has he paid a price? If you talk to General Glosson or his family, anybody who knows him, you would say he has paid a very high price for the mistake he made.

The Committee on Armed Services has given considerable attention to this nomination, as outlined in detail in the committee's report on this nomination—Executive Report 103-34. We go into great detail in that report. I am not going to lay it all out tonight. But anyone who wants to read every angle of this can read that report or even skim that report and get a full picture.

The information provided by the Department of Defense on this nomination, when it came over to us, raised more questions than it answered, so we directed the Department of Defense to establish an independent panel to review the issues concerning Lieutenant General Glosson's nomination.

Mr. President, the inspector general found that General Glosson had lied. That was said in the inspector general's report. When the Department of Defense sent the nomination over to us, they did not even reasonably comment on that. They just said we do not have to decide that.

Well, in effect, the committee was put in an impossible position.

If I felt he lied, I would not be out here tonight on this nomination. I would have said no on that nomination. I would have said no without any doubt. But that was not what the Department of Defense found. The IG found that: The Department of Defense did not take a position on that, which we found to be unacceptable. So we sent it back to the Department of Defense.

The independent panel then was formed by the Department of Defense and that panel, composed of Mr. Jeff Smith, who used to be the chief counsel of our committee, the Armed Services Committee, Mr. Will Taft, who was the Deputy Secretary and general counsel of the Department of Defense. Also he was our NATO head in the Bush administration. He was the second member of the panel, and the third member was Mr. Alan Chase, who was the minority staff director on the House side.

That panel was appointed. They confirmed the conclusion of an earlier joint DOD and Air Force inspector general investigation that Lieutenant General Glosson knew, at the time that he discussed the qualifications of a particular candidate with the three officers, that one or more of these officers had been designated to serve on the promotion board.

That is what this is all about—commenting to people in derogatory terms about an officer when General Glosson either knew or should have known that one or more of those officers could be or was likely to be on the promotion board, selecting or determining the future of that individual officer that he talked about.

The panel, this independent panel, then considered the issue of whether Lieutenant General Glosson lied about his communications with the three officers in his testimony during the joint IG investigation. The panel reviewed the evidence, interviewed the witnesses, assessed their credibility. That panel concluded that Lieutenant General Glosson's statements were "not accurate" but they also stated:

> We have concluded that LTG Glosson thinks his version is accurate and that it represents fairly what at this point he recalls. In short, we believe he is not deliberately lying but is simply mistaken.

Everyone who has practiced law knows if you are going to prove that someone committed perjury in any kind of court, you not only have to show the statement is false, you also have to show they knew it was false. Those are the two elements. So in this case the panel said they did not believe Lieutenant General Glosson knew that he was making a false statement. That is the heart of what they decided.

Before giving my evaluation of this nomination, I want to emphasize that the committee spent a lot of time on this nomination because of the high priority we give to matters involving the integrity of the promotion system.

The committee regards improper communications with selection board members to be a very serious matter. As we noted in a report in 1992, the "fair and impartial conduct of the selection process is a matter of great concern to the Committee. The integrity of the selection process is essential to the integrity of the officer corps. Adherence to the established laws and regulations is necessary to ensure the best officers are selected for promotion and that the officer corps has confidence in the integrity of the selection process."

The factfinding panel found that Lieutenant General Glosson "improperly attempted to influence" officers who had been designated to serve on a selection board. This finding was accepted by the Deputy Secretary of Defense, Mr. Deutch.

Mr. President, the committee's report on this nomination addresses this matter by noting that, "it was wrong for LTG Glosson to attempt to influence members of the board. The committee regards failure to comply with the restrictions on communications with selection boards as a serious matter in view of the committee's strong commitment to the integrity of the selection board process."

The committee also noted, however, that it is important to place these actions in their appropriate legal context. The regulations governing such communications are administrative in nature. Actions inconsistent with such regulations are subject to administrative action. They are not subject to punishment under the Uniform Code of Military Justice.

The Senator from Iowa has mentioned that UCMJ several times I think in his presentation. But these actions are not subject to that Uniform Code of Military Justice. They are subject to administrative action.

The committee further noted that, as a result of the administrative action taken against Lieutenant General Glosson, his military career has been prematurely terminated, 6 years before his projected retirement date. As Secretary Widnall has stated:

> General Glosson has earned the privilege of retiring in the grade of lieutenant general. The events of last fall do not erase his years of extraordinary contribution, nor, in my view, do they call for a different conclusion.

So the Secretary of the Air Force basically endorses this and sent this nomination up. The Secretary of Defense endorses it. The President endorses it.

The committee agreed in the final analysis after a great deal of discussion and months and months of deliberation on a very tough question. We agreed with the recommendations of the administration, based it upon the following factors:

First, this is a retirement nomination, and does not involve promotion or reassignment to a position of importance and responsibility. In that context, it is particularly important to take into account Lieutenant General Glosson's 29 years of distinguished service to the Nation, including his service as architect of the Persian Gulf air war during Operations Desert Shield and Desert Storm as well as his outstanding combat service in Vietnam.

Second, improper communications to a member of the selection board, while serious, involve an administrative matter, not a court-martial offense.

Third, Lieutenant General Glosson has suffered serious consequences as a result of the improper communications. His brilliant career, destined for four stars and perhaps even leadership of the Air Force, has been terminated. The improper communications are now a matter of public record. General Glosson must live with the consequences of the panel report and the decision by the Deputy Secretary of Defense to accept the panel's finding.

Mr. President, I heard the Senator from Iowa say several times that there needs to be a warning sent to the Air Force officers out there about this conduct being a mistake and improper. I agree with that. I agree with that. I think the Senator is entirely correct on that. This was not a correct action. It was a mistake. It basically could have tainted the process. Three Air Force officers came forward and said we do not think this is right, and they basically reported the conversations they had with Lieutenant General Glosson.

But where I perhaps would disagree with my friend from Iowa is I believe the warning has already gone out. When an Air Force officer who is slated for four stars, who has had one of the most outstanding combat records in the Air Force, certainly since World War II and including a lot of that war, when that happens and he and his career is cut off and he is to retire 6 years early, and when he has no opportunity for further promotion, when he gives up any opportunity to ever be in a four-star position, that is punishment in the eyes of anybody in the military.

The question for this body is: Is that punishment enough? The Senator from Iowa does not believe it is. I believe it is. I believe that is sufficient punishment. I understand how others could have a different view.

Mr. President, there is one final remark I want to make. I have known Lieutenant General Glosson personally for a number of years. Everyone should know that. I have known him, I have admired him, I have worked with him. You cannot divorce that from your view when you bring forth a nomination on the floor of the Senate. I do not in any way hide that knowledge of him. I know him, and the reason I do not believe he lied and the reason I agree with the panel and not the IG is because I have seen him time after time come forward and give information that is adverse to his own position in an honest and a fair and an objective way.

Time after time, we have worked with General Glosson and asked him for information about controversial programs. He has always been honest—honest and painfully so—even when he knows that the information being provided, even his own personal opinion, is adverse to a particular program that he has been in favor of.

So I know him personally. Others know him personally. Other Senators do not know him personally. They can make their own judgment, but I do not believe he lied intentionally. I do not believe he provided false information intentionally. I do know General Glosson is a very frank and candid guy. That is one of the characteristics of people who are usually warriors. He is a warrior. He is frank. He is candid.

When he says something about someone, he means it. And I can imagine him making derogatory comments about another officer. I want everyone to understand, it is no offense, administrative or otherwise, to make derogatory comments about another officer, any more than it is to make derogatory comments in the Senate—private comments—about a Senator. But what is wrong in this case is he was making comments to those people he either knew or should have known, might have known, or probably knew were likely to be on the promotion board. He may not have known specifically they were going to be on the promotion board, but he should have known when he was talking to that many generals at that rank.

Finally, if General Glosson is not confirmed or retired in grade as a three-star general, his retired pay will be reduced, as the Senator from Virginia said, by approximately $6,700 a year. While the improper communications, in my view, warrant serious administrative action—and action has been taken in this case—it was the committee's judgment that a single incident of noncriminal conduct in an otherwise distinguished career did not warrant an annual reduction of $6,700 of retired pay and a reversion back to two stars.

If anybody ever earned three stars in the United States Air Force since World War II, General Glosson earned those three stars. Our decision tonight will be whether to remove one of them from what would otherwise be justified.

The committee did not believe that that single misstep, even though significant and even though a serious mistake, in light of the overall total career, warranted compounding the consequences that General Glosson has already suffered and his family has already suffered by denying him one of the three stars he earned while on active duty.

Mr. President, I urge my colleagues to remember that this is a retirement nomination involving an individual who has already suffered serious consequences. In view of his long and distinguished service to the Nation, I believe this nomination should be confirmed.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. NUNN. Mr. President, I have not yielded yet. I will yield in just a moment.

Mr. President, I ask unanimous consent that the letters on Colonel Bolton and Lieutenant General Barry from Secretary Deutch be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPUTY SECRETARY OF DEFENSE,
Washington, DC, September 30, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my support for the nomination of Colonel Claude M. Bolton for promotion to the grade of Brigadier General. I have had the opportunity to personally observe Colonel Bolton's performance over the last 18 months in his capacity as the Commander of the Defense Systems Management College. His service in that capacity, as in his earlier assignments, has been outstanding.

Colonel Bolton is a combat veteran of Vietnam, where he flew 232 combat missions over Southeast Asia in the F–4 with 40 of these missions over North Vietnam. He received two Distinguished Flying Crosses and 18 Air Medals. He then flew the F–4, F–111, and F–16 as a test pilot. He was the first program manager for the Advanced Tactical Fighter Technologies Program, which evolved into the F–22 System Program Office. As program manager for the Advanced Cruise Missile (ACM) program, he turned around a troubled program and produced technically sound missiles meeting the requirements of the Air Force. In March 1993, he assumed his current position as Commandant.

I have personally reviewed the issues that have been raised about his management of the ACM program as a result of a DOD Inspector General report on Air Force missile procurement. The report, which did not allege any misconduct or other deficiency by Colonel Bolton, recommended that the Air Force review and report on violations of the Anti-Deficiency Act. The Air Force conducted the review, and determined that the actions taken to fund the program did not violate the Anti-Deficiency Act. The Department of Defense General Counsel and the DOD Comptroller both have concurred in this determination. It is important to note that funding decisions at issue were not made by Colonel Bolton; rather, they were made by the Secretary of the Air Force, with the advice and concurrence of the senior leadership of the service. Colonel Bolton reasonably and properly relied on their decisions and direction in his implementation of the program.

It is always possible, with hindsight, to suggest ways in which an acquisition official might have taken a different approach in dealing with funding and management challenges. There is no basis, however, for concluding that there was any significant deficiency in Colonel Bolton's management of the program. On the contrary, it is my view that he acted with professionalism and integrity to identify problems and implement the decisions made by authorized superior officials.

Colonel Bolton has served his nation with skill and dignity. I am confident that he has much more to offer our nation, and urge the Senate to promptly confirm his nomination for promotion to Brigadier General. A similar letter is being provided to Senator Thurmond.

Sincerely,

———— ————.

DEPUTY SECRETARY OF DEFENSE,
Washington, DC, September 30, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my support for the nomination of Lieutenant General (LTG) Edward P. Barry, Jr., to retire in his current grade.

LTG Barry has had a 33-year distinguished career serving our country. His accomplishments have directly impacted our national security. For example, in 1982 he received the Air Force Association's National Award for Program Management as Program Director for the Defense Support Program. The system's detection of Iraqi-launched SCUD missiles during Desert Storm provided crucial advance notice of attack, which saved lives and enabled our air defense systems to react. As Commander of the Ballistic Missile Division, he successfully fielded 50 Peacekeeper ICBMs, on schedule and under cost, while sustaining Minuteman II/III operational requirements.

I have personally reviewed the issues that have been raised with respect to his role in the C–17 program. As a Program Executive Officer with a staff of seven people, he had supervision over six major acquisition programs, including the F–22, F–15, and F–16 programs. In a January 1993 report on the C–17 program, the DoD Inspector General alleged that the Air Force had failed to acknowledge or report cost and schedule difficulties and take decisive corrective action. Although the report contained detailed information concerning the role of the program manager and a number of other officials, the only information in the report concerning LTG Barry involves his assessment that the risk of the contractor meeting its estimate at completion was "moderate to high."

After reviewing the IG Report and the Air Force's comments on the Report, Secretary Aspin determined that it was important to take action that would restore confidence in the acquisition process. He directed that the former C–17 program manager be removed from his then-current duties. In addition, he directed that LTG Barry and two other officials no longer perform acquisition duties.

After Secretary Aspin took his action, LTG Barry asked to retire. Secretary Aspin reviewed the entire matter and recommended that he be retired in grade. The nomination was forwarded to the President, who submitted it to the Senate. Subsequently, at the request of the Senate Armed Services Committee, Secretary Aspin again reviewed the entire matter and reaffirmed his support for LTG Barry's nomination to retire in grade. He specifically noted at that time that there was no evidence of criminal conduct, and that LTG Barry had not engaged in any actions that were self-serving or malicious.

I have also reviewed these matters. I would like to make it clear that if LTG Barry had not elected to retire, I would have returned him to acquisition duties. His performance in his current position as the Commander of the Space and Missile Systems Center in Los Angeles has further demonstrated his professionalism and dedication to duty.

He has chosen to retire, and I respect that decision. In light of his 33-year distinguished career, I strongly endorse his nomination to retire in grade. A similar letter is being provided to Senator Thurmond.

Sincerely,

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, on February 22, 1994, the Senate Armed Service Committee received Gen. Buster Glosson's nomination to retire in the grade of lieutenant general. The committee was also notified that an inspector general report had been prepared on General Glosson concerning a promotion board.

I have a great deal of respect for the Chief of Staff of the Air Force, Merrill McPeak, so I requested his opinion of General Glosson. General McPeak assured me that Lieutenant General Glosson was a true war hero in Vietnam, the primary planner of the Air Force bombing campaign in Desert Storm, and a trusted officer well deserving of retirement in the rank of lieutenant general.

I have watched the Glosson nomination with keen interest. Over the past several months; first, there has been an inspector general report furnished the committee that is 4 inches thick; second a number of executive session hearings have been conducted by the Armed Services Committee; and third, a hearing was held at which the Deputy Secretary of Defense, the Secretary of the Air Force, and the Chief of Staff of the Air Force testified on General Glosson's behalf. After all is said and done, it comes back to what General McPeak and I discussed 7 months ago. This is an outstanding officer who is deserving of retirement in the grade of lieutenant general. Let me just mention a few facts that all Senators should know before they vote.

President Clinton recommended that General Glosson be retired as a lieutenant general.

General Glosson is from North Carolina and is strongly endorsed by both Senators HELMS and FAIRCLOTH.

Secretary Aspin read all the material on General Glosson and recommended that he be allowed to retire as a lieutenant general.

Secretary Perry read all the material on General Glosson and he recommended that General Glosson retire as a lieutenant general.

Secretary of the Air Force Sheila Widnall and Gen. Merrill McPeak both read the same material and made the same recommendations.

Three special consultants were asked to reexamine the entire body of information concerning General Glosson and concluded that there was a misunderstanding between four honorable general officers and that General Glosson had done no wrong in his communications with the Department of Defense inspector general.

Another set of facts are worth noting concern General Glosson's career. He has 29 years of honorable service in the U.S. Air Force. During that time he saw extensive combat service in Vietnam as an F–4 pilot and was awarded the Distinguished Flying Cross for 139 missions. In his capacity as Deputy Commander of the Joint Task Force Middle East, he was responsible for the planning and implementation of the allied air campaign during Operation Desert Storm. He has also served as the Deputy Chief of Staff of the Air Force for Plans and Operations. It has been said about him that his demanding style and frankness unquestionably contributed to protecting and saving the lives of American Pilots during the gulf war. His efforts during Desert Storm were described as "the most successful air campaign in the history of air power, a campaign brilliantly planned and flawlessly executed." I would remind each of you that it was General Glosson's work that we viewed on the evening news as bombs were dropped down the ventilation shafts of Sadaam Hussein's Air Force Headquarters.

General Glosson worked hard, risked his life for his country and delivered exceptional service when his country needed him most. To tell him now that he cannot retire in the grade he so richly deserves not only does not make sense, it sends the wrong signal. This is a country that rewards its citizens for hard work and results. It should not be a country where one can lose a 29 year career over a misunderstanding. I urge my fellow Senators to confirm this outstanding officer to retire in the grade he earned, the grade of lieutenant general.

Mr. President, I think it is worth noting that two additional generals are being held from consideration. Gen. Edward Barry Jr. and Col. Claude Boulton are two other nominees who have been before the Senate since early 1993. This is unconscionable. They are both good officers with outstanding records. The Armed Services Committee has reviewed all the information and materials relevant to these two nominations and has recommended both for confirmation. Holding them longer is not fair to them, the Air Force, or their families. The Senate should consider and approve both of these generals before it adjourns.

Now, Mr. President, Senator NUNN has discussed the allegations made against General Barry and Colonel Bolton. I think he has described the committee's actions and findings very accurately. I ask my colleagues also to review the letters from Secretary Deutch, which I understand are on your desk. Secretary Deutch has concisely described the circumstances under which these two outstanding officers came to be the subject of the delays to their confirmation. It is clear to me that the allegations we have heard here this evening are without merit. I urge my colleagues to support the retirement of General Barry and the promotion of Colonel Bolton.

Mr. President, I ask unanimous consent that a "Dear Colleague" letter sent by Senator NUNN, chairman of the Armed Services Committee, and myself as ranking minority member, follow at this point in the RECORD. This is a "Dear Colleague" that we sent out about General Glosson to explain the situation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, October 7, 1994.

DEAR COLLEAGUE: The Committee on Armed Services has favorably reported the nomination of Lieutenant General Buster C. Glosson, U.S. Air Force, to retire in grade. LTG Glosson's distinguished 29-year career includes:

His service as an F–4 pilot in Vietnam for which he was awarded the Distinguished Flying Cross for 139 combat missions.

Primary responsibility for planning and implementing the air campaign in Operation Desert Storm.

Service as the Air Force Deputy Chief of Staff for Plans and Operations.

President Clinton, Secretary of Defense Aspin, Secretary of Defense Perry, Secretary of Air Force Widnall, and Air Force Chief of Staff McPeak, all recommend that LTG Glosson retire in the rank of Lieutenant General. As Deputy Secretary of Defense Deutch observed in testimony before the Armed Services Committee, LTG Glosson's "record of service in Vietnam and Desert Storm is impressive. His demanding style and frankness contributed to protecting and saving the lives of American pilots during the Gulf War. This was part of a brilliant 29-year military that has been distinguished . . . and justifies retirement with the rank of lieutenant general."

The Armed Services Committee has spend many hours considering this nomination and has recommended to the Senate that he be retired in grade. The Committee has issued a detailed report on this nomination (Exec. Rept. 103–34).

We urge our colleagues to confirm the nomination of this outstanding officer to retire in grade.

Sincerely,

SAM NUNN,
Chairman.
STROM THURMOND,
Ranking Minority Member.

Mr. THURMOND. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I shall not take a great deal of time. I wish to say that I join with the distinguished chairman of the committee, Senator NUNN, and the distinguished ranking member, Mr. THURMOND, in urging the Senate to accept the recommendations of the Senate Armed Services Committee.

It has been my privilege to serve on this committee for nearly 16 years. I assure my colleagues that we perform our work with a great deal of care and in a meticulous manner.

On the two particular nominations of Barry and Bolton, there was a unanimous vote by the Armed Services Committee. We relied on documentation and letters given by the Secretary and the Deputy Secretary of Defense. These are individuals that the Senate can confirm for these responsible posts.

Our committee worked very closely with the senior management in the Department of Defense. Likewise, in the case of General Glosson, I have not seen a case in my years that had been done with a greater thoroughness than this.

What we are asking, the chairman and the ranking member, and those of us on the committee, is that this Senate repose in us its confidence that we do these things in a fair and equitable manner, in the best interests of our country and the Department of Defense.

Each Member has a perfect right to challenge—and, indeed, one of our colleagues has challenged—our judgment, and I respect my good friend. But I assure Members of the Senate that we have looked at these very carefully, and you can repose in the committee, particularly its chairman and ranking member, the judgment that we have made is the correct one. We have to be very careful as we deal with these issues on retirement because it affects the morale of the entire officer corps, not just the general officers but many of the juniors who are now making those career decisions as to whether to remain and dedicate the remainder of their lives and, indeed, the lives of their families, to the service of our country.

I yield the floor.

IMPLEMENTATION OF THE NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

Mr. STEVENS. The State of Alaska has an interest in resolving a question which has arisen regarding implementation of a statutory change made last year in connection with NAFTA. Section 521 of the North American Free-Trade Agreement Implementation Act, Public Law No. 103–182, amended 19 U.S.C. 58c(a)(5) to impose a $6.50 fee for the arrival of each passenger aboard a commercial vessel or aircraft from outside the customs territory of the United States. The reason for this change was to recover a portion of the revenue lost as a result of the elimination of a series of duties and tariffs under NAFTA.

NAFTA imposed a new fee of $6.50 for cruise passengers arriving in the United States from the Caribbean, Mexico, and Canada. Previously, such passengers were exempt from the Customs user fee. The law also raised the fee for both air and sea passengers arriving from other foreign destinations from $5 to $6.50.

As a result of the wording of the NAFTA implementing legislation enacted by Congress last year, the Customs Service is claiming authority to collect the Customs user fee multiple times during the course of the same voyage. Substituting the phrase "from outside the customs territory of the United States" for the phrase "from a place outside the United States", had this unintended consequence.

This point is particularly important to cruise passengers in Alaska where this interpretation could require the Customs user fee to be assessed more than once in a single voyage. For example, during the course of an Alaska voyage when the vessel may call in Ketchikan, Juneau, Valdez, Seward, and Sitka and may sail outside the Customs territory of the United States between each of those Alaskan ports as part of one continuous cruise voyage, under the Customs Service interpretation the fee would be collected three, four, or even five times. This was not Congress' intention. Could the distinguished Senator from Louisiana please clarify if it was the intent of Congress to require multiple collection of the $6.50 Customs user fee?

Mr. BREAUX. No, it as not the intent of Congress to assess the $6.50 Customs user fee multiple times during the course of a single voyage as in the Alaska situation. A similar result would apply in certain Caribbean cruises where, during the course of a single voyage, the vessel stops at two or more United States ports and travels outside the Customs territory of the United States between those American ports. In both of these situations, multiple fees should not be collected. The Customs user fee should only be collected once per voyage.

As the distinguished Senator from Alaska stated, the statutory change made last year in the NAFTA implementing legislation replaced the phrase "from a place outside the United States" with the phrase "from outside the Customs territory of the United States". The intent of this language change, which has given rise to this discussion, was to make it clear that the Customs user fee would be applied to passengers on so-called cruises to nowhere. These cruises are not traditional voyages with multiport itineraries, rather they simply leave a U.S. port, go outside the Customs territory of the United States and then return to same port with no stops at any intervening ports. Again, the purpose of this language change was to apply the fee to these cruises to nowhere passengers and not to enable the Customs Service to assess the fee multiple times during the same cruise voyage.

In addition, the existing statute provides that passengers are not subject to the fee unless they are provided Customs inspectional services. With respect to the port calls at intervening U.S. ports, Customs inspections are not required.

Mr. STEVENS. Does the Senator believe Congress needs to enact a clarifying technical amendment in order to limit the collection of this fee to once per voyage?

Mr. BREAUX. Since it was not the intent of Congress to impose the fee multiple times, no new law should be required. If the Customs Service

should, however, attempt to collect this fee multiple times, I would be happy to work with the senior Senator from Alaska in a bipartisan fashion to enact clarifying legislation during the next session. However, I urge the Customs Service to resolve this issue administratively in accordance with congressional intent, so that legislation will not be necessary.

JOB CORPS

Mr. SIMON. Mr. President, I would like to recognize the Job Corps Program and take this opportunity to celebrate its 30th anniversary and the 1.6 million young people it has served. I met yesterday with 45 members of the 9 teams, who competed earlier this week in the Fifth Annual National Job Corps Academic Olympics. These young people are an inspiration to all of us—and proof that Job Corps works.

Job Corps stands out as one of our country's most successful job training programs. It serves approximately 65,000 students each year in 111 centers throughout the United States Job Corps has a successful placement rate of 65 percent.

I am pleased that last year Job Corps announced its expansion to nine new centers, serving an additional 3,600 youth who are most at-risk. In Illinois, for every student enrolled in Job Corps there are 65 young people who are eligible and in need but who go unserved.

The average Job Corps student is 18 years old, reads at a seventh grade level, has a disruptive home life, has never held a full-time job, and comes from a family with an income of under $7,000. More than 80 percent are high school dropouts. These young people are at-risk. Too many of our disadvantaged young people are thrust into an unhealthy cycle of dead-end jobs, unemployment, and dependency on public assistance. Even worse, many turn to lives of crime.

I have often said that the true division in our society is not between black and white, or Anglo and Hispanic, or even between rich and poor. The true division in our society is between those who have hope and those who have given up. We have too many people who have given up. Job Corps gives people hope, and an opportunity to succeed.

According to a study by Mathematical Policy Research, for every $1 invested in Job Corps, $1.46 is returned to the economy through reductions in income maintenance payments, the costs of crime and incarceration, and through increased taxes paid by Job Corps graduates. In addition to improving their future earnings, Job Corps participants are less dependent on welfare and unemployment insurance.

Job Corps helps young people become productive, economically self-sufficient members of society. Few employment and training programs target high school dropouts with low reading levels, and fewer still have had their effectiveness documented in a rigorous and independent evaluation as has Job Corps.

The Department of Labor's inspector general has raised some concerns about the Job Corps. No program is perfect and Job Corps is no exception. But it is significant that while the inspector general has raised concerns, his testimony at a hearing on Tuesday emphasizes the importance of the program:

> The OIG has always believed that the Job Corps Program plays a pivotal role in the Nation's plan to enhance the economic earning power of America's youth. In its 30-year history, the program has enjoyed a great deal of success. However, as is always the case for programs of this size and magnitude, there is room for improvement.

Secretary of Labor Robert Reich described Job Corps as,

> One of the jewels in the crown of our work force investment system. If the Job Corps did not exist, we would have to invent it, and that mission of invention would be among the administration's highest priorities. But fortunately, the Job Corps already exists, and boasts a resounding record of success. So our mission is to preserve it, expand it, and further improve it.

We also heard the inspiring stories of three Job Corps participants: Miguel Garza, Tamika Butler, and Anna Street.

THE JANE ADDAMS CONFERENCE INTERNATIONAL WOMEN'S LEADERSHIP AWARD

Mr. SIMON. Mr. President, on November 2, 1994, the Jane Addams Conference will present its third International Women's Leadership Award. The award recipient for this year is Dr. Sadako Ogata of Japan, the United Nations High Commissioner for Refugees. Dr. Ogata is recognized for her exemplary work to world refugees and her strong commitment to the goals of the United Nations.

The Jane Addams Conference was founded in 1984 to provide an international forum for women. The conference strives to educate women for empowerment and influence in international issues, to promote the involvement of women in global affairs, and to encourage women to attain positions of leadership in the decisionmaking process.

The Women's International Leadership Award was established in 1991, the 60th anniversary of Jane Addams receiving the Nobel Prize for Peace. Award winners are women with international influence who have dedicated their lives to helping others.

The first award winner was Marjorie Benton, a prominent Illinois resident. Ms. Benton was appointed U.S. delegate to the United Nations five times and has served as the U.S. Representative to UNICEF. She travels the world to promote the work of Save the Children Foundation.

The second recipient was Dr. Wangari Maathai of Kenya. Dr. Maathai, founder of the Green Belt Movement, is the one of the foremost environmentalists in Africa. The Green Belt Movement has organized 50,000 women who have planted 12 million indigenous trees.

As the United Nations High Commissioner for Refugees, Dr. Ogata has been a strong and undaunted champion for the world's 20 million refugees. Previously Dr. Ogata served as the Independent Expert of the United Nations Commission on Human rights on the Human Rights Situation in Myanmar. Among her other many accomplishments, Dr. Ogata has served as chairman of the executive board of UNICEF, Envoy Extraordinary and Minister Plenipotentiary at the permanent Mission of Japan to the United Nations, dean of the faculty of foreign studies at Sophia University in Tokyo and director of the Institute of International Relations at Sophia University.

Dr. Ogata's commitment to world refugees and to the goals of the United Nations is exemplary. As we witness unrest, famine, and the disintegration of governments in many spots of the world, Dr. Ogata has been the shining light for refugees. Her tireless effort and her dedication to humanity has been an inspiration to all of us. I am pleased to join people from my State, across the Nation, and around the world to extend my congratulations and best wishes to Dr. Ogata for her outstanding accomplishments.

H.R. 783

Mr. SIMON. Mr. President, I would like to thank all of my colleagues who have made possible passage of H.R. 783, the immigration technical corrections bill, which contains many important provisions—both large and small—that will enable our immigration laws to work in a more sensible and efficient way.

In particular, I would like to commend my colleague from California, DIANNE FEINSTEIN, for her work on this bill and on immigration issues in general. She has long been in the forefront of efforts to strengthen and improve our immigration laws, and her efforts have already borne much fruit, in the form of increased resources for border enforcement, increased funding to the State of California for the costs of incarcerating illegal aliens, and more efficient procedures for dealing with deportable aliens.

Much work yet needs to be done, but Senator FEINSTEIN has my commitment that, as a member of the Immigration Subcommittee, I will work with her to explore further immigration reform legislation in the upcoming year. There is no question that our immigration laws need work, and I am confident that with Senator FEINSTEIN's help, we can achieve our objective of passing good, smart, and fair

immigration legislation in the upcoming session.

AMBASSADOR ALBRIGHT'S REMARKS ON RUSSIA'S ROLE IN PEACEKEEPING

Mr. LEAHY. Mr. President, yesterday, during our debate on Haiti, my colleague Senator MCCONNELL argued that there is a hidden cost to the United States military operation there. He expressed concern that, in order to win Russia's abstention on the U.N. Security Council resolution authorizing this action, the administration told the Russians, and I quote Senator MCCONNELL, "you go ahead and do what you will in Ukraine or Georgia or Armenia, and Azerbaijan, or anywhere else in the former Soviet Union and we will utter not a peep."

Such a statement by the administration would be a tragic mistake. Senator MCCONNELL was not, however, actually quoting an administration official. He explained that this was the meaning of statements like one by Madeleine Albright, or Ambassador to the United Nations, when she was in Moscow on September 6. Senator MCCONNELL quoted Ambassador Albright as saying that "Russia is an empire where the mother country and the colonies are contiguous."

Mr. President, I was in Moscow on September 6. I was not present for Ambassador Albright's speech, but I did have the chance to meet with her there, and to hear from her personally about the grueling trip she had just made to Georgia, Armenia, and Azerbaijan to assess first-hand the conflicts in that region and the role that Russian forces are playing as peacekeepers there. And yesterday, as I listened to Senator MCCONNELL, it struck me that his depiction of the thrust of her remarks—that we are telling Russia we do not care what they do with their neighbors—bore no resemblance to what I remembered Ambassador Albright having told me about Russia's actions in that region and the administration's position on those actions.

Mr. President, I was concerned about this discrepancy. No one can predict the future, and I as much as anyone am concerned about the possibility that Russia could lapse back into the same kind of imperialistic habits relative to its neighbors that it exhibited during the cold war. Like most other Senators, I have supported President Clinton's efforts to build a new, more cooperative relationship with the Russian Government, but I have done so based on my understanding that Yeltsin Government has committed itself to renunciation of Russia's old ways and to accepting the principles of respect for the sovereignty and territorial integrity of its neighbors. I certainly would not support a United States policy towards Russia of the kind attributed to President Clinton by Senator MCCONNELL.

I therefore asked for and obtained a copy of the text of Ambassador Albright's remarks in Moscow, which number 11 single-spaced pages. And I am pleased to report that, although Ambassador Albright did make the statement attributed to her, her overall statement conveys clearly a message completely opposite to what the Senator form Kentucky inferred. Ambassador Albright in her speech repeatedly and emphatically put the Russian Government on notice that the world is watching closely Russia's actions in Georgia, Moldova, and elsewhere, and expects that it will act in full accordance with the accepted principles of international peacekeeping and national sovereignty.

Let me provide a few quotes:

First, the full comment from which the Senator from Kentucky quoted, and let me add that this particular comment was in answer to a question, was extemporaneous, and therefore was perhaps not as artfully worded as it might otherwise have been:

> The burden of proof is on Russia to abide by a variety of international principles that have to do with peacekeeping and neutrality. Russia has a very difficult task, and I think everybody needs to appreciate the difficulty of it. It is an empire that is, on its own, disassembling itself. That is unusual. It is an empire where the mother country and the colonies are contiguous. That is also unusual. It is taking place at a time when there is a greater sense of nationalism, I think, than at any time, and where we not only have nation states that are trying to be formed, but ethnic subgroups that believe that they need to have boundaries, flags, currency, and their own airline. I think that it creates incredible difficulties.
>
> So the United States' position has been in the United Nations, as far as activities in the "near abroad," that so long as Russia abides by the international peacekeeping principles, their mandates are created, and they follow through on them, that it is an appropriate thing for them to do, because in that way they are, in fact, part of the responsible international community that is trying to maintain stability. But—and it is a big but—they have to abide by the international peacekeeping principles. And they know, and we know, that the world is watching how it is done and that people are suspicious because of their past history. But that we should not just decide that they cannot do this kind of business simply because of their history, because something needs to be done to calm the forces. And when you have a person that's as respected as Chairman Shevardnadze asking for help, then I think it is legitimate to have a response.

Mr. President, I for one agree completely with this characterization of the issue and U.S. policy. Particularly, as Ambassador Albright had already stated it even more clearly:

> I think, however, and this is the message from my trip, by virtue of history, there is a certain suspicion in these NIS countries about Russia's intentions. The result of the history and geography basically places a special burden on Russia, and the burden of proof is on Russia to prove its commitment to accepted international principles, to the sovereignty of the newly independent states and to adopting a neutral stance in the ethnic conflicts that have exploded in Georgia, Nagorno-Karabakh and Moldova. And I think that they know that the world is watching. On the other hand, to a great extent, people in these countries and people in other countries are grateful that Russia is able to participate in these. So it's a very mixed kind of situation and a mixed message and very much a sign of the pragmatic approach that we have to take, in this day and age, where there are eruptions of kinds that are very different.

A few minutes later, Ambassador Albright addressed directly Senator MCCONNELL'S concern about linkage between the Russian peacekeeping effort in Georgia and the United States intervention in Haiti. She said, and I quote, "there is no moral equivalency and there is no analogy. * * * and, if I can say something just flat out, there is no analogy in history. None. The United States didn't have an empire. The United States never was totalitarian. And there is no analogy. The confluence or the coincidence is only one of time."

Mr. President, this is a strong assurance from the person best positioned to know, that there was no deal struck between the United States and Russia at the United Nations regarding United States support for Russian engagement in Georgia or anywhere else, in exchange for Russian assent to the Haiti resolution.

This is not the time to debate the fundamentals of United States policy toward Russia. I do feel, however, that it is important that there be no misimpression left about the words of our Ambassador to the United Nations concerning this very sensitive issue. Ambassador Albright is a dedicated public servant committed to identifying and pursuing the foreign policies that she believes best serve the interests of the American people. She went to the former Soviet Union last month because she wanted to assess for herself what the situation in the Caucusus is, so she would be able to help decide what United States policy should be relative to that region. I think we should salute her for that. I would suggest that she speaks with an authority that not many can match.

UKRAINE'S AGREEMENT WITH THE INTERNATIONAL MONETARY FUND

Mr. LEAHY. Mr. President, in the midst of the hustle and bustle in this body over the past week, I believe the Senate has failed to take appropriate notice of a very important development. On September 30, the International Monetary Fund announced that it had reached preliminary agreement with the Ukrainian Government on a cooperation arrangement. The IMF has entered this arrangement on the understanding that the Ukranian Government is moving forward with a program of economic reform designed

to reduce the inflation that has been devastating the Ukrainian people, stabilize the Ukrainian economy, and stimulate private investment to begin to expand production and create jobs. As part of the arrangement, the IMF will provide a large loan to bolster the foreign exchange position of the Ukrainian Government and provide it the breathing space it needs to sustain reform.

This is exciting news. I and many other Senators have long entertained the hope that the Ukraine, a country with which we share many close and warm ties, would jump on the bandwagon of reform and proceed with the transition to democracy and a private enterprise-oriented market economy. This latest announcement, together with the news we are receiving from Kyiv, confirms that these hopes are being fulfilled. When I visited Kyiv a month ago, President Kuchma, who just entered office 3 months ago, told me that he intended to set his Government on a courageous new path. Rada Speaker Moroz, with whom I met here this week, has also pledged to support private investment.

Mr. President, I have said repeatedly that the United States should stand ready to support the Ukraine generously when it embarked on the reform path. There is no question that the Ukraine requires assistance. Its balance of payments is in crisis. Investment is badly depressed. The Ukrainian people do not understand well what has happened to them or where to turn for help. The IMF assistance, while significant, will only begin to close the financial gaps that President Kuchma faces.

The time has come for us to act. Some may argue that we should continue to hold back, make sure that the Ukrainians will actually implement the reforms that we believe essential. But what the Ukrainians need now is a vote of confidence, so that they can begin to have confidence in themselves. Let us be bold. Let us take President Kuchma at his word. I call on the administration to reopen its book on aid for the Ukraine. The United States should be front and center when it comes to welcoming the Ukraine to the ranks of democratic market economies.

NEED TO PASS SEC FUNDING LEGISLATION

Mr. RIEGLE. Mr. President, as time runs out in this Congress, there are many bills that should get done, but very few that must get done. I am taking the Senate floor to speak for a third time about a bill that must get done. I am referring to the urgent need to provide funding to the Securities and Exchange Commission. We face a very serious situation: the SEC has not yet been provided with funding sufficient to carry it through the new fiscal year that began on October 1.

As I have mentioned the Senate, the Congress has provided the agency with only a portion of the funding that it needs for the next 12 months. Legislation that would provide the needed full funding has passed the House of Representatives. That bill, H.R. 5060, is now at the Senate desk. It is crucial that the Senate immediately take up and pass this bill without amendment.

In the absence of full funding, the SEC has begun preparing to shut down. Arthur Levitt, chairman of the SEC, wrote me earlier this week, stating, "the SEC has been forced to suspend vital services." He noted that examinations of brokerages and investment advisers have been halted. The agency has had to stop seeking to recover funds from offshore accounts. The electronic filing system for all publicly traded companies will shut down on Tuesday. This will slow down the filing of securities registration statements, and increase their costs, for every public company in America. In addition, Congress' failure to pass the SEC funding bill has already cost the U.S. Treasury several million dollars, because of the reduced fee schedule now in place.

Why has the Senate not yet acted on H.R. 5060? Because a few Senators have placed holds on the bill. They would like to use the SEC funding bill to advance unrelated tax provisions, and so have prevented the SEC bill from coming to the Senate floor.

At this time of year, every Senator has a provision he or she would like to send through the Senate, I am sure many of the Senators who are holding up the SEC bill are seeking to advance provisions that, by themselves, have merit. It is counterproductive, however, to hold up the SEC bill in order to pursue unrelated provisions. It is costing the Federal Government money, and damaging an agency charged with the vital responsibility of policing our capital markets.

If Congress adjourns without providing the needed funds, the SEC will have to shut down. This would be a catastrophe, because the SEC is crucial to the smooth operation of the capital markets that stand at the heart of our economy. The success of the U.S. financial markets is due, in large part, because the markets and their investors know that the SEC is a vigilant cop on the beat. Leaving the SEC in budgetary limbo needlessly places the stability of the markets and the personal savings of millions of individual investors at risk. In addition, it will cost the U.S. Treasury millions of dollars every week.

This need not happen, if we pass H.R. 5060 without amendment. The language contained in H.R. 5060 passed the Senate earlier this year. It is crucial that the Senate take up and pass this legislation before adjournment, to protect the smooth operation of our markets, to ensure that investors are protected, and to guarantee the efficient operation of our Government. I urge all my colleagues to give their consent so that the Senate can take and pass this crucial bill.

JIM WHITMIRE

Mr. HOLLINGS. Mr. President, we are all proud of our staffs, and with good reason. No institution attracts people with more drive, intellect, or concern for the common good than the U.S. Congress. While it is the way of Washington that we see talent constantly come and go, I have been lucky to enjoy for 8 years the work of Jim Whitmire, a staffer who has simply exceeded in every way the high standards we expect.

Nominally, Jim was a writer but that does not begin to describe his portfolio. He was so good that I was reminded of the Will Rogers story about driving to Europe. Will Rogers said that was easy to work out, just drain the ocean and build a bridge. When asked how to do that, he said I'm just an idea man, you all work out the details. Jim Whitmire was the guy who would work out the details.

First and foremost, Jim pulled the details together in brilliant prose. It is said that one sees with the mind, and not the eye, and his mind was always presenting a brighter, sharper picture of the public interest and the political fray. He was a relentless, vigorous intellectual force, who presented his case with elegance. While some offices have a litmus test, we had a Whitmire test—if it was good enough for Jim, it was good enough for us. This elegant excellence is his gift that I will sorely miss.

While he carried a big pen, he spoke softly. He was an example and mentor to other staff. In a bustling office, he lent his help to others with no concern for who got the credit. And I knew that any new, young staffer sitting next to Jim would not only learn good work habits, but also have his horizons expanded by the enormous breadth and depth of Jim's intellect and experience. Just as importantly, Jim was a workhorse. No job was too big or too small for him, and when he took an assignment, it was considered done and done well. In all these things, Jim obviously made the people around him better—a fitting legacy for a former teacher and father of two adopted children who has spent his professional life in public service.

Mr. President, Jim Whitmire helped me and I hope I helped him. Appropriately, he has gone to carry on his good work at the National Education Association where he will no doubt provide the energy and intellect that was so valued in my office. I wish Jim, his wife, Shelley, and his children well.

HONORING SENATOR DONALD W. RIEGLE, JR.

Mr. FEINGOLD. Mr. President, the end of the 103d Congress marks the end of my first 2 years as a Member of the U.S. Senate. During this time, I have had the chance to work with many Senators on different issues of national importance.

Senator RIEGLE has been a true leader on issues affecting not only his State of Michigan, but working families all across the United States. Unfortunately, Senator RIEGLE is retiring this year, and his leadership both on the floor of the U.S. Senate and as chairman of the Senate Banking, Housing and Urban Affairs Committee will be profoundly missed.

I do not believe this can be more clearly illustrated than by looking at the series of speeches Senator RIEGLE has made over the last several months on the floor of the U.S. Senate about the issue of health care reform. Throughout this period, the Senate seemed to have lost itself in a myriad of multifarious health care proposals and perplexing concepts such as mandatory alliances, purchasing cooperatives and preexisting conditions. Yet while all this was going on, there was Senator Riegle on the floor of the Senate, reminding us of how the numerous flaws of the current health care system are affecting working families, persons with disabilities and older Americans.

I also had the pleasure of working with Senator RIEGLE on several other issues. On insurance redlining, we worked together to produce a bill that would end the discriminatory practice of some insurance companies denying minority and low-income communities the ability to obtain adequate and affordable homeowners insurance which is often a prerequisite for securing a home loan. Senator RIEGLE was also gracious enough to allow me to attend and testify before a Banking Committee hearing on this issue even though I am not a member of that committee. I particularly recall his passionate and obviously heartfelt words at that hearing about his lifelong efforts to combat such manifestations of racism. As members of the House and Senate Great Lakes Task Force, Senator RIEGLE and I had the opportunity to explore and pursue actions that will facilitate the removal and disposal of contaminated sediments from the Great Lakes. Senator RIEGLE has also been an outspoken advocate of the working men and women of our country as exemplified by his leadership role in supporting legislation to ban the hiring of permanent replacement workers and his opposition to the North American Free-Trade Agreement which placed the worker of his and other States at a competitive disadvantage with workers south of the border.

Let me close, Mr. President, by again expressing my admiration and respect not only for the outstanding career achievements of Senator RIEGLE, but also for the kind and considerable manner that he brought with him to the U.S. Senate. Although the citizens of Michigan are losing an effective and forceful representative in the Senate, the accomplishments of Senator RIEGLE will certainly not be forgotten either by his constituents or those of us who were fortunate enough to serve with him in this body.

I yield the floor.

SENATOR DAVID DURENBERGER

Mr. FEINGOLD. Mr. President, I rise to say goodbye to a colleague who has provided guidance and leadership for upper Midwest farmers on a great number of agricultural issues so important to producers in Wisconsin and Minnesota. Our rural constituents of Minnesota and Wisconsin are very similar in their tradition of small family farms as well as their philosophies about fairness and equity in farm programs and other government policies. Both Wisconsin and Minnesota are dairy States of similar structure and as such together our dairy farmers share the burden of a policy that discriminate against them.

Senator DURENBERGER has sought to rectify the inequities of the existing Federal milk marketing order system. He has persistently introduced sound legislation to reform this discriminatory policy under which the dairy producers of our States must operate, even though chances for passage were bleak. Unfortunately, legislation that rights the wrongs inflicted on some regions while benefiting others is quite difficult to fulfill in a democratic body such as ours. I respect his perseverance despite these barriers to reform and I am proud to have cosponsored his Dairy Equity Act of 1993. He has been a great resource on this very technical issue and I will miss his extensive knowledge and leadership on Federal milk marketing order reform.

Senator DURENBERGER must have a knack for recognizing when something is broken because during his tenure in this body he took on reform of another very technical but very important farm program. The Federal Crop Insurance Program, while well intentioned, has created problems for farmers throughout the country and the upper Midwest in terms of inadequate coverage, uncertain coverage and high costs. Senator DURENBERGER'S innovative ideas and solutions to the problems helped direct the Senate to finally pass crop insurance reform that embraced several of his reform proposals. It is a credit to his efforts that such extensive reform passed both the House and Senate unanimously just this week.

I also have great admiration for Senator DURENBERGER'S commitment to improving our health care system. While he and I may not have always agreed on what changes were necessary, I know that we have shared the same goal—to ensure that the best possible health care is available to all Americans. I respect his commitment on an issue that is so critical to this country and the health of American citizens.

Mr. President, there are many other issues on which Senator DAVE DURENBERGER showed tremendous leadership—from environmental policy to deficit reduction. But let me just say, Mr. President, in closing, that the U.S. Senate, American citizens and most definitely the people of Minnesota have benefited from the service of Senator DURENBERGER. I am proud to have had the privilege of serving with him.

TRIBUTE TO SENATOR HARLAN MATHEWS

Mr. FEINGOLD. Mr. President, with the end of this session, we will bid farewell to the junior Senator from Tennessee, Senator HARLAN MATHEWS. I have had the honor and pleasure to serve with Senator MATHEWS on the Senate Foreign Relations Committee, to which we were both appointed as freshmen last year. I valued our consultations during long and sometimes contentious markups, and enjoyed learning the issues and the ropes of the committee with him. We have certainly experienced historic moments together.

As did most of us who came to the Senate in 1993, Senator MATHEWS identified three goals to work on during his term: to begin balancing the Federal budget; to reduce the deficit; and to reform the Nation's health care system. He cosponsored legislation on rural health initiatives, and focused much of his legislative efforts on re-invigorating the American economy, and opening business opportunities for his constituents.

Throughout his long career in public service in Tennessee, Senator MATHEWS has served his State well, stressing his commitment to improve the lives of his fellow Tennesseans. They should be proud to have been represented by such a decent man, and we as a Senate were honored to have him in our ranks. I know that, on a personal note, I have rarely encountered such a courteous, pleasant, and thoughtful person.

THE RETIREMENT OF SENATOR DENNIS DECONCINI

Mr. FEINGOLD. Mr. President, the senior Senator from Arizona will be retiring from the Senate at the end of this Congress, and I want to take a brief moment to congratulate him on his public service.

Though I have been privileged to serve with the Senator for only a brief 2 years, I have fortunate to have gotten

to know him through our common interest in addressing the Federal budget deficit, and especially because of his leadership in helping to establish a deficit trust fund.

I was pleased to cosponsor the Senator's amendment to the Budget Resolution of 1994 to establish a deficit trust fund. That deficit trust fund, eventually created by executive order of the President, ensured that any new revenues passed as part of the Omnibus Budget Reconciliation Act of 1993, as well as all savings generated by the spending cuts made in that act, would be used solely to reduce the deficit.

Mr. President, for the Senator who shares a birthday with former President Harry S. Thurman, the creation of the deficit trust fund guarantees that, rather than be used for additional spending, any new bucks will stop there.

Mr. President, deficit reduction and balanced budgets have been a focus of much of the work done in the Senate by the senior Senator from Arizona. In addition to sponsoring a constitutional amendment to balance the budget, he as a founder and cochairman of the Senate Grace Caucus, a bipartisan group of Senators looking for ways to eliminate waste and abuse within government.

He also led the fight to reduce government waste by cutting government spending on consulting, public relations, printing and motor vehicles, and be cosponsored legislation, now law, establishing an inspector general in the Department of Defense to scrutinize our military spending.

He has not been afraid to take stands that were unpopular among his colleagues to hold the line on spending, including opposition to a pay raise for Member of Congress. And when a pay raise was adopted, he donated his own pay raise back to the Treasury to help reduce the Federal debt.

Mr. President, I congratulate the senior Senator from Arizona on his 18 years of distinguished service in the Senate. Though I have known him and worked with him for only the last 2 of those 18 years, I will very much miss him, his thoughtful counsel, and his willingness to take a freshman Senator under his wing and teach him the deficit reduction ropes.

TRIBUTE TO SENATOR METZENBAUM

Mr. FEINGOLD. Mr. President, as I approach the end of the first Congress in my own first term as a U.S. Senator, I've been greatly impressed with the quality of leadership, the raw talent, intellectual discipline, and political courage of many colleagues with whom I have served. None of these has been more impressive than Senator HOWARD M. METZENBAUM of Ohio. After three terms, nearly 18 years of service to the citizens of this great Nation, Senator METZENBAUM will retire, when the 103d Congress concludes its business at the end of the year.

I, along with millions of American workers, consumers, children, seniors, minorities, and women have benefited from his dedication to what some have termed a dogged pursuit of fairness, safety and equality in the conduct of our daily lives as citizens. During his tenure, which began in the 95th Congress, Senator METZENBAUM has been the recongized leader of the struggle for worker's rights, children's development, minority and women's equality, social and economic justice. The Congressional Quarterly acknowledged his leadership acumen by calling him, "* * * a leader without portfolio,"—a lawmaker who wielded substantial power without holding official leadership positions.

I am pleased and honored to have been able to work closely with him as a cosponsor of legislation addressing the rights of striking workers, child labor abuses, worker retraining and plant closing notification, employment discrimination, and OSHA. One issue that Senator METZENBAUM focused on during this Congress involves the problems of fairness for members of the contingent work force. This is an area that I have a great interest in as well, and hope to be able to carry on some of the efforts he has begun. Senator METZENBAUM has also facilitated several informal meetings with Israeli officials to discuss the Middle East peace process, and consistently played a leading and constructive role in promoting peace in this region.

Senator METZENBAUM has established in the Senate a living example of unquestioned integrity for the benefit of the public interest, excellence in the performance of his work, and dedication to the principles of public service and justice. I will miss him. I will do my best to follow his wonderful example.

TRIBUTE TO SENATOR DAVID L. BOREN

Mr. FEINGOLD. Mr. President. At the conclusion of this Congress, I wish to extend my best wishes to departing Senator DAVID BOREN. I have greatly admired Senator BOREN's ability to assess and keenly lead at strategic points, and boldly steer this body, with strong new steps toward crucial congressional and budgetary reform.

Senator BOREN has been instrumental in working to achieve several major reforms during his time in the Senate including discouraging administration and congressional staff from cashing in on Government experience by becoming lobbyists and, during my tenure in the Senate, limiting congressional campaign spending and curtailing negative campaign practices. That landmark legislation was the first congressional reform package to pass both Houses in 14 years. I know Senator BOREN was deeply disappointed that we did not achieve final passage of these important measures but his work moved us demonstrably closer to our ultimate reform goals.

I am proud of those times where Senator BOREN and I have been partners in reform. He has consistently fought for deficit reduction, which is another issue where we have shared a common interest.

I have also been pleased to have shared in Senator BOREN's concerns for the fair application of Federal laws. This year, Senator BOREN and I joined together, along with a number of others in this body, to try to clarify the tax status of several native American tribes so that tribal members who had invested in tax-exempt retirement programs were able to access them without penalty.

The business of reform will continue in the next Congress without Senator BOREN, but we will be much poorer without his strong steps to follow.

On a personal note, I fondly remember that DAVID BOREN was one of the few members of the Congress who took time to encourage a long shot candidate for the U.S. Senate from Wisconsin. I am pleased that I had the opportunity to serve with him and wish him well as he moves on to playing what I know will be an important role in higher education.

TRIBUTE TO THE MAJORITY LEADER

Mr. FEINGOLD. Mr. President, as a freshman Senator, I quickly learned that GEORGE MITCHELL is a man of great ability, depth, and eloquence. He has a commitment to the public welfare that does not blow hot or cold with popular opinion polls. He has been willing to take difficult and sometimes unpopular stands. His commitment to protecting and preserving our Constitution and the balance of power between the three branches of Government enabled him to steer a steady course through difficult times.

His dedication stems from the values he learned as the son of hard-working immigrants; from the hard-working town of Waterville, ME on the banks of the Kennebec River; from the home of textile mills and shoe factories where his mother worked to put him through school. His story reflects the best sense of what it means to be an American.

He has been a force for the common good who has demonstrated uncommon skill and compassion.

His rapid rise to leadership, second only in this century to Lyndon Baines Johnson, is a testament to his ability and determination. Moreover, by all accounts, his record in 6 years as majority leader has been remarkable for

not only his achievements but for his dogged resolve to remain fair and respectful to all of our colleagues.

His reputation for fairness and decency is unparalleled at a time when political debate too frequently deteriorates to mud-slinging and gamesmanship, rather than edification and statesmanship.

He is a credit to his party, standing up for its best principles and making us proud to be Democrats. In what can be, at times, fierce partisan battles on the floor of the Senate, he has steadfastly refused to engage in personal attacks as staunchly as he has refused to compromise his political ideals.

Mr. President, in my short tenure here as a Member of the Senate, I have had the honor to serve with one of the finest majority leaders who has ever served in the U.S. Senate. An astute politician, a skillful legislator, a vigorous leader, and remarkable man: The U.S. Senate will be a different place without GEORGE MITCHELL.

I am confident that although Senator MITCHELL is leaving the Senate, he will not be leaving public service and that he will continue to make important contributions to the country he loves and has served so well. We all wish him the very best.

DISASTERS

Mr. DURENBERGER. Mr. President, in my 16 years of representing the people of Minnesota in the U.S. Senate, I have been a first-hand witness to a number of catastrophic disasters that Minnesota farm families have endured. I have seen the disasters from the air and from the ground. And, I have visited with farmers who have suffered the effects of these natural disasters.

Everyone remembers the horror of the Midwest floods of 1993, even as we have seen floods occur in other parts of the country this year. But the call for crop insurance reform stemmed from years before that fateful summer.

In 1991, thousands of prime corn and soybean acres could not be planted because of extraordinary rainfalls in southern Minnesota. It was then that we came to the plain realization that crop insurance did not pay up when Minnesota farmers needed it. It was then that Minnesota farmers told me that reform was absolutely essential to their economic survival. And, it was then that we asked the Secretary of Agriculture to lend a hand in bringing about reform.

One year later—in the spring of 1992—three tornadoes devastated a portion of southwestern Minnesota. The tornadoes destroyed crops that, just moments before, looked as promising as anything we had seen. And, a few months later, an unusually early frost killed all of the crops in one northern county. But, unreformed and seriously flawed, crop insurance again fell short. In fact, a Jackson County corn farmer, Richard Peterson, had paid $21,000 in crop insurance premiums over 6 years but—while he endured extensive crop losses over the same period—the total payment he received was just $2,100. With crop insurance floundering, I decided it was time to put together a bill to give our farmers the kind of crop protection they deserve. And, in the fall of that year, I introduced the bill Minnesota farmers like Richard Peterson, Andy Quinn, and Grant Annexstad helped write. Unfortunately, the urgency of reform was not so apparent on Capitol Hill—and the bill never became law.

So, on March 9, 1993, I reintroduced the Federal Crop Insurance Fairness Act hoping that the need for reform would by that time be evident. But, it met with little fanfare. And, tragically, it was only a few months later that floods and rains of Biblical proportions caused 57 of Minnesota's 87 counties to be declared Federal disaster areas. Thousands of Minnesota farmers were not able to turn a wheel in their fields all season due to the floods and torrential downpours. Water stood in the fields all year—even into the winter. It was the worst natural disaster in Minnesota history. That summer, Congress approved millions of dollars in disaster assistance. And, a number of us fought for crop insurance reform during consideration of the disaster bill on the Senate floor. But, beyond the quick fix of disaster aid, there was little enthusiasm for taking on the real problem and fixing a tired crop insurance program that just did not work. We lost that battle but not without a fight and a promise—a promise of reform this year.

Early this spring, the reform legislation I originally introduced in 1992 and 1993 was embraced by the President and the Department of Agriculture. As a leading cosponsor of the Federal Crop Insurance Reform Act, I worked hard to give our farmers real security in crop insurance. The bill Minnesota farmers and I helped write would provide our farmers with a catastrophic yield adjustment to protect his or her actual production history from the effects or disaster. It would make 65 percent and 75 percent coverage more affordable. It would cut in half late planting penalties and allow our farmers to prove their yields in 4 years instead of 10. It would provide prevented planting as part of the standard coverage. And, last, it would provide catastrophic coverage for all our farmers at a nominal cost of $50 per crop per county with a maximum of $100 per farmer per county.

Now—months after we introduced the Federal Crop Insurance Reform Act of 1994 and nearly 4 years after we first began our fight for reform—this reform will finally be law. After all we've been through in Minnesota, the victory is bittersweet. Had Congress listened to Minnesota farmers and passed reform earlier, farmers nationwide could have been spared some of the pain and hardship the disasters of recent years brought. But, there is some consolation in the proof this process reveals: Minnesotans persevere when times get tough and they commit to solving problems with solutions far ahead of their time.

Mr. President, I would like to pay tribute to a group of people who have been tenacious in passing this critical legislation that they, in part, wrote. These friends include farmers and agricultural leaders including Richard Peterson, Andy Quinn, Grant Annexstad, Glenn Annexstad, Gerald Lacey, Noel Kjesbo, Mark Moenning, Paul and Alan Brutlag, Sharon Clark, Craig Weir, Doug Magnus, Kent Thiesse, and Gary Hachfeld. And my thanks to the farm organizations and commodity groups who persisted to see this reform through.

And, finally, I want to recognize members of my staff, including my former agriculture aide, Hank Snyder who sailed in to uncharted territory as he put together the original bill in 1992. I thank Jeff Harrison, who ably took his place and tenaciously hammered out this legislation with staff members of the Agriculture Committee. And, I am grateful to Karen Humphrey of my Minnesota staff who met with farmers throughout all of the disasters they suffered and brought his problem to our attention.

Mr. President, I am proud to have been a leading cosponsor of this important legislation. But, I am most proud of the Minnesota farmers who made it possible.

JUDGE WILLIAM W. WILKINS, JR., CHAIR, UNITED STATES SENTENCING COMMISSION

Mr. THURMOND. Mr. President, for more than two centuries of this Nation's history, Federal judges were the ultimate authority in sentencing defendants who appeared in their courts. Such power, while attractive to members of the bench, led to great disparities in how people were sentenced, from judge to judge, and even from case to case. It became apparent to those of us on the Judiciary Committee that this disparity could not stand, and that some sort of Federal sentencing guidelines needed to be established to ensure, that convicted criminals were sentenced uniformly and fairly for the crimes they committed. In an effort to achieve this goal, the Congress passed the Sentencing Reform Act in 1984, which created the U.S. Sentencing Commission.

As many of you may remember, our legislation required that the Commission be composed of seven voting members, three of whom would be Federal

judges selected by the President from a list compiled by the Chief Justice of the Supreme Court. When I learned that my good friend and former member of my Senate staff, Judge William "Billy" Wilkins, Jr. was being considered for the Commission, I immediately contacted President Reagan and urged him to give Judge Wilkins every possible consideration. My enthusiastic support of Judge Wilkins was motivated by my knowledge of this man's impressive qualifications, ones that were ideally suited to master the challenging job of chairing the Sentencing Commission.

Since his days as a law student at the University of South Carolina, Billy Wilkins has distinguished himself in each and all of his undertakings. At Carolina he earned a reputation for excellence by winning the prestigious position of editor of the South Carolina Law Review; serving as captain of the moot court team; and, being a member of the Wig and Robe. His 3 years of curricular and extra curricular activities earned him the respect of the faculty at South Carolina's law school, which awarded him the title of Outstanding Graduate of the Year.

Upon his graduation from law school, Billy Wilkins entered the U.S. Army and began what has become a career dedicated to the service of the Nation. He continued his service by clerking for a Federal judge, before moving to Washington and becoming a capable and valued member of my Senate staff. It was during his time working for me in Washington that I recognized the great potential of this bright, young attorney, and I predicted that he would go far in his career.

After leaving Washington, Billy returned to South Carolina where he ran successfully for the position of district attorney of the largest judicial circuit in South Carolina. His record as a prosecutor was so well respected that when he sought re-election, District Attorney Wilkins' bid was endorsed by both the Republican and the Democratic Parties. That is clearly a telling testament to the high regard people hold for this man.

Billy's tenure as a district attorney led him down a trail that eventually saw him nominated as a Federal district judge for the district of South Carolina. It was from that position that he was appointed to the Chair of the Sentencing Commission. Since then, he has been elevated to the Fourth Circuit Court of Appeals, where he has served since 1986.

Mr. President, I am not exaggerating when I say that the work that Judge Wilkins and the Sentencing Commission have done over the past 8 years has had a tremendous and positive impact on the American criminal justice system. While there are those who dislike the guidelines and policies that the Commission has established, I have no doubt that time will validate the work of these fine men and women. A recent issue of Legal Times included an article about Judge Wilkins and his leadership of the Commission. I found it to be an accurate and fair account of what my friend has accomplished and I would like to share it with each of you. I ask unanimous consent be given to insert this article in the RECORD following my remarks.

While I am truly sorry to see Judge Wilkins step down as Chairman of the Commission, I know that he takes great satisfaction and pride in what has been accomplished under his leadership. I am proud of Judge Wilkins as a jurist and a friend, and I wish him good health, happiness, and success in all his future undertakings.

[From the Legal Times, Sept. 19, 1994]

WILKINS' TENURE TRANSFORMED THE COURTS

(By Naftali Bendavid)

Billy Wilkins' name is unlikely to pop up on many lists of the 20th century's most influential judges. Louis Brandeis, perhaps. Earl Warren, certainly. But not William Wilkins Jr.

Yet the changes wrought by Wilkins—who is stepping down as the only chairman that the eight-year-old U.S. Sentencing Commission has had to date—are arguably as profound as those brought about by the era's more famous jurists.

With a laserlike single-mindedness, Wilkins has helped transform U.S. jurisprudence, creating a sentencing guidelines system after two centuries in which judges had almost unlimited power to punish or forgive. And he's done it under a withering barrage of vilification from other judges—Wilkins' own colleagues and friends—who consider him a traitor for curtailing their power.

"I've seen judges stand up in his face and say, 'You have just ruined the system,'" says Judge G. Ross Anderson Jr. of the U.S. District Court for the District of South Carolina, one of the few judges who strongly support the guidelines. "He is totally unflappable. He'll just say, 'Awww, in a year of two I think you'll change your mind.'"

Congress, seeking to end sentencing disparities, created the commission a decade ago. Before most people recognized how great its power would be, Sen. Strom Thurmond (R–S.C.) picked as chairman the little-known Wilkins, a former staffer of his.

Then a U.S. District judge in South Carolina, Wilkins arrived for his fancy Washington job to find that he didn't even have an office. He and the six other commissioners were crammed into a single room in the Justice Department, two to a desk, sharing just one telephone.

Congress, not accounting for the magnitude of the job, had given the commission 18 months to write a new punishment system. That meant Wilkins had to make peace quickly between six commissioners with clashing philosophies.

Arguing away throughout 1986, they didn't even agree on such basics as whether the goal of prison is punishment or deterrence. One commissioner, fiercely opposed by other, proposed a scheme so elaborate it would have required a judge to tote up the "harm units" caused by a defendant and, in some cases, calculate the square root of a square root to figure out the sentence.

"Many times we all wanted to just say, 'Really, is it all worth it?'" admits Wilkins, who was appointed to the U.S. Court of Appeals for the 4th Circuit in 1986. "There were a lot of tense moments, and people's tempers got hot, feelings got hurt, but we had to overlook those things and keep moving forward."

Wilkins pulled it off by keeping his demeanor as a Southern gentleman. "You could be a porter at a hotel or chief justice of the United States, and his hand goes out and he says, 'Billwilkins,'" says longtime commission staffer Paul Martin. "It's incredibly disarming."

And it complements a bullheaded refusal to tolerate obstacles. When one commissioner complained about the arrangement of her office, Wilkins personally moved her couch to the other side of the room. As the deadline for completing the guidelines approached, Wilkins would stand by the copy machine at 3:30 a.m., scrutinizing each page as it emerged.

Few episodes reveal as much about Wilkins as his rejection of intense pressure from the Reagan administration to include the death penalty in the guidelines. Wilkins personally supports capital punishment, but including it, he knew, could cost the guidelines Democratic votes. Rather than risk this, Wilkins broke a 3–3 commission tie to vote against the death penalty.

When the commission, to many people's surprise, succeeded in actually producing a guideline system by April 1987, its work had only begun. Facing a wave of hostility, the commission was hit by 247 lawsuits by year's end.

Judges' sentiments were captured in a 1987 speech by U.S. District Judge G. Thomas Eisele of the Eastern District of Arkansas, who fantasized about lawmakers admitting their horrible error in creating the commission. "And then they would line up on the Capitol steps and say, 'Mea culpa, mea culpa, mea maxima culpa! We were wrong! Forgive us!,'" Eisele said.

Wilkins began traveling around the country, wading into crowds of hostile judges to argue for the guidelines.

The criticism was painful, he admits. "When the pressure's on and the clock's ticking and all you can hear is some judge calling you up and saying, 'You guys ought to quit and go home, this is going to be terrible.' that call kind of hurts." Wilkins says. But many judges, he adds, told him privately they supported the guidelines.

Others took issue with Wilkins' approach. Marc Miller, a professor at Emory University School of law and the co-editor of the Federal Sentencing Reporter, blames Wilkins for what he sees as the Sentencing Commission's defensiveness.

"The closed nature of some of the commission's activities, the private decisions in the midst of public meetings, the hostility toward judges and others with concerns—that reflects that a passion for success sometimes includes an excessive defensiveness about critics," Miller says.

But even those who fought Wilkins admire his achievement.

"I have nothing but praise for Billy Wilkins' tenure," says Sam Buffone, a partner in the D.C. office of Boston's Ropes & Gray and former chairman of the American Bar Association's U.S. Sentencing Guidelines Committee. "We certainly came from opposite sides in terms of the issues. But he was always fair, always willing to meet and talk. He did an exceptional job, given a very difficult situation."

REGARDING JUDGE WILLIAM W. WILKINS, JR.'S TERM AS CHAIRMAN OF THE UNITED STATES SENTENCING COMMISSION

Mr. HOLLINGS. Mr. President, I am pleased to join with Senator THURMOND and others in paying tribute to Judge William W. Wilkins, Jr., of Greenville, SC, who at the end of this Congress will complete an extended term as the first Chairman of the U.S. Sentencing Commission.

It has been my pleasure to know and work with Judge Wilkins for many years, including the period since October 1985 when he began his reign as Chairman of the U.S. Sentencing Commission.

Mr. President, when we passed the Sentencing Reform Act of 1984, we gave the Sentencing Commission an almost impossible task—to literally create itself from whole cloth. The Commission had to recruit and organize a staff, procure facilities and equipment, and in the short timeframe of 18 months, produce a comprehensive set of sentencing guidelines covering more than 2,000 Federal crimes.

Under Judge Wilkins able leadership, the Commission met its deadline and withstood congressional review that the guidelines were faithful to the statutory design and workable in the real world of the Federal courtroom. The guidelines took effect on November 1, 1987.

That, however, was just the beginning of the battle to accomplish the goal of a more uniform and certain sentencing system for our Federal courts. Members of the Federal judiciary, accustomed as they were to unrestrained sentencing discretion, had to be trained in the use of these new mandatory rules. And, perhaps the more formidable task was to convince often skeptical judges that the guidelines would work and actually improve the quality of justice in our Federal courts. In this endeavor, Mr. President, Judge Wilkins has clearly been the leading spokesman, ambassador, and trainer—working tirelessly to educate, persuade, and sell the sentencing guidelines. Today, the Federal judiciary still may not be enamored with the guidelines, but most will acknowledge that the guidelines are working well and have substantially reduced sentencing disparity.

As chairman of the Senate Appropriations Subcommittee with responsibility for the Sentencing Commission's budget, I have followed closely and strongly supported the Commission's work under Judge Wilkins' direction. The committee has always known that a budget request submitted by Chairman Wilkins was a frugal, responsible one. Judge Wilkins told us candidly what he thought was needed and then stretched the limited funds we were able to provide to accomplish the work of the Commission.

Judge Wilkins' laudable job as Chairman of the Sentencing Commission has necessitated a fulltime effort over the past 9 years. Yet, it was hardly his only responsibility. Throughout this same period, he has also been a fulltime jurist, sitting as a member of the Fourth Circuit Court of Appeals. At the same time, he has actively participated in the South Carolina National Guard, and even done some parttime teaching.

Mr. President, our Nation owes a great debt of gratitude to Judge William W. Wilkins, Jr., for the contributions he has made over the past 9 years in guiding the Sentencing Commission through its difficult, formative years. I congratulate Judge Wilkins on a job well done and look forward to continuing to work with him in other capacities in the days ahead.

REGARDING JUDGE WILLIAM WILKINS

Mr. HATCH. Mr. President, this week marks the end of Judge Billy Wilkins successful tenure as Chairman of the U.S. Sentencing Commission. I want to take this opportunity to praise Judge Wilkins for his service as the first Chairman of the Sentencing Commission. I applaud him for his tireless efforts to create a workable set of sentencing guidelines. Under Judge Wilkins able leadership, the Sentencing Commission has labored to end the sometimes gross sentencing disparities that existed under the former Federal sentencing scheme.

Although some criticize the guidelines for being inflexible, those same people forget the unfair sentencing disparities that existed under the former system. Similarly situation defendants who violated identical laws often received strikingly different sentences merely because they were sentenced by different judges. The guidelines have created much-needed sentencing uniformity.

After promulgating the initial sentencing guidelines, Judge Wilkins advocated tougher sentences where the need was shown. Violent offenders, for example, have seen their prison time increase by nearly one-third. Under Judge Wilkins leadership, the guidelines have brought about "truth in sentencing" in the Federal Criminal Justice system. According to the Bureau of Justice Statistics, 74 percent of defendants sentenced under the guidelines actually go to prison compared with only 52 percent of defendants in the pre-guidelines cases.

Judge Wilkins also fought for stiffer penalties for so-called white collar criminals. He led the effort to draft corporate sentencing guidelines with bite. Those guidelines have since been hailed as having a significant deterrent effect.

Although a steadfast advocate of the need for uniformity in sentencing, Judge Wilkins has underscored the need for constant improvement of the guidelines. He has emphasized that the Commission must be responsive to comments from the lawyers and judges who actually work with the guidelines on a day-to-day basis. He has laid a solid foundation for further improvements in the guidelines and has done everything asked of him by this body.

For these reasons, I commend Judge Wilkins for his service as Chairman of the Sentencing Commission.

REGARDING JUDGE WILLIAM W. WILKINS

Mr. KENNEDY. I am pleased to join my colleagues in paying tribute to the tenure of Judge William W. Wilkins as chairman of the United States Sentencing Commission.

The passage of the Sentencing Reform Act of 1984 was a triumph of bipartisan cooperation. Senator THURMOND and I worked for many years to persuade our colleagues of the need for this initiative. We shared the bipartisan goals of minimizing unwarranted disparity, enhancing the certainty of punishment and creating a common law of sentencing to replace the unduly discretionary system that then existed. There is much talk today of truth in sentencing, but too few people realize that we abolished parole in the Federal system effective November 1, 1987.

Similarly, the effort to write the guidelines was a bipartisan undertaking. Judge Wilkins, a Republican, was appointed the first chairman of the Commission in 1985, and he worked with Democratic members of the Commission, notably then-judge now-Justice Stephen Breyer, to draft the initial set of guidelines. Without the give and take of bipartisanship, neither the Sentencing Reform Act nor the guidelines would have come to fruition.

As chairman, Judge Wilkins organized the new agency, hired a well-regarded professional staff, and initiated the difficult job of creating a workable, rational set of sentencing guidelines within the 18-month timeframe provided by statute. Judge Wilkins deserves credit for delivering the guidelines to Congress on schedule on April 13, 1987.

Along the way, the chairman displayed a healthy pragmatism that helped keep the process on track. Although personally supportive of the death penalty, he opposed an effort by the Reagan Justice Department to have the Commission promulgate death penalty guidelines. Judge Wilkins recognized that the basic mission of the Commission was too important to risk its success by involving the Commission unnecessarily in the death penalty controversy. Judge Wilkins' courageous vote on this matter preserved the Federal sentencing reform effort at a time when it faced possible derailment.

79-059 O—97 Vol. 140 (Pt. 21) 5

Judge Wilkins has guided the Commission toward a strong stand against statutory mandatory minimum penalties. In congressional hearings and other public forums, he has persuasively explained that such statutes are structurally incompatible with and obsolete now that we have a functioning sentencing guideline system. Under the leadership of Judge Wilkins and Judge David Mazzone, the Commission produced a widely acclaimed, comprehensive report on mandatory minimum sentences in August, 1991.

In 1993, Judge Wilkins developed a legislative proposal to reconcile the statutory mandatory minimums for drug offenses and the sentencing guidelines. Unanimously approved by the Commission and supported in concept by the Judicial Conference, a version of the Wilkins proposal was introduced as S. 1596 by Senators SIMON, THURMOND, SIMPSON, LEAHY, and myself, and enacted as title VIII of the 1994 omnibus crime bill.

Judge Wilkins also played a key role in developing an innovative and effective approach to the sentencing of corporations convicted of Federal crimes. These corporate guidelines have the potential to make a real dent in white-collar crime by encouraging the development of anticrime compliance programs.

In these and many other ways, Judge Billy Wilkins has left an indelible mark on the guidelines, the Commission and the Federal criminal justice system. He has been a very constructive force at this important agency, and I congratulate him on the completion of a successful term as chairman.

THE RETIREMENT OF SENATOR MALCOLM WALLOP

Mr. THURMOND. Mr. President, I rise today to pay tribute to a good friend of mine, a fellow Republican, and one of the true gentlemen of this Chamber, Senator MALCOLM WALLOP of Wyoming, who is retiring at the end of the 103d Congress.

When MALCOLM first arrived in the Senate 1976, I immediately recognized him as an individual White House would make many important contributions to this body, and I am pleased to note that he far exceeded my expectations. A man of great ability and integrity, MALCOLM has dedicated himself to the responsibilities of his office and has truly distinguished himself over the past 18 years.

Senator WALLOP's keen mind, honed by the faculty at Yale University, and his strong sense of right and wrong have helped to guide his actions here in the Senate. As one who has strong understand of the Constitution, MALCOLM makes certain that he abides by the restrictions and provisions dictated by that grand document. Furthermore, his voting record is one that reflects a person who places the interests of the nation above all others. While such a philosophy is often unpopular with the public and other Senators, it is the wisest way in which to govern. I am convinced that if only more members followed Senator WALLOP's example, we would not face many of the disagreements and problems we do today.

Mr. President, I am truly sorry to see Senator WALLOP leave this body, but I know that he takes great pride in the service he has rendered the people of Wyoming and the United States. I have no doubt that MALCOLM will excel in all his future undertakings and I wish him, and his lovely wife, French, health, happiness, and success in the years ahead.

THE RETIREMENT OF SENATOR HARLAN MATHEWS

Mr. THURMOND. Mr. President, I rise today to pay tribute to one of our colleagues, HARLAN MATHEWS, who will be leaving the Senate at the end of the 103d Congress.

While Senator MATHEWS' time here has been short—he was appointed to fill AL GORE's seat—he has represented the people of Tennessee well, and has lived up to the highest traditions of the U.S. Senate. No doubt, it was HARLAN's long career in public service that prepared him so well to carry out the duties of his office in this body.

A patriot, HARLAN served in the Navy during World War II, before entering college. After earning a bachelor's degree, HARLAN began what would become a lifetime of public service in Tennessee State government, including holding the positions of State treasurer, secretary of the cabinet, and commissioner of finance.

Mr. President, it is never easy to step in and complete the term of a previously elected Senator, but I am pleased to note that HARLAN MATHEWS has done so, and has distinguished himself well. I commend him on his service and I wish him and his lovely wife, Patsy, well in all his future endeavors.

RETIREMENT OF SENATOR DAVID L. BOREN

Mr. THURMOND. Mr. President, I rise today to pay tribute to a good friend and colleague, DAVID BOREN, who is leaving the U.S. Senate at the end of the 103d Congress.

In his 15 years in the Senate, DAVID has established a reputation for being one of this body's most dedicated and clear minded individuals. Educated at Yale and Oxford, DAVID possesses a very strong and active mind which he used to approach legislation in a thoughtful and methodical manner. His strong grasp of the issues and their possible effect on the Nation not only made him an influential opinion leader in the Senate, it also made him a popular guest on many of the network public affairs shows.

DAVID's record in the Senate is one that has earned him the respect of Members on both sides of the aisle, his constituents, and of individuals and groups throughout the Nation. I have no doubt that his skills as a manager and a scholar will serve him well in his new position as the president of the University of Oklahoma.

Leaving the Senate is never an easy experience for anyone, and I am sure that DAVID is looking at his departure with mixed emotions. What the good Senator from Oklahoma can take considerable satisfaction in is, that he has served the people of his State honorably and most ably. I know that we will all miss DAVID, and that each of us wishes him and his lovely wife, Molly, health, happiness, and success in his new job.

THE RETIREMENT OF SENATOR JOHN C. DANFORTH

Mr. THURMOND. Mr. President, the Senate is often characterized as being filled with wealthy individuals who know no other career outside this Chamber. I am happy to report that is simply not the case, and in my four decades in the Senate, I have seen men and women of all different means and background serve here. One of the most interesting and unique of these people is my good friend, JOHN DANFORTH, who is retiring from the U.S. Senate at the end of the 103d Congress.

The people of Missouri first elected JOHN DANFORTH to be their Senator in 1976, after he had served two terms as the attorney general of State, where he earned a well deserved reputation as an honest and reform minded public official. That JOHN would hold himself to high moral standards is hardly surprising, given that he graduated from both the Yale Law School and the Yale Divinity School and he served as an ordained member of the Episcopalian clergy prior to entering the attorney general's office. In the Senate, JOHN earned a reputation as a pragmatist who was often able to propose solutions to legislative logjams, and he quickly became one of the most respected Members of either party in the Senate. In the course of his 18 years in the Senate, JOHN has played an important role in the passage of a number of significant pieces of legislation and he was one of the key supporters of Clarence Thomas' nomination to the U.S. Supreme Court.

Mr. President, I do not know a Member of the Senate who is not saddened to know that when we reconvene for the 104th Congress, JOHN DANFORTH will not be among us. I will certainly miss my friend, and I wish him and his lovely wife, Sally, health and happiness in all their future undertakings.

THE RETIREMENT OF SENATOR HOWARD METZENBAUM

Mr. THURMOND. Mr. President, there are a handful of Senators in this body who, because of their stature, legislative record, or stand on certain issues, gain not only national prominence, but national constituencies. One such person is Senator HOWARD METZENBAUM of Ohio, who is retiring from the U.S. Senate at the end of this Congress.

Senator METZENBAUM is a man who has become known as a vocal supporter for many different causes, ranging from adoption rights to the rights of senior citizens. As a man who has become an advocate for many different groups of Americans, Senator METZENBAUM is not someone who hesitated to use Parliamentary procedures and tactics to advance legislation he supported, or stop legislation that he did not favor.

As ideological opposites, Mr. President, I doubt that there are more than a handful of issues which Senator METZENBAUM and I both supported in our time together here in the Senate. Despite our differences on the floor and in committee, I have always respected HOWARD for his steadfast beliefs. One must admire a person who will stand up and fight for what he or she believes is right, no matter what the cost.

Mr. President, I wish Senator METZENBAUM, and his lovely wife, Shirley, good health and happiness in the years ahead.

THE RETIREMENT OF SENATOR DAVE DURENBERGER

Mr. THURMOND. Mr. President, I rise today to pay tribute to a friend and a valued member of the Senate and the Republican Party, DAVE DURENBERGER, who is retiring from this body at the end of the 103d Congress.

DAVE first joined us in 1978, when he was elected to serve out the unexpired term of the late Hubert H. Humphrey, and he quickly earned a reputation as a thoughtful and competent Member of this body. A man whose service includes that as a soldier, a Governor's chief of staff, an attorney, and a corporate executive, DAVE possesses a solid background in both the public and private sectors; and, he was able to use his experiences in these arenas to approach matters from a unique perspective. DAVE has always understood that there is a real cost and consequence to the actions taken by any governmental entity and he always worked to ensure that his actions in the Senate were dictated by striking a balance between the two.

In his 16 years in the U.S. Senate, DAVE has made his mark on numerous pieces of legislation. In particular, though, he takes great pride in his role in the Clean Air Act, the Civil Rights Act of 1991, and the contributions he has made to the ongoing health care debate.

Mr. President, while Senator DURENBERGER will be missed by all those in this Chamber, he can take great pride in the service he has rendered his State and Nation. I wish him well in all his future endeavors.

THE RETIREMENT OF SENATOR GEORGE J. MITCHELL

Mr. THURMOND. Mr. President, I rise today to pay tribute to the majority leader, Senator GEORGE MITCHELL of Maine, who is retiring from the U.S. Senate at the conclusion of the 103d Congress.

To say that GEORGE MITCHELL has had an impressive career in the Senate would be an understatement. Appointed in 1980 to complete the unexpired term of Senator Ed Muskie, Maine's newest Senator quickly began to make his mark on this body and began his ascent into the Democratic leadership. In less than 6 years, the Senator served as the chairman of the Democratic Senatorial Campaign Committee, and only 3 years later, was elected to the position of majority leader where he has served since.

In his position as leader of Senate Democrats, Senator MITCHELL has played a key and pivotal role in passing numerous pieces of legislation. While I have certainly not supported all of the bills that Senator MITCHELL has advanced on behalf of the Democrats, I must say that his ability to guide legislation through the Congress, is impressive.

After 14 years of service in this body, Senator MITCHELL is ending his career of public service, one that includes time as a Department of Justice Attorney, a U.S. Attorney, and a Federal Judge. There is a great deal of speculation on what Senator MITCHELL's next undertaking will be; but whatever it is, I am confident that he will approach it with the same determination and commitment that he has his duties in the Senate. I wish him, and his lovely fiancee, Heather McLachlan, success and happiness in their marriage and all their future endeavors.

THE RETIREMENT OF SENATOR DON RIEGLE

Mr. THURMOND. Mr. President, I rise today to pay tribute to a fellow Member of this body, Senator DON RIEGLE, who will retire from the U.S. Senate at the end of the 103d Congress.

A native of Flint, MI, DON RIEGLE has represented the people of his State for almost 30 years, serving in the U.S. House of Representatives from 1967–76, and then in the Senate, from 1976 to the present. During his tenure in this body, Senator RIEGLE has emerged as one of its leading experts on business, economic, and monetary matters thanks to his extensive experience in these areas as both an academician and an executive. His expertise enabled him to do a commendable job as the chairman of the powerful Senate Banking, Housing, and Urban Affairs Committee, where he has won praise from many different sectors.

Mr. President, DON RIEGLE is a hard working, studious, and thoughtful man who has brought much to the U.S. Senate. I wish him, and his lovely wife, Lori, health, happiness, and great success in all their future undertakings, and I am pleased to have had the opportunity to serve with DON.

IS CONGRESS IRRESPONSIBLE? YOU BE THE JUDGE OF THAT

Mr. HELMS. Mr. President, anyone even remotely familiar with the U.S. Constitution knows that no President can spend a dime of Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that it was, and is, the constitutional duty and responsibility of Congress to control Federal spending. Congress has failed miserably in that task for about 50 years.

The fiscal irresponsibility of Congress has created a Federal debt which stood at $4,690,448,546,845.94 as of the close of business Thursday, October 6. Averaged out, every man, woman, and child in America owes a share of this massive debt, and that per capita share is $17,990.99.

WOULD THOMAS JEFFERSON DISDAIN POLITICAL MOANING ABOUT UNLIMITED SENATE DEBATE?

Mr. HELMS. Mr. President, a few days ago, I listened with fascination as the distinguished majority leader lectured the Senate on the evils of the filibuster, a word he uses with great frequency and with the most pejorative tone he can muster.

There is a touch of the thespian in the able majority leader. There is at least a trace of showmanship in most political figures, and the majority leader obviously relishes keeping a straight face as he debunks the patron saint of his party, Thomas Jefferson, who was the first real advocate of unlimited debate in the Senate. And the news media, reacting in the style of Pavlov's dog, races to convey to the public the majority leader's references to the evil filibuster.

We should all understand the majority leader's discomfort. He is upset. He is upset because no matter how often he talks about filibusters, the American people nonetheless instinctively

understand why the majority leader is in such a snit these days. The Wall Street Journal pinned the tail on the donkey in an October 4 editorial headed, "Glorious Gridlock." The Wall Street Journal observed—

The 103d Congress that began by boasting it would break gridlock is coming to an end mired in it. The striking political news is that voters seem more relieved than upset. This year the voters are looking beyond the label offered by politicians to inspect what's really being sold. From health care to campaign finance, voters have turned out to be discriminating when offered "reform." Instead of blaming Republicans for blocking bills, voters are holding the Democratic majority responsible for offering misguided change.

And the editorial concluded:

No doubt Senator Mitchell will shout gridlock during each of these debates, but voters don't seem to be listening. Mr. Mitchell's handpicked successor for Senator from Maine is getting trounced in the polls. Two years of the Mitchell-Clinton administration have turned gridlock into a political advantage.

So, one must understand why the majority leader is upset. In fact things are so bad that one of our Democratic colleagues is now running a campaign commercial which proudly proclaims, "A majority of the time, I voted with the Republican leader, BOB DOLE." Another of our colleagues is running an ad which doesn't identify his party affiliation but highlights how many times he has voted against the Clinton-Mitchell program.

But, Mr. President, my purpose is not to focus on the majority leader's political problems. What needs to be understood is the charges that the majority leader has constantly made that somehow extended debate in the Senate is beyond the pale and that something out of the ordinary is afoot as the Senate winds down the clock on the 103d Congress.

As an aside, it should be noted that in the 102d Congress, this same majority leader singlehandedly stonewalled President Bush's capital gains tax cut and held up all Bush judicial nominations for months prior to the 1992 election. That, you see, was perfectly legitimate because it was the Mitchell ox that was doing the goring.

It is a bit strange, when one pauses to think about it, that the distinguished majority leader has attended literally scores of Jefferson-Jackson political dinners in his career. At these Democratic Party events, the majority leader many times surely joined in paying homage to Thomas Jefferson and everything Mr. Jefferson stood for. The problem is if you look at the big government, big spending agenda of the majority leader's present-day party, you certainly will not see much of anything which Thomas Jefferson would approve.

Let us ponder for a moment, Senator MITCHELL's frequent pejorative attacks on those of us to whom Thomas Jefferson is an historical hero. What did Mr. Jefferson think of unlimited debate in the Senate—which Senator MITCHELL repeatedly condemns as filibustering.

In his Manual of Parliamentary Practice for the Use of the United States Senate, Thomas Jefferson clearly warned those who, in the name of institutional reform, ending gridlock, or any other such contrivance, attack Senators who would openly and fairly use the Senate rules which govern debate in this body to check, or at least slow down, the raw power of the majority party and its leader. I am confident that if Mr. Jefferson were around today, he would disdain those who make such arguments. Consider this: Writing in 1801, 12 years after the convening of the First Congress, Mr. Jefferson said:

* * * nothing tended to throw power into the hands of administration and those who acted with a majority of the House of Commons, than a neglect of, or departure from the rules of proceeding: that these forms [rules], as instituted by our ancestors, operated as a check and control on the actions of the majority, and that they were in many instances, a shelter and protection to the minority against the attempts of power * * *

* * * and whether these forms be in all cases the most rational, or not, is really not of great importance.

It is much more material that there should be a rule to go by, than what the rule is; that there may be a uniformity of proceeding in business, not subject to the caprice of the Speaker, or captiousness of the members.

Mr. President, what the majority leader really wants us to do is—ignore Mr. Jefferson's warning and let the majority leader, and Mr. KENNEDY, and other majority party Senators have their way. Every time a bloated spending bill is shot down the Republicans are chastised for not following as Mr. Jefferson put it, "the caprice of the Speaker [in this case the majority leader] or the captiousness of the members."

For my part, being chastised by the distinguished majority leader is like being flogged with a wet noodle.

But, in fact, as Mr. Jefferson went on to say, the rules of debate in the Senate are there to protect the American people from the wantonness of power of large and successful majorities.

I do not make these observations lightly. There is no right so essential to maintaining our freedoms, nor is there a right so misunderstood, as the right of unlimited debate in the Senate of the United States. If and when the Senate majority leader, regardless of party, is allowed to acquire the powers possessed by the Speaker of the House of Representatives, the U.S. Senate will be reduced to nothing more than an appendage of the House, as the distinguished President pro tempore, Senator ROBERT C. BYRD, eloquently noted in his history of the U.S. Senate.

Those like the majority leader who wail against gridlock are really implying that in a democracy the majority must always rule. And to that I must dissent with all my being. There was, it needs to be said, a man named Pontius Pilate who abdicated his responsibility to a mob.

Our Founding Fathers did not carelessly or thoughtlessly design this system for the convenience of any President, or the whims of any majority leader. Mortals come and go. The system was designed to protect all Americans from the dangers of hurried, arbitrary, and ill-considered legislation.

If that doesn't suit the majority leader's wishes he may need to remind himself that the American people know what is afoot in the U.S. Senate and it appears fairly obvious that they may register their feelings on November 8.

BEING FLOGGED WITH A WET NOODLE NOT SO BAD

Mr. HELMS. Mr. President, last evening I mentioned an editorial in yesterday's Washington Post—which a growing number of people call the The Washington Compost. The editorial writers of the Post, who never allow accuracy or fairness to interfere with an ad hominem attack on someone with whom they disagree, published a mean-spirited opinion piece favoring proposed legislation that is tantamount to having Congress write an open-ended check requiring the American taxpayers to pay for a new Smithsonian Museum at a time when the Federal Government has already run up a debt of more than $4.6 trillion.

The editorial, entitled "Another Congressional Casualty?" was akin to being flogged with a wet noodle. In short, the editorial was remarkable in that it was difficult to find any accuracy in it.

For example, Mr. President, the editorial stated that Senator ROBERT C. BYRD's amendment to the proposed museum legislation makes clear the new museum can't ask for public money for at least 5 years. In fact, the opposite is true. Had the editors bothered to look at the bill, they would have found that in section 9, the Byrd amendment reads as follows:

There are authorized to be appropriated such sums as may be necessary only for costs directly relating to the operation and maintenance of the Museum.

The Washington Post editorial writer conveniently neglected to mention that thus far, the Smithsonian has refused to provide Congress with any budget estimates for its first 5 years of operation, or any assessment of the burden on the taxpayers in connection with the proposed museum's programs and activities, which will include traveling road shows, media promotions, and training programs. Nor has the Smithsonian been willing to advise Congress as to an estimate for the number of employees the museum will hire, their salaries, or how much of

these salaries the taxpayer will have to foot.

For the record, I have, on numerous occasions asked the Smithsonian for the projected budget of this proposed museum including costs for its establishment, and its operation, maintenance and activities. The first Smithsonian response stated that the $475,000 already appropriated will be used to establish the museum, and that over the next 5 years, no additional taxpayer funds will be needed for the establishment of the museum. But the Smithsonian official refused to say how much in taxpayer funds will be needed for the other costs of the museum, that is, for its operation, maintenance, and programs, including the traveling exhibits, the media promotions, and the training programs for African-Americans, all of which will amount to the bulk of the cost of the museum.

So, I wrote back, thanking the Smithsonian for telling me how much it will cost to establish the museum, which of course was not the question I had asked. But now please tell me, I wrote, "how much in Federal funds do you project that the museum will spend, for each of the next 5 fiscal years, for all other aspects of the museum, that is, its maintenance, operation, programs, and other costs, other than the costs for establishing the museum?"

The Smithsonian responded that it will develop a strategy for private funding to support the establishment of the museum, a question I had not asked. I asked about the cost of all other aspects of the museum, that is, maintenance, operation, programs, and other costs.

So, you see what is going on, Mr. President, ask the Smithsonian one question, and you get a nonanswer, an answer to an entirely different question. The Washington Post editorial writer accepted the nonanswer as if it was the gospel.

Then the editorial claimed I raised dark hints that the Nation of Islam will want a museum of their own if we create an African-American museum. A contrived falsehood.

What I asked the Smithsonian, in my letter of June 8, was: (1) What criteria were used in approving a museum specifically dedicated to African-Americans? and (2) Will the Smithsonian support creation of separate museums for all ethnic, racial, and religious minorities meeting this criteria?

Mr. President, those are reasonable questions, and we'd better get answers to them now—not later. Once Congress establishes a museum dedicated solely to African-Americans every other minority will give thought to asking the taxpayers to pony up for a special museum for them. In fact, a Smithsonian report of May of this year, titled, "Willful Neglect: The Smithsonian Institution and U.S. Latinos" has already recommended a new museum dedicated to Americans of Hispanic descent.

Once Congress gives the go ahead for African-Americans, how can Congress then say no to Hispanics, and the next group, and the next group after that? Of course Congress can't, and Congress won't. So where will it stop? No one knows. I doubt it will ever stop as long as Congress has the power to reach into the pockets of the American taxpayer and sieze larger and larger amounts of tax dollars.

Mr. President, I did, in my questions to the Smithsonian, inquire as to how the Smithsonian would deal with requests by the Nation of Islam which may desire to participate in the museum's programs and activities, a valid question inasmuch as the taxpayer is already subsidizing the Nation of Islam through the Department of Housing and Urban Development.

I also asked how the Smithsonian would deal with requests to honor any of the leaders of the Nation of Islam. Another good question, to which I did not receive a straight answer, inasmuch, as I doubt many Americans want their tax dollars being spent to honor Louis Farrakhan and his ilk.

It is by no means far-fetched to anticipate requests to honor in the museum's exhibits, people like Farrakhan, remember, it is the Smithsonian which attempted to use the 50th anniversary of the dropping of the atomic bomb as an excuse for putting together an exhibit demonizing America.

The Post editors also lament what they claim is the possible loss of important collections, if the Congress fails to soak the taxpayer for this proposed museum. The editors declined to mention that these collections can be acquired by the Smithsonian for display in existing museums and exhibits dedicated to African-Americans.

You see, Mr. President, there is the question of whether this proposed museum duplicates activities already being undertaken by the Smithsonian. The answer is that it does. First, there is the Anacostia Neighborhood Museum—which the Smithsonian advertises as a Smithsonian Museum of African American History and Culture. Yet the multi-million dollar museum to be created by the pending amendment is also portrayed by the Smithsonian to be a Museum of African American History and Culture.

If there is already one museum, financed by the taxpayers, dedicated to African American History and Culture, why is another one needed?

Then, there is the African Art Museum on the Mall. And the National Museum of American History, which has two separate exhibits dedicated to African-Americans. And the National Museum of American Art, which this month opens an entire wing of one floor of its building dedicated to an African-American art exhibit entitled, "Free Within Ourselves." And the National Portrait Gallery which features one exhibit on African-American journalists of the World War II era, and another exhibit entitled "The Harlem Renaissance." The list goes on and on.

Mr. President, the bottom line is that with a $4.6 trillion Federal debt the Washington Post could not, on the facts, justify a new Smithsonian museum when, (1) nobody knows how much it will cost, and (2) we don't know the number of employees, what their pay will be or who will pay them, (3) it duplicates other museums already funded within the Smithsonian, (4) the Smithsonian can't afford upkeep on museums and collections it already has and, (5) the museum will undertake numerous extraneous activities such as training programs, seminars and travel of which no cost estimates have been provided.

So, Mr. President, the Washington Post did the next best thing—it handed out another one of its mean-spirited ad hominems. The trouble is, it was still a wet noodle.

Mr. President, I ask unanimous consent that The Washington Post editorial, "Another Congressional Casualty?", be printed in the RECORD at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 6, 1994]

ANOTHER CONGRESSIONAL CASUALTY?

Back in 1990 when Congress first took up the idea of establishing a Smithsonian museum of African American "history and heritage," the museum's projected opening date was 1996. That still seemed feasible earlier this year: The House overwhelmingly passed a bill authorizing the museum, which would let it begin seeking contributions and gathering artifacts, and the Senate seemed poised to do likewise. Only one senator has been heard to express any opposition to the bill as it now exists. But that senator is Jesse Helms, and given the welter of other filibusters that need breaking in the Senate's last days, supporters now say the African American museum is a long shot at best.

Lots of worthy legislation is expiring this month, of course. But there are a few extra reasons for shame if the Senate lets Mr. Helms kill this one. The first is that the senator's stated concerns, reiterated in lists of questions to the Smithsonian—mainly about possible cost and possible undue "influence" by unsavory groups—have been exhaustively and repeatedly answered. An amendment by Sen. Robert Byrd makes clear the new museum can't ask for public money for at least five years. (The designated building already exists, and most funds are to be raised privately.) The senator's dark hints that "other groups," including the Nation of Islam, will "want one too" if this museum is created ignore the entire existing governance structure of the Smithsonian, not to mention a decade's worth of discussion as to what kinds of additions the Mall should make to its portrayal of history.

More important is that another year's delay would do serious damage to the quality of what the museum ultimately could show.

The delay threatens irretrievable loss of some important collections that Smithsonian prospectors have already identified—including actual 19th-century photographs taken on slave ships—but that, once identified, have come to the attention of private collectors. It was a Republican criticism in Congress that put a curb on the Smithsonian's ability to solicit such contributions, after complaints that the museum was backing congressional overseers into a corner by coming to them seeking funds for already-promised acquisitions. Museum officials then agreed that no such major acquisitions could be made without congressional authorization for the museum in which they would be put. That makes good sense—except when Congress dallies year after year for no other reason than procedural snarls and one senator's mean-spirited obstruction.

RECENT DEVELOPMENTS IN NORTHERN IRELAND

Mr. KENNEDY. Mr. President, I commend my colleague, Senator LEAHY, for his continuing concern and effective leadership on the important issue of United States policy toward Northern Ireland. In recent months, we have seen dramatic and positive developments there. All friends of Ireland are hopeful that the auspicious peace process currently under way will finally end the tragic conflict in Northern Ireland that has claimed more than 3,000 lives over the past 25 years.

Many people deserve credit for the developments that led to the most hopeful breakthrough in many years—the August 31 announcement by the Irish Republican Army of a complete cease-fire. No one deserves more credit than John Hume, the leader of the Social and Democratic Labour Party in Northern Ireland. I first came to know John in the 1970's when he visited the United States to urge Irish Americans to stop supporting the violence and to start supporting his courageous leadership in the cause of nonviolence and peaceful change. In the past year, his long and tireless efforts for peace have finally begun to bear fruit, especially his initiative last year with Sinn Fein leader Gerry Adams that helped lead to the recent IRA cease-fire.

Last December, Irish Prime Minister Albert Reynolds and British Prime Minister John Major issued a landmark Joint Declaration which outlined a realistic path for peace. Both leaders deserve credit for recognizing this unique opportunity and for putting Northern Ireland high in their priorities.

President Clinton has also played an important role in the peace process. Last January, he granted Gerry Adams his first visa to visit the United States. That visit was a key step in leading the IRA to declare a cease-fire. His visit then, his new visit to this country in recent days, and the continued involvement of the Clinton administration have been of central importance in moving the peace process forward.

For years, all of us who oppose the violence in Northern Ireland have called on both sides to lay down their arms and seek to achieve their legitimate aspirations through the democratic process. Now that the IRA has agreed to do that, Sinn Fein should be encouraged, not isolated. In fact, as we now know, the British Government had been talking secretly with the IRA long before Gerry Adams received his visa to visit the United States. It is gratifying that the peace process is now so clearly in the open, and all of us are optimistic that the current progress will continue.

Credit for these developments also goes to a delegation of Irish Americans—Niall O'Dowd, Bill Flynn, Bruce Morrison and Chuck Feeney—who have actively contributed in recent months to bringing about the August 31 cease-fire.

Much remains to be done. Most important, the Protestant paramilitary organizations should halt their violence immediately, and all sides should come together at the peace table. My hope is that all sides will be able to build on the recent momentum and reach a lasting settlement soon. I am confident that the United States will do its part to facilitate that settlement in any way possible, and I look forward to working with Congress and the administration to provide whatever assistance we can.

EDUCATING CHILDREN FOR PARENTING PROGRAM

Mr. PELL. Mr. President, I wish to engage in a colloquy with the distinguished chairman of the Labor and Human Resources Committee.

The Educating Children for Parenting Program is being used in many school districts around the county to help parents and children to learn parenting skills. My understanding is that the managers of the Improving America's Schools Act intended to include language on this innovative program in the Statement of Managers.

Mr. KENNEDY. The Senator is correct. The managers commend the Educating Children for Parenting Program and urge local education agencies to consider incorporating this model as part of their comprehensive drug and violence prevention activities, as authorized under title IV of this act.

Mr. PELL. I thank the Senator.

RETIREMENT OF STEPHEN M. NYULASZI

Mr. MITCHELL. Mr. President; this year, the State of Maine is losing a tremendous public servant. Stephen M. Nyulaszi will be retiring as Director of the Department of Commerce's branch office in Maine.

Steve has served the people of Maine in this position for 15 years. His assistance to Maine Businesses has been invaluable. He has helped countless Maine companies to grow and become competitive in both domestic and international markets. His skills and dedication have made significant difference in the success of many businesses' effort, and I know that he will be deeply missed.

Steve Nyulaszi personifies the ideal public servant. He has worked above and beyond the call of duty to assist Mainers.

I have often said that it is not easy to choose public service. It guarantees neither wealth nor fame.

Rather, public service must be and is its own reward. It gives work a value and meaning greater than mere personal ambition and private goals. It affords you an opportunity to do something that will change the lives of people for the better.

Steve Nyulaszi has done just that. He has worked hard, and it has been both noticed and appreciated. I wish Steve the long, happy, and healthy retirement that he so richly deserves.

PASSAGE OF H.R. 6 AND THE REAUTHORIZATION OF THE NATIVE HAWAIIAN EDUCATION ACT

Mr. INOUYE. Mr. President, I rise today to express my deep appreciation to my colleagues, Senators KENNEDY, PELL, KASSEBAUM, and JEFFORDS for their efforts in securing passage of H.R. 6, the improving America's Schools Act. H.R. 6 represents literally thousands of hours of work by the members of the Senate Labor and Human Resources Committee and their staff. I think they all deserve special commendation.

I am especially pleased that included in H.R. 6 is a reauthorization of the Native Hawaiian Education Act. Mr. President, the Native Hawaiian Education Act is one of the most important measures with which I have had the privilege of being affiliated. It is a measure which is premised upon raising the educational status on native Hawaiian children and youth to national parity. Yet it is also a measure which recognizes the importance of native Hawaiian culture, language, and traditions and the critical role that these values can play in the education of all native Hawaiian people.

The Native Hawaiian Education Act had its origins in 1981, when the Senate authorized the Secretary of Education to submit a comprehensive report on native Hawaiian education to the Congress. The report, entitled the "Native Hawaiian Educational Assessment Project" was released in 1983 and Documented that native Hawaiians scored below parity with national norms on standardized achievement tests, were disproportionately represented in

many negative social and physical statistics, indicative of special educational needs, and that their educational needs were related to their unique cultural situation, such a different learning styles and low-self-image.

In recognition of these needs, the Congress enacted title IV of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 to authorize and develop supplemental education programs to benefit native Hawaiians.

The programs established under the act have been extraordinarily successful. The Kamehameha Schools Family-Based Preschools and the Higher Education Program, the Punana Leo Hawaiian Immersion Preschools, Pihana Na Mamo—the native Hawaiian special education project, and Na pua No'EAU—the center for gifted and Talented Native Hawaiians, have touched the lives of literally thousands of native Hawaiian children and their families.

But despite these advancements, a recently released 10 year update of the native Hawaiian education assessment project found that many of the same educational needs still exist for native Hawaiians. Currently, native Hawaiian children and youth represent the single largest ethnic group within the state educational system, 23.6 percent, and their numbers are growing. Yet they represent more than 50 percent of youth committed to the Hawaiian Youth Correctional Facility. In special educational programs, Hawaiian students represent 32.7 percent of the total special education enrollment, with figures in some school districts approaching 42 percent. And in achievement tests of basic skills, Hawaiians score below national norms and scored the lowest of the four major ethnic groups in Hawaii.

These are only a few examples of the over-representation of Hawaiian children and youth in the at-risk population. They are also indications of a school system that has failed to meet the needs of the native Hawaiian people. For example, for the school years 1989–1991, approximately 17 percent of Hawaiian students enrolled in their junior year were not enrolled for their senior year.

In April 1993, the Indian Affairs Committee convened a 2-day native Hawaiian education summit, which brought together over 200 native Hawaiian educators, administrators, parents, students, and community leaders to collectively chart a course for the future of native Hawaiian education. The amendments to the Native Hawaiian Education Act contained in H.R. 6 reflect the recommendations which were issued forth from the summit.

I believe it is imperative that a unified approach be taken so that each of the programs receiving funding under the Native Hawaiian Education Act do not provide duplicative services but rather coordinate the provision of services, and reach out to other educational and related programs. Because only with such a comprehensive approach can we best utilize our limited resources. That is why H.R. 6 contains provisions which establish a native Hawaiian education council, as well as individual island education councils, in order to ensure the input of native Hawaiian communities.

On July 7, 1994, U.S. Secretary of Education Richard Riley met with representatives of the programs funded under the Native Hawaiian Education Act and other native Hawaiian educational programs. I wish to share with you the words that were offered to the Secretary by Ms. Haunani Apoliona, A native Hawaiian educator, singer and song writer, and a true native Hawaiian role model.

Nearly 18 months ago all of us in this room and many more who are not present today, returned to the bosom of Pauahi, in gathering for the Native Hawaiian Education Summit, to exchange both ancient and contemporary wisdom to assist us in moving together to take what is only a first step in collectively charting the journey of native Hawaiian education into the 21st century.

A context of concepts served as common starting points for our discussion on Hawaiian education—which highlighted the expectations for Native Hawaiian education:

To prepare our youth and adults to recognize that responsible jobs and rapidly changing occupational requirements call for workers with the ability to read, write, compute, analyze, solve problems, and exercise good judgment in carrying out their duties.

To promote the use of cognitive skills (induction, deduction, critical thinking) through exposure to and analysis of problems encountered and acquisition of basic skills.

To instill the appreciation for the dignity of work and its importance in determining a standard of living and instill in students the value of cooperation with others in order to accomplish a task.

To allow Hawaiian learning styles to influence how curriculum is shaped and how teaching strategies are accomplished, incorporating designs or educational programs that strengthen family and generational interaction, building on the strengths rather than on the deficits of families.

To identify viable non-traditional approaches to a learning environment that achieve measurable and high standards of results as well as consider the equal partnership of both academic and vocation education and for the Hawaiian.

To achieve educational reform not by just focusing on factors external to a child's educational experience but by also addressing the attitudes, feelings and fears on the inside of the child especially in the early years.

We also noted at least two aspects that make Native Hawaiian education special and distinct from other populations:

Aspect one, recognized the inclusion as well as consistent lead that Hawaiian language and Hawaiian values must play in Native Hawaiian education, education that begins even before the child is born; and that the utilization of such Hawaiian values and the striving for lokahi instills the wisdom and enlighten perspective of inter-dependency between ourselves, our environment and our spiritual forces promoting individual responsibility for the good of the whole * * * all key elements to the renewal of our people.

Aspect two, committed and dedicated ourselves, our families and communities, as Hawaiians, to the principle that education is synonymous with life long learning—that education takes on a different dimension and meaning, becomes relevant for all stages of life, individually and collectively, from before birth to the senior years.

The vigorous exchange of ideas on what ingredient elements must comprise Native Hawaiian education and what the vision will be is framed in our collective voice, our collective mele, resounding in the following statement of goals from the Native Hawaiian Education Summit:

"The 'ohana (extended family) and Native Hawaiian communities are essential to the success of Native Hawaiian education and we therefore shall determine, shape and guide the learning and education of our people."

"We collectively shall shape an education system that embraces, nurtures and practices our traditional foundation as embodied in our language, culture, values and spirituality."

"That we collectively shall shape an education system that empowers Native Hawaiians to be contributors, active participants, and leaders in our local and global communities."

We are prepared for the challenge and opportunity to chart the voyage of Native Hawaiian education, guided by the wisdom and work of Native Hawaiians for the benefit of Native Hawaiians. We are poised to work together, to collaborate among our people in assessment, planning and implementation (i.e., embodied in the mechanism of the Education Council) and with all partners (current and potential) who support and contribute to the achievement of our mission. Our unique legal and historic background with the United States underscores the special responsibility and relationship demonstrated by the U.S. Federal Government to Native Hawaiians; a special responsibility that the U.S. can not choose to abandon even in these difficult economic times.

Our work has begun* * *.

Put forward the paddle and draw it back.

Go on with the task that is started and finish it.

Let us work together, Natives of Hawai'i.

This 'olelo no'eau is shared in closing* * *.

Let us move forward and drink of the bitter waters (the challenging times) for we will not turn back, retreat (or give up). Mahalo.

Mr. President, I thank you for granting me this time.

REFLECTIONS ON THE HEALTH CARE REFORM DEBATE

Mr. ROCKEFELLER. Mr. President, as the final hours of the 103d Congress near, I rise to share some thoughts on the subject that so many of us thought would be the defining accomplishment of this challenging year. We were not able, it turns out, to arrive at a conclusion on health care reform. Many of the problems that sparked the drive for reform still exist and will continue. It is my deep and abiding hope that the experiences and lessons of these past 2

years will help guide a more successful course in the next year.

Lyndon Johnson used to say that other nations are confused by the nature of our democracy. He was referring to observers that mistake dissent for disloyalty, restlessness for a rejection of policy, and individual speeches for public policy. That could apply to our recent debate on health care. But the heated, tumultuous stage on health care was, yet again, democracy in practice. This legislative body took a serious problem on its broad shoulders and struggled to mend it. And while we have yet to conclude our work, we have seriously begun our push.

For too long, American families have struggled under the weight of health care. Medical bills have become more and more expensive while health insurance paid less and less. The same is true for American businesses—they have spent more and more to insure workers with policies that covered less and less.

My reason for deciding to focus on health care reform years ago was very simple. Over my many years in public life, I saw more and more harm being done to the people of my State. West Virginians—families, small businesses, providers—asked for help. They said they could not solve these problems on their own no matter how hard they tried.

Whenever I am back home, I meet a worried mother or father, a devoted son or granddaughter looking for a way to cope with burdens caused by a health care crisis or need. People who work, who pay their taxes, who play by the rules. But people who individually just can not stop an insurer from raising its rates or cutting off coverage at the moment it is needed the most.

As much as we can explain the reasons that Congress did not agree on a health reform bill this year, as much as we have learned from one another, one fundamental and simple truth remains: too many working American families are still falling through the cracks every single day, unable to pay their health care bills or get the treatment a loved one needs.

We must persist in the search of a solution. I am disappointed that health care reform did not happen in this session—there is no denying that. I try to find comfort in the fact that getting Social Security into place took 10 years.

Important ground was covered in the feisty, fiery debate that lasted over this entire Congress. If enough of us remain committed to solutions, Congress and the American people have much to draw on to chart the path to health care reform. We did not finish our work, and there should not be a competition for partisan trophies. There is no win here for Democrats or Republicans.

We dare not find ourselves satisfied. We dare not claim the moral high ground on what became of health care reform. Because, in America, people still lose their homes, parents still deplete college funds, and businesses still shutter their doors because health care costs are spiraling out of control. We have brought health care reform closer to happening than ever before in American history, but that means very little to the people hurting from the problems of our system and the bottom line that saddles our economy. Our heated exchanges did achieve one thing: it moved health care reform from a whisper in a few rooms into the national conversation.

Around lunch counters, on front porch stoops, in factory cafeterias, Americans now discuss the pros and cons of managed care, purchasing cooperatives, single payer, and mandates.

The debate of the past 2 years helped educate all Americans. Every single Member of Congress talked to and wrote to constituents about health care reform. I held town meetings in many counties in West Virginia where 8 out of 10 questions I was asked were about health care reform. And I bet my experience was the norm. When reporters from home started to pick up on this, I eagerly exchanged thoughts and information about health care reform with them. I know every Member of Congress did the same. As the questions got tougher and more detailed, I worked harder, researched more, tried to explain the issues as I understood them in greater length.

We saw the dividends. Our newspapers and talk shows, our radio programs and magazines gave more and more time, more and more space, to health care. We moved the country from arguing about whether or not there even was a health care crisis to how best to respond to the crisis. That does not happen easily in this country. That was the result of patient, committed work.

We had more partners than we can count. Whether people supported President Clinton's plan or not—whether they wanted a single payer system or some form of mandates or their very own prescription—they weighed in and got active. Involvement in health care reform spanned the entire American population. Union members, small business owners, seniors, handicapped, farmers, and so many others rallied their membership, educated themselves, and took an active role. Phones here really did ring off the hook with input. There was no apathy on health care reform. No time that America lost interest. I still get calls from people in West Virginia and from all over the country telling me "to keep on working on reform."

Even with this to be proud of and take solace in, far-reaching, meaningful health care reform will have to wait another day. Because fear and confusion, in the end, stalled our work.

After all our hours of deliberation, after caucusing and studying and hearing from constituents back home, the problems of our system are not retreating. Insurance companies will not be forced to change a thing. Consumers will still be buried under more paperwork, fine print, and bureaucratic waste. The $100 million spent to stir up a blinding sandstorm of bedlam and bewilderment overwhelmed our push to help Americans.

And that bedlam reigned, despite the fact that there are some basic reforms that we all agree are desperately needed, like the need to stop insurance companies from refusing to insure people with preexisting conditions—or the need to make home- and community-based care available for those in need of long-term care. Or, to make sure that all of our children have a health insurance card.

Real people lost out because we could not get a compromise agreement on even a scaled-back reform package, real people whom I was sent here to represent, like the Saunders family from Charles Town, WV, lost. The Saunders' story is not uncommon in today's system, and it will happened again and again without action on basic insurance reforms. Michael Saunders is an assistant pastor at a Baptist Church. The family lost their health care coverage suddenly when their church had to switch plans to an insurance company that then went broke. Now, the Saunders are faced with thousands and thousands of dollars of unpaid bills that make each day a struggle. I firmly believe that a majority of my colleagues would have ultimately voted to change that, but that vote never came.

A few early votes, like the bipartisan vote for the Pryor Rockefeller long-term care amendment during the Finance Committee's markup of health reform, or the Senate floor vote in favor of the amendment I wrote with Senator DASCHLE to help rural areas, did prove there is a strong, bipartisan base of support for some important pieces of reform.

In the Veterans' Affairs Committee that I am proud to chair, a substantial proposal was approved to both preserve a health care system for America's veterans and extend the choices and quality services that they deserve. This effort must resume, and Congress cannot ignore the obvious needs for improvements in the health care system dedicated to veterans.

I appreciate the thought and effort devoted to the need for reforms in our current system of financing medical education. Market changes and fiscal realities are forcing lawmakers and medical educators to adapt our policies. My hope is that we can build a consensus to generate the primary care doctors and health care workforce that Americans so clearly need.

With the few votes on health care cast in committees and on the Senate floor, they showed that Members were willing to make a commitment to new spending if it met serious needs and if the programs were designed to be fiscally responsible. Democrats and Republicans alike agreed on the need to act to provide some assistance to the families who want the ability to care for their own at home as they deal with the financial, physical, and emotional burdens of coping with chronic illnesses. But, on this issue, as on so many others, I regret to say that the real life needs of the people we represent were not elevated beyond gestures of support.

Here is what is so sad: It was easy to be stubborn, to draw lines in the sand and pull one objection after another out of the air when a $100 million blitz smothered the basic nuggets of truth. Confusion and hysteria about health care went hand-in-hand with calls for help. Those endless and divisive Harry and Louise ads, and others on radio and in newspapers, played fast and loose with the truth in an effort to scare people into believing that health care reform—any reform—was so complicated, so revolutionary, and so expensive that it would ruin us all. Well, that was not the truth, period. But a $100 million sky-is-falling media blitz was tough to drown out.

The nature of the American media only fueled the fire. At a time when everything from Michael Jordan's baseball career to O.J. Simpson were headline-grabbers, something as critically important in the real world as health care reform had to share precious airtime and ink. Now health care isn't very sexy and it won't sell many newspapers—unless it's a controversial story. So health care was reduced to a political horse race.

I am not faulting reporters for the fact that we did not get health care reform done. Most did us a great service with detailed and insightful work. But the American media is a very different entity than it used to be. Not so long ago, major newspapers and a few networks essentially served as a check on misleading and irresponsible information. The public gained perspective by how a restrained and cautious media covered subjects. That discrete judgment is just about gone. What the mainstream media rejects as trivial or simply titillating is delivered by the feeding frenzy of the alternative media.

So the ability to deliver an inaccurate message is easily found. And opponents of health care reform seized this chance—their hype, hysteria, and half-truths were broadcast far and wide. Take Harry and Louise. Actors who pretended to have health care worriers took on a life of their own. They pushed scary ideas like big government and bureaucracy without ever having to prove anything. They were unchallenged critics. Yet they were as fake as the sets for their home and office built on some back-lot soundstage. And the tabloid press treated them as real when they were products of the health insurance industry's public relations machine.

Factor together a $100 million blitz and news priorities skewed by the need to compete for audience share with the explosion of tabloid journalism, and it is no wonder the important elements of health care reform were drowned out.

This confusion helped to stall health care reform. It bogged reform down in so much uncertainty and fear that it made having to take a real stand on health care reform utterly avoidable.

We are sent to Washington by our constituents to act on their behalf—to take on the important issues and problems of a nation. Yet millions of dollars and thousands of column inches and hours of airtime make it harder to cut through—it takes more time, more education, to make a case for reform. That helped run the congressional clock down. And that came at the expense of virtually every single middle class family and every single small business in America. The people who really do drive this country, the people who work in our factories and on our farms, who pay taxes and play by the rules, who give their time and money to build their communities, are the people on the losing end of this score.

Sadly, I believe our falling short could have been avoided. We could have put as much time and effort into constructive negotiation as we did to fighting over labels. But that never really seemed an option. No one ever said Bill Clinton's plan was perfect. No one ever said Senator MITCHELL'S bill was a take-it-or-leave-it proposition. I was an advocate for both those bills, and I myself saw them as starting points. But the notion that health care reform had to start somewhere and would be an evolutionary process never seemed an option to some here—and that is a shame. So health care reform is something we all have to keep on pushing for.

I have not given up for West Virginia. Not unless and not until the problems that saddle our people and economy go away.

As frustrated as I am with what transpired on health care, I am still moved by the good-faith, sincere, and honorable efforts of individuals far, far too numerous to mention. I think of many Senators and Members of the other body. I think of the hundreds and hundreds of congressional staff, like my own, who sacrificed time with their families and gave their hearts and souls to the effort of the past 2 years. I think of the President and First Lady, and their own troops, all clearly trying to make life better for the American people. I think of the people from my State and across the country who did all they could to help achieve reform for themselves and their fellow citizens.

In the closing days of this Congress, Senate Majority Leader GEORGE MITCHELL and Republican Senator JOHN CHAFEE tried mightily to create a blueprint for health care reform. Together, they represented Senators from both parties who wanted to put the concerns of the American people ahead of partisan politics. They wanted to make a real effort to achieve universal coverage. The conviction they represented will not die, and it is one of the starting points we have to press on.

Health care reform should be bipartisan. It should represent what most Americans want, and not just for one faction or one theology. But it also has to be about dealing with real problems and achieving real results.

I do not see the endeavor getting any easier. The special interest money and the confusing claims will form their torrent when we try again next year or the year after or the year after.

Without reform, this Nation's deficit will balloon just when we have put it on a downward slope. Without reform, businesses and families will continue to struggle with an impossible choice: spend more for coverage or gamble on doing without. Without reform there will be no peace of mind for parents and no thoughts of a secure future for young people. So the stakes remain high, and the need remains undiminished. Our debate is over for this year, but the health crisis continues to grow.

We can succeed only if we stop listening to the voices for partisan wars and those that win when the status quo prevails. And success means relief for real people and the stability that our budget so clearly needs.

For those of us who will not give up on trying for our people, we have to look on the past 2 years as the foundation to build from. Before the 103d Congress, health care reform was something like the Loch Ness monster—sighted every few years, heard about, but never produced. President after President during the past 60 years had an idea of the importance of health care reform, only to be outdone by political inertia. This time, reform came closer to reality than ever before. And it is now a vivid issue, etched clearly onto the American agenda. People in rural and urban America young and old, regardless of ethnicity, income, or geography all see the need for reform.

At its very core, health care reform has been about offering real hope for resolving the real problems that weigh down too many of us. For me, it has been about helping West Virginians put their heads on their pillows at night with the peace of knowing that their families, their businesses, their jobs, and their homes will not be devastated by health care costs. For me, it has

been about freeing my State from the exhausting burdens of out-of-control health care costs.

Let us not forget what health care reform was really about. It was about giving the American people the same security that they give Congress. It was about giving them the same reliable, affordable, flexible coverage we have. I have in my wallet a Blue Cross Blue Shield card. Because I am one of 9 million Federal employees in a common program, I get to choose from among dozens of different insurance plans. I chose this one because it suits the needs of my family best. I pay almost a third of the monthly premium, and my employer, the Federal Government and taxpayers, pays the rest. I have very good, very comprehensive health benefits. I don't wait in lines and I deal with a doctor, not a bureaucrat.

In fact, just a day or so after the reality that health care reform was not going to happen this year, the Washington Post ran a front page story detailing how the health care benefits of Congress and of all Federal employees were about to get better and less expensive. How can we watch the success of the health program that covers us and our own staff, and then endure the failures that plague the people we represent. There is no way to rationalize this, no way to spin or filibuster it into acceptability. Allowing Americans to get the same affordable, reliable coverage was what we fought for.

I know others think the same way, and I know I have Senate colleagues just as hopeful and determined to do right and pass reforms that Americans want from us. We've come so very far, but more trying and exhausting steps await us when the 104th Congress convenes next year. The growing interest in entitlement reform, and what that means for Americans relying on Medicare and Medicaid, will require serious attention.

My greatest hope is that the needs of our Nation and our own States, in the end, will ultimately outweigh the $100 million hype and hysteria that have put obstacle after obstacle after obstacle in our path.

During World War II, the Army Corps of Engineers—the people who helped bridge the Rhine and clinch the defeat of Germany—had a motto: The difficult we do immediately, the impossible takes a little longer. That should be our rallying cry for health care. It's a major undertaking, and I have acknowledged that from day one. But it's an undertaking we must resume. We have taken a long time, and we will take a little longer. If we have the integrity and the commitment to do right by the American people, we'll get to work with renewed vigor and determination and repair the health care system. We can and we must turn one of our Nations's more trying episodes into a moment of great effort and achievement.

SOCIAL SECURITY NOTCH ADJUSTMENT ACT OF 1993

Mr. DECONCINI. Mr. President, I introduced the Social Security Adjustment Reform Act of 1993 early in the 103d Congress. I have been a longtime supporter of legislation to correct the glaring inequity in our Social Security System known as the notch problem. In previous Congresses dating as far back as the 99th Congress, I have cosponsored legislation to address this notch disparity.

Mr. President, I had hoped to offer this legislation for a vote prior to the end of this Congress. However, our former colleague, Senator Sanford and I made a pledge on the floor of the Senate in 1992 that we would not force a vote on this matter until the Senate and the House received the recommendations of the Notch Commission. In turn, the opponents of this legislation agreed to allow passage of legislation establishing and funding a commission to study and report its recommendations to Congress. While I am very frustrated over the long delay in the appointment of members of the commission and the late date for the completion of their work, I have kept my word. As I am fast approaching the end of my term in the Senate, I wanted to lay out my arguments one last time in hopes my words will be an impetus for others to champion this legislation next year.

Mr. President, Social Security payroll contributions and benefits are based upon wages earned. However, because of inflation, increases in benefits are needed to maintain an adequate standard of living for retirees. In 1972, the Congress sought to ensure that these increases would occur automatically in response to rising prices, rather than being dependent upon a mandate from Congress, which might reflect partisan politics. With this intention, Congress changed the formula used to calculate increases so that it would be based on prices, rather than wages. Economic theory which had held true for some 50 years or so suggested that wages tend to rise nearly twice as fast as prices. So if increases were based on prices, benefit levels would keep pace with inflation, but the contributions being paid into the trust funds would increase faster, keeping pace with wage levels. This would ensure the solvency of the trust funds.

Unfortunately, that wage-price economic theory failed. Wages were rising only slightly faster than prices and the Social Security pension fund began to pay out more than it had available and was in danger of bankruptcy. Congress soon realized its mistake and in 1977 it again adjusted the formula for calculating benefits to prevent the Social Security trust funds from going broke.

However, since the 1977 formula provides a lower benefit than the benefit provided by the 1972 formula, and since activating that change immediately would have caused a reduction in benefits for people already receiving Social Security, Congress provided for a period of transition in an effort to be fair to new and near retirees.

Mr. President, individuals in the notch group understand too well the importance of equity in ensuring long-term confidence in the system. The notch group knows it has been disenfranchised by its own Government. Worse yet, many in their Government have portrayed them as greedy geezers merely attempting to squeeze yet another buck out of old Uncle Sam. I strongly disagree.

The problem does not stem from anything which the notch group did or said. It was the Congress and the President who enacted the transitional fix which provided them with lower benefits than their peers. It was the Congress and the President who chose not to reduce the benefit levels of those bonanza babies born before 1917 whom they argued were getting a windfall. In short, Congress and the President corrected an earlier mistake which resulted in another. Like it or not, thousands of individuals in the so-called notch group have a legitimate beef with their Government.

Mr. President, I have consistently maintained that the original transition period, 6 to 10 years, was far too short to give adequate notice to the people who had or were in the process of making retirement decisions. This short timeframe has worked to the detriment of those retirees who fall in the notch category and receive the middle benefit, but who at age 56 to 60 were too close to retirement to change decisions they had made based on their expected Social Security benefits. The notch benefit level as it exists today is simply not fair. It is plainly not fair to the many honest, hard working Americans who responsibly planned for their retirement and is it not fair to others in the notch group who had less opportunity to save for whatever reason.

Mr. President, if Social Security is indeed a social compact with the working class, then the Government owes those who pay into the system a duty of good faith and fair dealing. The opponents of fixing the notch problem argue that these beneficiaries are treated better and will continue to be treated better than those who are post-notch babies. This is not true. Some in the notch group were treated better than others, but many receive lower benefits and their loss has nothing to do with how much an individual worked or paid into the Social Security System in his or her lifetime. The transitional rules were supposed to guarantee against large discrepancies in benefits, but these new rules proved as unsound for that purpose as the bedrock

economic theory that would have prematurely bankrupted the system.

Mr. President, the Congress had intended in the seventies to delegate its duty to manage the benefit computation authority in order to minimize the chance that benefit levels would be altered for political gain by any party or President. I believe that the Congress and the President did the right thing. I also believe that the Congress and the President were trying to do the right thing in 1977, but fell short of the mark. However, I now believe that the Congress and the President are doing the wrong thing by refusing to correct the problems the first fix created.

The legislation I offered in this Congress, and my dear friend Senator Sanford in the 102d Congress, would correct much of this unfair situation by enhancing benefit levels during the transition years and extending the transition period to also protect anyone born between 1922 and 1929. Few bills are ever perfect and this bill is not perfect. The bill does not fully compensate those who were not helped by the transition fix and it probably true would enrich some in the notch too much. But, the bill is no worse than the 1977 legislation that created the problem. In short, this bill is a fair compromise and it is high time we face up to our mistakes and fix the notch problem.

In conclusion, I would like to thank my friends and colleagues who have steadfastly supported despite the enormous weight of criticism by the notch opposition forces. Their courage and integrity have provided me with a great deal of personal satisfaction and hope for the future. I would note for the record that the following Senators cosponsored my bill in the 103d Congress: Senators HARKIN, HEFLIN, HOLLINGS, SHELBY, DASCHLE, BURNS, MIKULSKI, PRESSLER, PELL, and BRYAN. I certainly wish them Godspeed in the efforts to resolve this problem in the coming Congress.

TRIBUTE TO MAJORITY LEADER GEORGE MITCHELL

Mr. DODD. Mr. President, I rise today to pay tribute to our retiring colleague, the Majority Leader GEORGE MITCHELL. His 14-year Senate career is about to come to a close, and this institution will sorely miss him.

The role of Senate majority leader is a dual and seemingly contradictory one: He is supposed to be both a neutral arbiter of the Senate's business and the leader of his party, both a bipartisan manager and a partisan advocate. GEORGE MITCHELL has kept the two roles insulated from each other, and as a result, he has succeeded in both splendidly.

As majority leader, he has always been fair, above-board and completely honest. I think all of my colleagues from the other side of the aisle would agree with that assessment.

As the leader of the Senate Democrats, he has been highly effective and leaves behind him a string of legislative victories as proof. He has coaxed and wheeled, cajoled and convinced, pestered and pressured. Senator MITCHELL is a true leader, in the sense of the word Harry Truman used when he said, "You know what makes leadership? It is the ability to get men to do what they don't want to do, and like it."

One of Senators MITCHELL's principal achievements will undoubtedly be the Clean Air Act, which passed during his first year as majority leader. He made clean air his top priority when he came to the Senate in 1980. It took several years, but he was dogged and got it done.

Thanks to that legislation, Americans today are breathing cleaner air than they would have without it. We are also making strides in our efforts to fight acid rain and protect the ozone layer.

There are countless other monuments to GEORGE MITCHELL's skill as a legislator and compassion of ordinary Americans. Of all the achievements of his years as majority leader, I will list just a few.

The Family and Medical Leave Act, which he and I pushed for year after year until it finally became law in 1993.

The Brady bill and this year's crime bill, both of which will make our streets safer.

An increase in the minimum wage and expansion of the earned income tax credit, both of which provided a small boost to millions of working Americans.

The largest deficit reduction bill in our history, which has put us back on a course of fiscal responsibility after the drift of the 1980's.

The Americans with Disabilities Act, which has opened doors and new vistas to millions of physically challenged Americans.

A national service program, intended to bring help to the disadvantaged and a new spirit of service to our next generation.

Each of these by itself is a major achievement. Taken together, they represent a monument record of success.

We all know that the majority leader had hoped to make health care reform the final achievement of his Senate career—not to secure his own place in history, but to provide relief to millions and millions of Americans in desperate need of it. In fact, Senator MITCHELL turned down a lifetime appointment to the U.S. Supreme Court so that he could fully devote himself to this cause.

We fell short on health care this year, and I know that no one regrets that more than GEORGE MITCHELL. But all of our efforts were not futile. We made valuable progress, and we laid the foundation for major reform next year.

We will eventually get this job done, and the memory and example of GEORGE MITCHELL will be with us when we do. His inspiration will also be with us when we pass campaign finance reform, another of his passions.

As Walter Lippman said, "The final test of a leader is that he leaves behind him in other men the conviction and will to carry on." GEORGE MITCHELL will leave all of us with the will to carry on, with the conviction to fight the good fight for the American people.

TRIBUTE TO GOVERNOR LOWELL P. WEICKER, JR.

Mr. DODD. Mr. President, I rise today to pay tribute to Lowell Weicker, our former Senate colleague who will be leaving public office when his term as Connecticut Governor ends in January.

Governor Weicker is tough and tenacious, opinionated and outspoken, caring and compassionate. For proof of his credentials as a maverick, one need look no further than the fact that for years he was known as a "liberal Republican." When his chosen party had moved too far to the right for him, he formed his own party and carried its banner into the Connecticut Governor's mansion.

Lowell Weicker began his Senate career in 1970, and he quickly became a passionate advocate for Government reform and accountability. He made his first big splash nationally during the televised Watergate hearings. One might have expected a first-term Republican Senator to stick up for his party's leader, or at least to sit quietly with his hands folded in front of him. But that wouldn't have been his style. Instead, he was a relentless, probing, inquisitive questioner. His priority wasn't defending his party or sticking up for his President: He wanted to know the truth.

Senator Weicker was once questioned about his political philosophy by a reporter. He responded that he served the Republican Party best "by not striving to be a great Republican, but by striving to be a good Senator." Senator Weicker's achievements were many. He fought hard against organized school prayer, which he saw as an affront to the Constitution. He strenuously opposed cuts in health and education funding proposed by President Reagan.

He created a new program within the Education of the Handicapped Act to provide educational and rehabilitative services for disabled infants. He also launched a Federal initiative to encourage medical schools to offer specialities in geriatrics.

Lowell Weicker served in the Senate until 1988, when my friend and colleague, JOE LIEBERMAN, defeated him by 10,000 votes. But Lowell Weicker didn't simply recede from the scene in Connecticut. He decided to run for Governor in 1990 under the banner of a new

party, called "A Connecticut Party." His campaign slogan was "Nobody's man but yours." In a three-way race, he won with 40 percent of the vote, become the first third-party Governor in Connecticut since the Civil War.

Governor Weicker inherited a terrible fiscal situation. In 1991, Connecticut's deficit was proportionately the largest in the United States. Jobs were vanishing from the State, and the mood was grim. Governor Weicker knew that tough medicine was called for, and he delivered it. He proposed a State income tax and painful spending cuts.

As one would expect, a storm of protest ensued, but Governor Weicker didn't ride it out in the Governor's mansion. He took to the streets to confront the protesters, some of whom literally spat on him. He took to the air waves to take calls on radio talk shows. He sought out his opponents wherever he could find them in order to make his case that the route he had taken was the only one available to fiscal stability.

When the legislature refused to enact his plan, he declared a state of emergency and shut down all nonessential services; 13,000 State employees were put on indefinite furlough. The legislature then acquiesced and passed the Governor's plan.

At the same time he was bringing the State's books back into balance he was dramatically improving Connecticut's business climate. He made a concerted effort to make Connecticut more attractive to business. He cut corporate taxes and directed the Department of Economic Development to fight aggressively to retain existing employers and attract new ones to the State.

After nearly 4 years in Office, the results on Governor Weicker's policies are in. The State of Connecticut now enjoys a surplus. The economy is far from robust, but it has come a long way from the dark days early in this decade. And further improvements are on the horizon.

As governor, Lowell Weicker has many other considerable achievements. Under his leadership, Connecticut became only the third State in the Nation to restrict the sale of military-style assault weapons. he also has sought voluntary, regional solutions to racial segregation in the problem. Governor Weicker has continued his lifelong advocacy for children and the disabled. He is chairman of the board of the International Special Olympics Summer Games, which will take place in New Haven, CT next year.

Governor Weicker announced a year ago that he would not seek reelection. It was time, he said, to devote himself to his family and to interests in the private sector.

I suspect, however, that one way or another we will be hearing again from Lowell Weicker. It would not be like him to simply go quietly into that good night. Whatever Lowell Weicker chooses to do next, I wish him all the best, and I commend him on his three decades of public service.

THE RETIREMENT OF SENATOR DON RIEGLE

Mr. DODD. Mr. President. I rise to pay tribute to our retiring colleague, DON RIEGLE, whose career here will come to an end with the close of this session.

Throughout his career in public service, DON RIEGLE has demonstrated hard work, sound political judgment and strong leadership. He has never forgotten his roots in Flint, MI, and he has devoted himself to bettering the lives of the people who live there and in the thousands of communities like it across this country.

Senator RIEGLE has a distinguished track record of standing up for an international trading system based on fairness, of fighting for the economic interests of his constituents, and of looking out for the interests of our society's most vulnerable people.

He has also made considerable contributions to the health and well-being of our financial system. Those of us who served with Senator RIEGLE on the Senate Banking Committee, which he has chaired for the past 6 years, will especially miss him. Under DON RIEGLE's leadership, the Banking Committee has been among the Senate's most active committees.

As chairman, Senator REIGLE shephered critical legislation through the Senate to address the savings and loan crisis. the Financial Institutions Reform, Recovery, and Enforcement Act [FIRREA] attacked thrift industry problems head-on by cutting the flow of S&L losses, providing authority to investigate and sanction criminal abuses, and establishing the Resolution Trust Corporation to seize and sell thrift assets.

Senate RIEGLE's leadership was also instrumental in the passage of landmark legislation in 1990, the Federal Deposit Insurance Corporation Improvement Act. This important bill strengthened the banking industry by raising capital standards and created prompt corrective action procedures to avert future financial crises.

DON RIEGLE's legislative achievements also include passage of the $3 billion National Affordable Housing Act to expand access to home ownership to more Americans, as well as the HUD Reform Act passed to respond to agency mismanagement and abuse.

And just within the last 2 months, we passed the community development banking bill and what will go down as one of Senator RIEGLE'S foremost achievements, the Riegle-Neal Interstate Banking and Branching Act of 1994. Thanks to that legislation, which was years in the making, consumers will soon begin to enjoy a wealth of new benefits, and our banking system will be strengthened for years to come.

Since I succeeded Senator RIEGLE as chairman of the Securities Subcommittee, we have worked closely on a host of legislative initiatives to increase the integrity of the securities market, reduce the credit crunch, and provide increased capital to consumers, industry and the economy.

Senator RIEGLE'S invaluable support and leadership as my full committee chairman helped us rack up the most significant legislative achievements in the securities field in the past 15 years. The list includes the Securities Market Reform Act and the Securities Law Enforcement Act.

Like Majority Leader MITCHELL, Senator RIEGLE had hoped we would pass health care reform before his Senate career came to an end. We failed as a Congress to pass health care reform this year, and we must all accept responsibility for that outcome. But if there is anyone in this body who will go home at the end of this session sure in the knowledge that he did everything he was humanly capable of for this cause, it is DON RIEGLE.

Starting more than 2 years ago, Senator RIEGLE has talked about more than 60 Michigan families in a series of Senate speeches called "Faces of the Health Care Crisis." He has told the tales of people throughout Michigan whose lives have been wrecked, whose children have suffered needlessly, whose job prospects have been dashed—all because of the inadequacies of our health care system. These speeches periodically reminded all of us about why this fight really mattered.

During the Finance Committee's markup of health care legislation, he made sure that the package that finally emerged included a strong set of benefits for pregnant women and children.

We didn't succeed this year, but in the end, we will. And when we do, we will be guided by the inspiration of DON RIEGLE. It is with admiration for a long career of effective public service and with sadness for the departure of a dear colleague and dear friend, that I bid farewell to DON RIEGLE.

TRIBUTE TO SENATOR DENNIS DECONCINI

Mr. DODD. Mr. President, I rise today to pay tribute to Senator DENNIS DECONCINI, whose long record of service to this institution will soon come to an end.

Senator DECONCINI's work in the U.S. Senate has been broad and his achievements many. He has been especially effective in the fight against crime and illegal drug use. His crime-fighting credentials extend back to his days as Pima County district attorney, and he

has never forgotten the evidence he saw there of crime's terrible impact on families and communities.

Senator DECONCINI has provided a strong voice in the fight against illegal drugs and has led efforts to encourage drug-exporting countries to cut off production at the source. He has also successfully pushed for major increases in drug interdiction funding.

It was not until this Congress that majorities of the House and Senate could agree to ban assault weapons, which may belong on the battle field but not the streets of America. But Senator DECONCINI has been trying to ban the sale of these terrible weapons since 1989.

He heard the complaints and fears of police officers about the extraordinary firepower being trained on them by criminals, and he decided to do something about it. It may have taken 5 years for the rest of this Congress to come around to DENNIS DECONCINI's view on this, but the fact that we eventually did stands as a testament to his foresight and courage.

Senator DECONCINI has not only tended to the security of our families but to the security of our Nation. As chairman of the Intelligence Committee, Senator DECONCINI has been thoughtful and persuasive in his contention that our intelligence community must do more to adjust to the post-cold-war world. He has honed in on the cultural and procedural problems at the Central Intelligence Agency that made it possible for Aldrich Ames to go undetected for so many years. He has also supported efforts to reign in the CIA's budget; declassify more of its records, and depoliticize its analysis.

As chairman of the Subcommittee on Children, I will particularly miss Senator DECONCINI's advocacy on behalf of the youngest Americans. He is one of the Senate's foremost advocate of the Women, Infants and Children Program, commonly known as WIC.

Senator DECONCINI has argued eloquently that on this issue at least—making sure infants and expectant mothers have enough to eat—we should agree. And he has succeeded in bringing literally millions more individuals into this program.

He wrote legislation that established a national background check to ensure that persons who work as child-care providers do not have a criminal history of child abuse. He also established Project Alert, a nationwide program to allow retired Secret Service, FBI, and other law-enforcement personnel to help find missing children.

At the same time that Senator DECONCINI acted forcefully on the national stage, he carefully tended to the interests of his constituents. More than anything else, he has said he wants to be remembered as a Senator "who put his constituents first."

He estimates that during his three terms in the Senate, his office has performed constituent service for 100,000 Arizona residents, with Senator DECONCINI personally involved in 15,000 of those.

I know I speak for all of my colleagues when I say that DENNIS DECONCINI will be missed. I wish him well in all his future endeavors.

TRIBUTE TO SENATOR DAVID BOREN

Mr. DODD. Mr. President, I rise to pay tribute to one of our retiring colleagues, DAVID BOREN of Oklahoma. Senator BOREN has been a voice of independence and integrity during his 16 years in the Senate, and he will be missed.

Senator BOREN has shown the same independence and grit shown by the Boomers and Sooners who settled his home State during the last century. He has talked repeatedly about the need for bipartisanship, about the need to do what's right for our country, not what's right for our party.

More than anything else, DAVID BOREN has been a reformer. For the last decade, he has fought with every ounce of his strength to reform our bankrupt system of campaign finance. He has sought to reduce the role of special interest money in the system, to limit out-of-control campaign spending and to cut into so-called soft money donations.

His goal has been to begin the long process of rebuilding the American people's faith in their elected representatives. We did not pass campaign finance this year, but our failure was certainly not due to any lack of effort on the part of DAVID BOREN.

We will get the job done eventually, because the American people are demanding that we act. Those demands are not going away. When we finally do succeed, the memory, inspiration, and eloquent words of DAVID BOREN will be there with us.

Senator BOREN chaired the Intelligence Committee for 6 years, becoming our leading expert on intelligence matters. He sought to improve relations between the executive and legislative branches in this area and help our intelligence community adjust to the post-cold-war world.

In addition, Senator BOREN has been a tough and tenacious advocate for his State and the farmers and oil producers that form its economic backbone. He was the architect of the $4 billion bailout of the farm credit system in the mid-1980's and has stood up for oil producers when he thought they were being unfairly singled out by tax proposals.

Senator BOREN has a long and distinguished career of public service. He served in the Oklahoma House of Representatives from 1968 to 1974. During that time he was also chairman of the government department at Oklahoma Baptist University. After literally campaigning with a broom in hand, he was elected Governor on a reform platform in 1974. He made good on his pledge to make State government more open and accountable.

He then won a seat in the Senate in 1978. He won reelection in 1984 with 76 percent of the vote. That was a record tally for Oklahoma, and it stood until 1990, when he broke his own record with 83 percent of the vote. He carried every county in the State that year.

Senator BOREN will now return to one of his true loves: education. He will become president of the University of Oklahoma, and I am sure he will lead that institution with the same distinction with which he has conducted himself as a U.S. Senator. I wish him well in all his future endeavors, and I want him to know he will be missed here.

TRIBUTE TO SENATOR HARLAN MATHEWS

Mr. DODD. Mr. President, I would like to pay tribute to Senator HARLAN MATHEWS, whose too-brief time serving with us in this body will soon come to an end. Senator MATHEWS was appointed to fill the remainder of AL GORE's Senate term, and he has acted as an honorable and able steward for the people of Tennessee.

Senator MATHEWS has only served here for 2 years, but he has made the most of the time. He has been a strong supporter of deficit reduction and spending restraint. He also provided a strong voice for comprehensive health care reform, measured to protect the environment, and the bill to deregulate the telecommunications industry. In addition, Senator MATHEWS and I worked together on efforts to reform our product liability and securities litigation systems.

I had the pleasure of serving with Senator MATHEWS on the Foreign Relations Committee, where he made a particular contribution to United States-Asian relations. Senator MATHEWS understands the critically important role Pacific trade plays and will continue to play in our economy. He has sought to strengthen the international institutions that undergird that trade. Last June, the Senate unanimously passed a resolution Senator MATHEWS authorized on the Asia Pacific Economic Cooperation Organization. I am proud to note that I was an original cosponsor of the resolution, which called on the President to reaffirm the U.S. commitment to make the organization an effective tool for increased trade and lowered tariff barriers across the Pacific rim.

Before coming to the Senate, HARLAN MATHEWS had a long and distinguished career of public service in Tennessee. He began working for the State in 1950 and joined Governor Frank Clement's budget staff in 1954. He was the State's

commissioner of finance and administration from 1961 to 1971 and State treasurer from 1974 to 1987. He also served as cabinet Secretary to Gov. Ned McWherter.

I know I speak for all of my colleagues when I thank HARLAN MATHEWS for his 2 years of dedicated service to this institution. I want to extend him my congratulations for a job well done and to wish him well in all his future endeavors.

COL. ALAN P. SULLIVAN—A DISTINGUISHED CAREER IN THE MARINES

Mr. KENNEDY. I welcome this opportunity to recognize the dedication, public service, and patriotism of Col. Alan P. Sullivan of the U.S. Marine Corps, who is retiring after over 24 years of outstanding service to the Nation. Although he is leaving the Pentagon, I am pleased that he is not leaving Government service, and will soon become Director of the White House Military Office.

Colonel Sullivan is a native of Groveland, MA. He graduated from Villanova University and was commissioned as a second lieutenant in the Marine Corps in June 1970. After completing flight training, he reported to his first A–6 squadron, an aircraft he would fly throughout his career. Colonel Sullivan served with combat units based in the Philippines and Japan.

While based at the Marine Corps Air Station in Cherry Point, NC, Colonel Sullivan served as the Schedules Officer, Aviation Safety Officer, and Aircrew Training Officer. He graduated from the Marine Corps Staff and Command College in 1983 and from the Naval War College with distinction in 1989. During his Marine career, Colonel Sullivan also earned two masters degrees, including an M.B.A. from New York University.

Most recently, Colonel Sullivan has served in senior managerial posts in the Marine Corps and in the Office of the Secretary of Defense. In 1989, he was assigned responsibility for development of the Marine Corps Program Objective Memorandum. Beginning in March 1992, he served as Military Assistant to the Director of Defense Research and Engineering in the Office of the Secretary of Defense. In that capacity, his consummate leadership, intellect, and integrity ensured the effective selection and utilization of scarce research and development funding during a period of major defense restructuring. Working closely with Congress, Colonel Sullivan helped to obtain Senate and House support for critical defense research projects, and his effective work has contributed directly to the future readiness and success of our troops in the field.

Colonel Sullivan's awards include the Legion of Merit, the Meritorious Service Medal, the Navy Achievement Medal, and several unit awards.

I know that Colonel Sullivan's wife, Kathy, and his sons, Matthew and Christopher, are proud of his many accomplishments, and so are the Marine Corps and the Nation. His distinguished service will be genuinely missed in the Department of Defense, and all of us who know him wish him every success in his new responsibilities at the White House.

UNFUNDED MANDATE LEGISLATION

Ms. MIKULSKI. Mr. President, I hope we can pass the unfunded mandate bill. The Senate has a historic opportunity to provide relief to our State and local governments and restore a genuine sense of partnership.

I oppose unfunded mandates. Every time I travel in Maryland, one message comes through loud and clear from local governments—"put your money where your mandates are." Too often, Washington pushes off obligations on State and local governments without any thought as to what it will cost. This bill corrects this problem by requiring a cost estimate for every mandate bill that is considered.

We need to know what kind of burden we might be imposing on State and local governments before we act. If the burden is too high, we need to consider that.

This bill restores fairness and honesty to the Federal-State partnership without jeopardizing our ability to meet vital needs. That is why the Nation's governors, mayors, and legislators support this bill—and it is why I support this bill.

INDIAN GAMING REGULATORY AMENDMENTS

Mr. INOUYE. Mr. President, I rise today to join the vice-chairman of the Committee on Indian Affairs, Senator JOHN MCCAIN, in sharing with our colleagues, our efforts to address the matter of amendments to the Indian Gaming Regulatory Act of 1988.

Those of our colleagues who are well-versed in matters of Indian gaming know that almost before the ink was dry on the President's signature—on a bill that sought to establish a comprehensive framework for the conduct of gaming activities on Indian lands—there have been continuous calls for amendments to that Act.

Many of these overtures were prompted by the rulings of various Federal courts that were confronted with interpreting the Federal law as it interacts with State law.

For those that are less than well versed in matters of Indian gaming, it is important to understand the fundamental structure of the Act. It is based on the concept of equal protection as well as the public policy of each State.

That is, Indian tribal governments are authorized to conduct those games that are not against the public policy of the State in which the tribe's reservation is located and which are not criminally-prohibited as a matter of State law.

It is that sense that the Indian nations are afforded the equal protection of the laws of each State—by operation of the Federal law, tribal governments are authorized to conduct those games that are permitted to be played by anyone else in the State for any purpose.

When a State and a tribal government disagree as to which games are permitted to be played pursuant to State law, one task of the Federal courts is to examine the public policy of each State, and then turn to a more specific analysis of State gaming law.

The policy objective of the Indian Gaming Regulatory Act is thus based upon the premise that the citizens of each State have, by the exercise of their votes, made a determination as to the State's public policy with regard to gaming generally, and have also made specific decisions about which games are to be permitted and which games are to be prohibited by criminal sanction. The Federal law thus looks to the State's law to define the parameters of Indian gaming in each State.

This matter has come to be known as the "scope of gaming," and has become perhaps the most challenging controversy associated with the act.

The tribal governments, I think, would maintain that they seek only to engage in those activities that are permitted to other citizens of the State.

From a State perspective, the Federal courts are not construing State law and public policy in a manner that is consistent with the State's own interpretation of its laws.

The challenge posed to the committee is to amend the Federal act in such a way as to reduce or even eliminate the latitude with which courts interpret State public policy as it relates to gaming and the construction by the Federal courts of State gaming laws.

It is the resolution of this issue which, after hundreds of hours of dialog amongst representatives of State and tribal governments, has proven elusive.

The second matter that has been a source of considerable concern, at least for those tribes that are affected by such Federal court rulings, is the assertion by some States of the 10th and 11th amendments to the constitution as defenses to Federal court jurisdiction.

Two of the circuit courts of appeals have now ruled and are in agreement on the 10th amendment, while four of the circuit courts of appeals have now ruled on the 11th amendment and have come to different conclusions.

Thus, while it is likely that the Supreme Court will be addressing the conflict between the circuits on the 11th amendment, there have been a number of tribal governments who have called upon the committee to legislatively address this matter through amendments to the act.

Another area of concern to those States along the east coast is the effect of the 1988 Gaming Act on the terms of previously-enacted Indian Land Claims Settlement Acts.

The Supreme Court has not acted to deny certiorari in the challenge by the State of Rhode Island to the application of the Indian Gaming Regulatory Act to the extent that it is inconsistent with the provisions of the Rhode Island Indian Land Claims Settlement Acts, thereby letting stand the ruling of the first circuit that the Indian Gaming Regulatory Act impliedly repeals a portion of the Rhode Island Settlement Act.

And while there are other matters of concern to the States and the tribes, there is one matter that is important to everyone who has some involvement in Indian gaming—to the tribes and the States, to the managers and the patrons.

This is the matter of federally established minimal standards that would apply to the governmental regulation of Indian gaming—whether regulation is the responsibility of a State government, a tribal government, or both—and which would of course apply to the Federal Government in equal measure.

We have proposed the formation of an advisory committee of tribal, State, and Federal Government representatives to formulate these standards and recommend their adoption.

To those critics of minimal standards who suggest that it is somehow unfair or discriminatory to single out Indian gaming for compliance with standards for regulation, I would comment that if I were chairman of a committee with broader jurisdiction over all gaming, I would be equally supportive of minimal Federal standards for all gaming.

My jurisdiction as chairman of the Committee on Indian Affairs is, however, limited, and thus I am constrained by the scope of my authority.

These are the primary issues with which we have been engaged over the past year, and although the tribal-State dialog process that vice chairman MCCAIN will detail did not come to fruition, I believe that there remains the will and the commitment on the parts of the States and the tribes to continue to work with the committee, so that we may have a measure ready for introduction in January.

In the interim, I want to express my deep appreciation and gratitude to those who have committed their time and energy, measured in hundreds if not thousands of hours, to the development of legislation to amend the Indian Gaming Regulatory Act of 1988.

This includes Governors and attorneys general, tribal government leaders and their attorneys, representatives of the Federal agencies, and last but certainly not least the members and staff of the Committee on Indian Affairs and those who have graciously lent their advice and counsel to the committee.

I also want to thank our colleague, Senator HARRY REID, for his forbearance in proceeding with his own legislation to amend this act, while this process of State-tribal dialog was ongoing. I hope that we can develop a measure that will address his concerns, and which will strike the proper balance between the interests of the Federal, State, and tribal governments in their capacities as sovereigns.

THE INDIAN GAMING REGULATORY ACT OF 1988

Mr. MCCAIN. Mr. President, before the 103d Congress comes to a close, I would like to take this opportunity to inform my colleagues and the American people about the efforts of the Committee on Indian Affairs to enact amendment to the Indian Gaming Regulatory Act of 1988.

Since the enactment of the Indian Gaming Regulatory Act in 1988, there has been a dramatic increase in the amount of gaming activity among the Indian tribes. Indian gaming is now estimated to yield gross revenues of about $4 billion per year and net revenues are estimated at $750 million. There are about 160 class II bingo and card games in operation and there are now over 100 tribal/State compacts governing class III gaming in 20 States, including my own State of Arizona. Indian gaming comprises about 3 percent of all gaming in the United States. Gaming activities operated by State governments comprise about 36 percent of all gaming and the private sector accounts for the balance of the gaming activity in the Nation.

Indian gaming has become the single largest source of economic activity for Indian tribes. Annual revenues derived from Indian agricultural resources have been estimated at $550 million and have historically been the leading source of income for Indian tribes and individuals. Annual revenues from oil, gas, and minerals are about $230 million and Indian forestry resources revenues are estimated at $61 million. The estimated annual earnings on gaming now equal or exceed all of the revenues derived from Indian natural resources. In addition, Indian gaming has generated tens of thousands of new jobs for Indians and non-Indians. On many reservations gaming has meant the end of unemployment rates of 90 or 100 percent and the beginning of an era of full employment.

Under the Indian Gaming Regulatory Act, Indian tribes are required to expend the profits from gaming activities to fund tribal government operations or programs and to promote tribal economic development. Profits may only be distributed directly to the members of an Indian tribe under a plan which has been approved by the Secretary of the Interior. Only a few such plans have been approved. Virtually all of the proceeds from Indian gaming activities are used to fund the social welfare, education, and health needs of the Indian tribes. Schools, health facilities, roads, and other vital infrastructure is being built by the Indian tribes with the proceeds of Indian gaming.

In the years before the enactment of the Indian Gaming Regulatory Act and in the years since its enactment we have heard concerns about the possibility for organized criminal elements to penetrate Indian gaming. Both the Department of Justice and the FBI have repeatedly testified before the Committee on Indian Affairs and have indicated that there is not any substantial criminal activity of any kind associated with Indian gaming.

Some of our colleagues have suggested that no one would know if there is criminal activity because not enough people are looking for it. I believe that this point of view overlooks the fact that the act provides for a very substantial regulatory and law enforcement role by the States and Indian tribes in class III gaming and by the National Indian Gaming Commission in class II gaming. The record clearly shows that in the few instances of known criminal activity in class III gaming, the Indian tribes have discovered the activity and have sought Federal assistance in law enforcement.

Nevertheless, the record before the Committee on Indian Affairs also shows that the absence of minimum Federal standards for the regulation and licensing of all Indian gaming has allowed a void to develop which will become more and more attractive to criminal elements as Indian gaming continues to attract more patrons and generate increased revenues.

Mr. President, during the 102d Congress, the distinguished chairman of the Committee on Indian Affairs, Senator INOUYE, convened three oversight hearings on the implementation of the Indian Gaming Regulatory Act of 1988. Those hearings revealed that most States and Indian tribes were working with each other to resolve disagreements and enter into compacts to govern class III gaming. The Department of Justice advised the committee that there was no evidence of substantial criminal activity associated with Indian gaming. Appointments to the National Indian Gaming Commission had been delayed, but the Commission was finally up and running and in the final stages of issuing the regulations necessary to regulate class II gaming and carry out the act by late 1922.

The hearings in the 102d Congress also revealed that the act had resulted in substantial litigation between Indian tribes and States over the issue of the scope of gaming activity that should be subject to negotiation for inclusion in a class III compact between an Indian tribe and a State. Under the 1988 act, the scope of permissible gaming is determined by reference to State law in accordance with the 1987 decision of the U.S. Supreme Court in the case of Cabazon Band of Mission Indians versus California. In States such as Wisconsin and Connecticut the litigation over the scope of gaming ultimately resulted in final determinations by the Federal courts of the so-called "scope of gaming" permitted under State laws. In other States such as New Mexico, Florida, and Alabama no final determinations about the scope of gaming have been reached through negotiation or litigation. In these other States the provisions of the act which provide for a final determination by the Federal courts have been frustrated by the assertion by the States of defenses based on the 10th and 11th amendments to the U.S. Constitution.

Early in the 103d Congress, the Committee on Indian Affairs was called on by State and tribal leaders to consider amending the act to resolve issues related to the scope of gaming and the 10th and 11th amendments to the Constitution. In addition, legislation was introduced in both the House and Senate to amend the act to address these issues and concerns about the adequacy of regulation of Indian gaming. Here in the Senate, S. 1035 was introduced by Senators REID, BRYAN, GRAHAM, and SIMPSON on May 26, 1993.

In March 1993, Senator INOUYE initiated a series of meetings with Governors, State attorneys general, Federal officials and tribal leaders to see if a dialog among all of the parties would yield a consensus on amendments to the act. After a series of separate meetings with each of the parties, the Committee on Indian Affairs convened a joint meeting of the parties on July 2, 1993. That meeting resulted in the establishment of State and tribal work groups and negotiation teams to try to hammer out legislative language and a consensus on necessary amendments.

The negotiation teams met for a week during July 1993 and agreed upon a conceptual framework for amendments. In subsequent meetings during July and early August, substantial progress was made toward the development of legislative language. Unfortunately, at the National Governors Association meeting in August 1993, the Governors rejected the proposed compromise. After that, little progress was made until October, when the committee again convened a meeting of the Governors, the attorneys general, Federal officials and tribal leaders to see if the impasses could be broken.

At the meeting the Governors suggested a new framework for an agreement on the scope of gaming issue which the tribal leaders agreed to consider. A followup negotiation session was held in November but it quickly resulted in another impass. The committee urged the parties to meet again early this year, but no negotiations were convened.

When it became apparent that the parties could not reach agreement, Senator INOUYE and I announced that the Committee on Indian Affairs would hold hearings in April and May to provide all interested parties with an opportunity to formally identify problems with the 1988 act and to propose solutions. Based on the record of those hearings, the prior negotiations between the tribes and the States, and the recommendations of Federal officials, Senator INOUYE and I introduced S. 2230, the Indian Gaming Regulatory Act Amendments Act on June 23 of this year.

As introduced, S. 2230 provided for a major overhaul of the Indian Gaming Regulatory Act of 1988. It authorized a direct Federal presence in the regulation and licensing of class II and class III gaming as well as all of the industries associated with such gaming. This would be accomplished through the establishment of an expanded Federal Indian Gaming Commission which would be funded through assessment on Indian gaming and fees imposed on license applicants.

The bill also provided a new process for the negotiation of class III compacts which would allow the States to opt out of the negotiations if they so choose. Consistent with the 1987 decision of the U.S. Supreme Court in the case of Cabazon Band of Mission Indians versus California, the bill contained new provisions intended to reduce disagreements between tribes and States over the scope of gaming and to provide for prompt resolution of any disputes which may arise. Provisions of the Bank Secrecy Act will be applied to Indian gaming activities to the same extent that the act is applied to any other gaming activity.

The Committee on Indian Affairs held hearings on the bill on July 19 and July 25. Following those hearings, we developed a proposed amendment in the nature of a substitute and circulated it to interested parties during the August recess for review and comment.

Mr. President, it is important to understand this background in order to understand that the Committee on Indian Affairs has made every effort during this Congress to find a consensus on amendments to the Indian Gaming Regulatory Act. We have been assisted in our efforts by outstanding leaders such as Governor Mike Sullivan of Wyoming who represented the National Governors Association; Attorney General James Doyle of Wisconsin who represented the National Association of Attorneys General; Mr. Rick Hill, president of the National Indian Gaming Association, and Mr. Gaiashkibos, president of the National Congress of American Indians. Several members of the Committee on Indian Affairs, including Senators RIED, CAMPBELL, WELLSTONE, DOMENICI, and GORTON have expended countless hours of their time on this issue. Despite all of these efforts by all of these individuals, it is now clear that we will not be able to secure passage of legislation to amend the Indian Gaming Regulatory Act in the few days which remain in this Congress. I deeply regret that this is the case because I believe that the need for amendments is urgent.

I also believe that the States and the tribes have generally been in agreement for most of the past year on the need for amendments to the act. Agreement exists on the need for a new process for the negotiation of class III compacts and the determination of the scope of gaming activity permitted under the laws of a State. There is also agreement on the need for minimum Federal standards to govern the regulation of Indian gaming.

Despite these areas of agreement, it has not been possible to reach agreement on legislative language. When S. 2230 was introduced it was strongly opposed by the Indian tribes. The proposed amendment in the nature of a substitute which was circulated in August is strongly opposed by the States.

Agreement on bill language has proven elusive for several reasons, not the least of which is the complexity of the act itself. The delicate balance of tribal and State interests and authority also makes this a difficult issue. Notwithstanding these obstacles, I have observed that at several points during the past 2 years that the parties were extremely close to agreement, only to find a blizzard of legal technicalities raised by those, including some lawyers, who believe that their interests would be better served by litigation rather than by amendments to the Act.

This is not a strategy which has the development of sound public policy as its objective. Inevitably the Supreme Court of the United States will be called upon to review the constitutional issues which have arisen under the act. Once the court rules, the losing side will be before us seeking relief. Whether that is the States or the tribes, it is not likely that this Congress will be able to fashion any remedy which is more balanced than those already agreed to in concept by the tribes and States and contained in S. 2230 or the proposed substitute. Those who favor continued litigation rather than legislation will primarily succeed in enriching lawyers and creating animosity between the Indian tribes and States rather than providing a sound

basis for the regulation and conduct of Indian gaming.

The failure to enact amendments to the Indian Gaming Regulatory Act will be viewed by the proponents of more litigation as a victory. I want to caution everyone that it is a hollow victory. It is also a victory which may ultimately lead to the demise of Indian gaming. The act must be amended to address the issues of scope of gaming and the compacting process.

More importantly, it must be amended to establish minimum Federal standards for the regulation of Indian gaming. In the absence of such standards it will only take one serious incident to call into question the integrity of all Indian gaming. Once that occurs the non-Indians who so avidly patronize Indian gaming will look elsewhere to spend their gaming dollars. The single greatest economic opportunity the tribes have had will fade away.

The Congress has an obligation to the Indian tribes and to the patrons of Indian gaming to make sure that Indian gaming activity is regulated in a manner which minimizes the chances for any criminal activity to occur. If such activity should occur we must also have the procedures and mechanisms in place to deal with it promptly and effectively. I believe that the tribes and some States are doing an adequate job at present, but as Indian gaming continues to grow the ever larger cash flow will become increasingly attractive to criminals. The time to act to ensure the integrity of Indian gaming is now. If we wait until there is a crisis, it will be too late.

I urge the States, the Indian tribes, Federal officials and all of my colleagues to join Senator INOUYE and I in the 104th Congress as we continue to seek to strengthen the Indian Gaming Regulatory Act.

THE YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT

Mr. BRADLEY. Mr. President, I am very concerned about the passage of a provision of S. 1146 regarding the Yakima Basin Water Conservation Program. As you know, despite the fact that at least one Senator had put a hold on this very contentious provision, and there were holds on other provisions of S. 1146, it was passed inadvertently by the Senate in the end-of-session confusion on Tuesday night.

First, no hearings have been held in the Senate on this very costly and controversial legislation which was referred to the Subcommittee on Water and Power, which I chair, of the Senate Energy and Natural Resources Committee.

Second, there has been a loud outcry of opposition from the national and Washington State environmental community, including American Rivers, the Sierra Club, the National Wildlife Federation, the Natural Resources Defense Council, Friends of the Earth, Trout Unlimited, the Environmental Defense Fund, and Waterwatch. Their opposition is based primarily on the fact that the bill grants tens of millions of dollars to the irrigation community with no guarantee that water conserved at public expense will go to the endangered Yakima fishery or to cure the serious water quality problems in the basin.

I have many questions of the Senator from Washington, that because of the peculiar nature of its passage, remain unanswered such as:

Are the bill's target instream flows for the endangered Yakima fishery greater than current river conditions?

Can the Bureau of Reclamation succeed in acquiring water for the fish from voluntary leases or purchases as the bill requires when the Bureau has been unable to buy or lease any water in the Snake this year, and it is expected to be even more difficult to do so in the Yakima?

If the fish, wildlife, and recreation purposes of the bill shall not impair the operation of the project to provide water for irrigation purposes and shall not impact existing contracts, is it possible that the bill may actually result in more irrigation in the basin, and thus even less water in the river?

I am also concerned that this bill takes us back in time to another era because of its lack of certain critical features contained in the Central Valley Project Improvement Act, which this body enacted over 2 years ago. This bill has no provision for a habitat restoration fund; no insurance that dry year reductions will not be disproportionately visited on the fishery; and no biological goals for fish recovery.

Early in the next Congress I intend to reopen the debate on the Yakima in order to address these questions.

Mrs. MURRAY. I share many of the concerns Senator BRADLEY expressed regarding the Yakima Basin Water Conservation Program. In condoning the passage of this legislation, I think we are supporting a strong step forward toward resolving the complex issues facing water appropriation in the Yakima Basin. In addition, I welcome hearings on this measure early in the next Congress and will support efforts by you and others to improve the legislation, particularly to ensure that conservation efforts in the basin result in more beneficial flows for endangered fisheries. I look forward to working closely with the Senator and the subcommittee to address the many legitimate concerns raised by you and the national and Washington State environmental organizations.

MAJORITY LEADER GEORGE MITCHELL

Mr. HEFLIN. Mr. President, when majority leader GEORGE MITCHELL announced that he would not be seeking reelection this year, it sent shockwaves through this body and the Washington political establishment. Democrats and Republicans alike were shocked because we have come to appreciate and respect his strong leadership, honesty, and principled partisanship. We have become comfortable with his soothing style and his judicious manner and temperament. Although he has only been majority leader since 1989, he has in those short 5 years become synonymous with the body like few others have, and we have come to take him for granted in many ways.

When most people use the term "partisan," they do so in the pejorative sense. They use it to imply blind allegiance to a political party or cause, without regard to right and wrong, or what is in the best interest of the country as a whole. Senator GEORGE JOHN MITCHELL, however, is a partisan in the very best sense of the term, In the sense that it was meant before it became distorted by the politics of obstruction and destruction.

GEORGE MITCHELL's partisanship is guided by principles—his own personal principles and the principles of the Democratic party to which he is so committed and which he loves so dearly. He is fiercely loyal to the broad goals that every Democrat professes to stand for—equal opportunity, liberty, fairness, and improving the lives of average Americans. In upholding his party's principles, he is also strictly guided by his own set of principles—honesty, integrity, forthrightness, and, above all, personal honor.

If GEORGE MITCHELL has appeared excessively partisan to Members on the other side of the aisle during his 5 years as majority leader, it is because he believes passionately in the Democratic party and what it stands for, and has been unwavering in supporting our party's goals. He has been anything but a blind partisan; there is not a hint of impaired political vision on his part. On the contrary, his brand of partisanship comes from his soul as clear, strong, principled leadership.

GEORGE MITCHELL's rise to the top leadership post in the Senate was meteoric, and a dramatic testament to the ability and legislative skill of the former Federal judge. When the venerable Senator Edmund S. Muskie left the Senate in 1980 to become President Carter's Secretary of State, GEORGE was appointed to his Maine seat. At that time, he had never won an election. In 1982, he won a full term with 61 percent of the vote against a proven campaigner. Just as he has as majority leader, GEORGE that year demonstrated steadiness and good humor in endearing himself to the Maine electorate.

He became chairman of the Democratic Senatorial Campaign Committee after the 1984 mid-term elections, and in 1986, the Democrats recaptured the

Senate with 55 seats. Almost no one had thought that possible when GEORGE took on the task. He later distinguished himself on the Iran-Contra Committee, where I had the privilege of working with him and getting to know him better.

GEORGE MITCHELL comes from one of the most humble backgrounds in the Senate. His father was an orphan who worked as a janitor at Colby College and his mother was a Lebanese immigrant. He grew up in the small town of Waterville, a poor athlete in an athletically conscious family. Many of his strong Democratic principles come from growing up among the hard-working poor. There is no doubt that when he evokes the principles of his party, he speaks from a heart shaped by personal experience.

After working his way through Bowdoin College in Maine and law school at Georgetown University, he served with the United States Army counter-intelligence corps in Berlin, Germany. He got his start in politics as a protege of Senator Muskie, another immigrant's son, became Democratic State Chairman in 1966, and then State attorney general. He ran an unsuccessful campaign for Governor in 1974, but 5 years later, after practicing law and serving for a time as U.S. attorney, was named a Federal judge by President Carter. It was from the Federal bench that he came to the Senate.

GEORGE MITCHELL is one of those Senators who many of us thought would be here for a very long time to come, and when he steps down next year he will leave a void that will be difficult, if not impossible, to fill for the foreseeable future. The Democratic Party will lose perhaps its most effective unifying force at bringing all of our diverse factions together. Our party will also lose one of its most accomplished orators and debaters on a host of issues.

The U.S. Senate will lose an impeccable ethical leader who is respected and admired by both parties. The country will lose a true national leader guided by traits such as intelligence, industry, and integrity.

GEORGE MITCHELL doesn't come close to setting any records for length of service in this body, something that we traditionally associate with so-called Senate giants. But he will leave an uncommon mark of distinction nonetheless, and will surely assume his place among the ranks of the giants who have dedicated themselves to this institution.

EDWARDS-LEAHY DIGITAL TELEPHONY BILL—H.R. 4922

Mr. LEAHY. I rise today to urge the Senate to pass H.R. 4922, the Edwards Leahy Digital Telephony bill, to expand privacy protection for our phone and computer conversations and to preserve law enforcement's ability to execute court orders for wiretaps.

Our law enforcement and intelligence agencies have sounded alarm bells about losing their ability to conduct wiretaps because new communications features and services are being deployed with no thought as to how they might affect law enforcement.

I, for one, do not want law enforcement to lose its capability to use this powerful tool in its crime-fighting arsenal.

Wiretaps produce powerful evidence against our most dangerous criminals, at the lowest risk to the agents involved. We don't have to make deals with criminals, protect witnesses, or expose agents to danger when police can convict criminals with tapes of their own conversations.

At the same time that I want to preserve law enforcement's wiretap capability, I want to make sure we do not jeopardize important privacy rights of all Americans or frustrate the development of new communications technologies.

I have worked very closely with Congressman DON EDWARDS to craft a bill to revise our wiretap law so that law enforcement's ability to execute court orders for wiretaps is preserved while expanding our privacy protections.

First, to ensure law enforcement's continued ability to conduct court-authorized wiretaps in light of new and emerging digital technologies, the bill sets forth four wiretap capability requirements that telecommunications carriers would be required to meet.

This means that when the phone companies set about designing and deploying new services or features, they must consider law enforcement's needs among the numerous other factors that go into such designs.

Just as phone companies make sure that when they plug-in new services, the phone system is not shorted out, so, too, we do not want to short-change the American people's need for effective law enforcement.

Second, on the privacy front, the bill expands privacy and security protection for our telephone and computer communications in ways that were first recommended to me by a Privacy and Technology Task Force I organized in 1991. The protections of the Electronic Communications Privacy Act are extended to cordless phones and certain data communications transmitted by radio. In addition, this bill increases the protection for transactional data on electronic communications services by requiring law enforcement to get a court order for access to those records.

The bill further protects privacy by requiring telecommunications systems to protect communications not authorized to be intercepted and by restricting the ability of law enforcement to use pen register devices for tracking purposes or for obtaining transactional information.

The bill sets up a mechanism for ensuring law enforcement's wiretap capability needs while at the same time deferring to industry to decide how best to meet law enforcement's wiretap needs. No Government official will be put in charge of the future of our telecommunications industry. This legislation leaves it to industry in the first instance. If industry is ready to deploy a new phone feature or service, but cannot yet figure out how to give law enforcement access for lawful wiretaps, a court must take that into consideration and may not stop deployment of the service. On the other hand, if industry can fix the service to assist law enforcement, it must do so.

This bill preserves a legitimate law enforcement tool without jeopardizing privacy rights or frustrating innovation and the development of new technologies or undercutting the competitiveness of America's high-tech industries. Finally, the bill improves the privacy of mobile phones by expanding criminal penalties for stealing the service from legitimate users.

Third, to encourage innovation in telecommunications services, the bill states expressly that law enforcement agencies may not require the specific design of telecommunications systems or features, nor prohibit adoption of any such design, by any telecommunications provider.

At the same time that I want to preserve law enforcement's wiretap capability, I want to make sure we do not jeopardize important privacy rights of all Americans or frustrate the development of new communications technologies.

I have worked very closely with Congressman DON EDWARDS to craft a bill to revise our wiretap law so that law enforcement's ability to execute court orders for wiretaps is preserved while expanding our privacy protections.

I urge my colleagues to support this measure.

I want to thank Senator HATCH and Chairman BIDEN, who are co-sponsors, and Senator SIMPSON for supporting and working with me to ensure passage of this important legislation. Senator HATCH, in particular, has been essential in clearing this matter of last minute problems and allowing for the action we take today. He understands the importance of the legislation and has worked hard to persuade our colleagues that we should pass this measure without delay.

I especially want to commend a retiring colleague of ours from the House, the distinguished DON EDWARDS. This measure could not have been developed without his commitment and dedication to resolving an impasse that had plagued law enforcement, telecommunications providers and privacy advocates for years. At a time when he

could have sat back and enjoyed accolades for his longstanding public service in defense of individual rights and freedoms, he took on a daunting task.

And in typical fashion, DON EDWARDS' good sense, keen insight and determination made possible the joint drafting and revision of this important legislation and successful House passage.

I also commend Chairmen BROOKS and DINGELL and Congressman MARKEY of the House for their commitment to seeing this matter through to conclusion. They have each worked to improve the bill and we are grateful for their efforts and cooperation in moving this matter forward when we could have been sidetracked in jurisdictional disputes or distracted by some who continue to seek to defeat this measure through delaying tactics.

Most importantly, I need to acknowledge the efforts of our director of the Federal Bureau of Investigation Louis J. Freeh for working tirelessly and in good faith to craft the best legislation that we all could. It was Judge Freeh who sounded the call on this issue earlier this year. He and the dedicated men and women of the FBI, the National District Attorneys Association, the International Association of Chiefs of Police, and countless prosecutors, sheriffs, police chiefs, state and local public officials and concerned citizens have participated in our hearings and proceedings and shared with us their views.

All have been helpful but this bill is being considered today for final passage in no small measure because of the personal attention and commitment to effective law enforcement of Louis J. Freeh. The American people are well served by this tough and fair man, a person I am proud to call my friend.

I would be remiss if I did not also mention the important contributions of the Attorney General and the White House to the progress of this legislation. Attorney General Reno has been most supportive of our efforts.

The Vice President, who had worked on these matters while our colleague here in the Senate, was extremely helpful and attentive and helped keep us all on track. Finally, I wish to thank the President and his Staff Secretary, my good friend John Podesta, for their constant commitment to improving privacy protections while preserving law enforcement's ability to execute lawful, court-ordered wiretaps. Without their active participation, we would not be here today.

I thank all those who have worked with us over the last several months to try to find a solution to what had seemed an insurmountable problem for more than 4 years. The Business Software Alliance, the Electronic Frontier Foundation, and telecommunications companies who have worked with us to clarify the bill and resolve initial concerns are particularly to be commended.

Finally, I want to acknowledge publicly a few people whom I will be thanking personally for their extraordinary contributions. The principal staff work on this most difficult measure has been performed by my senior counsel Beryl Howell and Jim Dempsey from Congressman EDWARDS' staff.

Along with them Nelson Cunningham from Chairman BIDEN's staff and Ken Mendelson from Chairman BROOKS' staff, Manus Cooney of Senator HATCH's staff, Warren Schaeffer of Senator SIMPSON's staff, John Windhausen from Chairman HOLLINGS' staff, David Leach of Chairman DINGELL's staff and Gerry Waldron from Congressman MARKEY's staff, have all helped produce a bill of which we can all be proud. Beryl is a former Federal prosecutor whose practical experience and creative problem solving were indispensable to this project. Her House counterpart, Jim Dempsey, is a veteran of these wars whose depth of understanding of both the technological and legislative issues is unequalled. Together their persistence, patience and professionalism made this possible.

S. 1976, THE PRIVATE SECURITIES LITIGATION REFORM ACT

Mr. HATCH. Mr. President, I rise to support and to cosponsor S. 1976, the Private Securities Litigation Reform Act of 1994. I understand that this bill has not yet been considered by the Banking Committee and is unlikely to pass this session of Congress. However, when this measure is taken up, I hope that Senators, while acting on the many meritorious provisions of this bill, will also take into account several reservations that I, and I am sure others, have.

The proposed Private Securities Litigation Reform Act contains what I believe are worthwhile provisions that are designed to protect the interests of investors and preserve the integrity of the securities market. These include, in part, alternative dispute resolution procedures to settle implied right of actions under section 15(c) of the Securities Exchange Act of 1934 and added protection for accountants and auditors when diligence is practiced and the procedures established by this bill and the Commission are followed. A system of accountant self-regulation and discipline is established.

However, there are certain other provisions in this proposed measure that are troubling. For instance, the bill denies small investors access to the Federal courts for certain types of securities fraud. The bill also establishes what appears to me to be overly strict standards for fraud pleadings.

Nonetheless, because the bill does contain positive corrections to security law procedures, it is my hope that this measure will be reintroduced in the next Congress, fully considered, and passed. I commend the sponsor of S. 1976, Senator DODD, for his leadership and look forward to working with him on this legislation next year.

THE 25 PERCENT SELF-EMPLOYED HEALTH INSURANCE DEDUCTION

Mr. ROTH. Mr. President, I am removing my objections to proceeding with the Securities and Exchange Commission's 1995 fiscal year funding bill. The only objective I have had is salvaging the 25-percent health insurance deduction for the self-employed that expired at the end of 1993.

This issue is very misunderstood, and I think it is essential that people understand how vitally important an extension of the self-employed health insurance deduction is. The Congress' failure to pass this measure, which expired at the end of last year will potentially mean that millions of farmers and small business people will lose this benefit. It may also mean that they will have considerably more paperwork because when we retroactively reinstate the deduction for 1994 next year, millions of farmers and small business people will have to file amended returns. In short, the loss of this tax provision means a loss of millions of dollars every day to small business and farming, and new bureaucratic nightmares from Washington.

In addition, it is incredibly unfair that these businesses do not get to deduct 100 percent of their health insurance just like every corporation in America. The 25-percent deduction is something that must be extended at a minimum. At a time when we are urging employers to provide health insurance for their workers, we should not be pulling the rug out from under those who do buy health insurance.

Earlier this week, I asked that a number of proposals I have been working on to improve the Earned Income Tax Credit be estimated by the Joint Committee on Taxation. I would consider these proposals to be loophole closers, because, quite frankly, there is a lot of waste in this $20 billion a year program. I received back my estimates today. They raise plenty of money, not only to pass the 25-percent health insurance deduction, but a number of other expiring provisions as well. And by passing my Earned Income Tax Credit reforms, we will put to an end a number of unfair and abusive things that are currently allowed.

Right now, unfortunately, we are at a very late hour. The House is going to adjourn shortly, and has no hope of considering my proposals to fix these problems. It is clearly good tax policy for us to pass my whole package to extend these expiring tax provisions, and

I would hope we could get a commitment to do just that when we come back early next year.

Mr. MOYNIHAN. Senator ROTH has worked tirelessly to try to solve the problem faced by the self-employed small businesses and farmers in this country regarding their health insurance. I have supported him in his efforts to resolve this issue, but he is absolutely right that it is now impossible for us to act, and have any hope that the House could also complete action before their adjournment.

Senator ROTH has a splendid record on our committee, the Finance Committee, and I commend him for his efforts. He has an astute understanding of our tax laws. I would like to assure him and all of the other Members of the Senate, that as soon as it is possible—early next year—I will convene the Finance Committee and see to it that the self-employed get their 25-percent tax deduction retroactively back to January 1994. I will also promise you that we will take a very close look at his proposals to improve the earned income tax credit.

I have been working to solve the tax inequity for self-employed individuals for many years. The Finance Committee passed a bill in July of this year that would have raised the deduction from 25 percent to 100 percent of the health insurance costs of the self-employed. That continues to be my goal. Early next year, I will work to reinstate the 25-percent deduction as a starting point to getting a full deduction for these costs.

Mr. ROTH. Mr. President, I know that we have no other choice in this matter for this session. I am very happy to have the chairman's commitment to take up the self-employed health insurance deduction. I would emphasize that I feel we must do this right away—in January—so that farmers and small business people do not have to amend their tax returns. I look forward to working with him early next year to solve this problem.

DEMOCRATS DELIVER REAL LEADERSHIP

Mr. DASCHLE. Mr. President, it is in times of change and uncertainty that solid and decisive leadership is most important. The election of 1992, which ushered in the new Democratic administration, was a referendum on change and the American people voted yes. They voted yes to a stronger economy; yes to a leaner and more efficient Government; and yes to the financial freedom and dignity to control their daily lives and individual destinies.

Democrats have a proud, distinguished history of advocacy on behalf of American workers. Democratic values have always meant fighting for more jobs at higher wages; fighting to make sure that those who do the labor share in the prosperity; and standing up for the vulnerable against the powerful.

President Roosevelt responded to the crisis of the Great Depression with the policies of the New Deal which returned the dignity of work to millions of unemployed, hungry Americans. President Johnson enacted Medicare and Medicaid to bring health care to Americans who were sinking into poverty as a result of medical costs. And President Clinton has responded to the crises of the 1990's with policies to empower middle America through job creation, a smaller deficit, economic growth, and higher wages.

With the leadership of this new Democratic President, the 103d Congress has already accomplished significant changes in our economy, in our Government, and in our political system. The American people asked for a Government that delivers on its promises and provides real solutions—not just rhetoric. They asked for a Government that makes the tough financial trade-offs that American families have to make every day. They asked for a Government that begins to live within its means, fulfills its responsibilities, protects its citizens, and promotes the, quality of life of its people.

And Democrats are delivering.

Newsweek applauds this Democratic President's legislative accomplishments saying "Bill Clinton has already achieved more domestically than John F. Kennedy, Gerald Ford, Jimmy Carter, and George Bush combined. Although Richard Nixon and Ronald Reagan often have had their way with Congress, Congressional Quarterly says it's Clinton who has had the most legislative success of any president since Lyndon Johnson."

ECONOMIC GROWTH

Historically, America's economy has done better under Democrats than under Republicans. President Clinton's administration is no exception.

Under President Clinton's administration, the economy is growing at a strong and steady clip. A record 226,000 jobs have been created every month—the highest ever—for a total of well over 4 million jobs.

The jobless rate fell to 5.9 percent in September, the lowest rate in 4 years, the Bureau of Labor Statistics reported this morning. The report showed 239,000 net new payroll jobs last month; 174,000 in the private sector.

So far, more than 4.6 million jobs have been created under the Clinton administration.

This year alone, 2.5 million jobs have been created—that's more than during the entire Bush administration.

In January 1993, when President Clinton took office, the unemployment rate was 7.1 percent.

In August 1993—before the economic plan was passed—the rate was 6.7 percent.

In September 1994—it is 5.9 percent.

And these are good jobs.

Manufacturing jobs are up 139,000 this year. Manufacturing employment—especially autos—has rebounded since the economic plan passed.

Autos jobs—(motor vehicle employment)—increased by 6,000 last month and is only 2,000 jobs short of its highest level since 1979.

BLS reports that since January 1994, 72 percent of all net new jobs have been in managerial or professional occupations.

The Democratic economic growth and deficit reduction plan passed last August is working.

The deficit is down dramatically, the jobs outlook is much brighter, and the economy under Clinton has been growing faster than during any administration since Kennedy-Johnson. In fact, economic growth under Clinton is better than any Republican administration since World War II.

And not one Republican voted for the economic plan.

Under this administration, business investment is growing almost twice as fast as under any postwar administration of either party. In fact, under almost every single Democratic administration, except for the Truman administration, real business investment has grown faster than under Republican administrations.

DEMOCRATS OUTSHINE REPUBLICANS ON THE ECONOMY

Under every Democratic administration, the number of jobs has grown more quickly than under every Republican administration.

The average growth rate for private-sector jobs under Democratic administrations is more than double the average under Republican administrations.

Manufacturing jobs have declined under every Republican administration, except for Nixon's when they edged up a mere 0.1 percent annual rate. But manufacturing jobs have never fallen under a Democratic administration.

Under Democratic administrations, real GDP has grown faster than under Republican administration.

Productivity has grown more than a third faster under Democratic administrations than under Republican administrations.

Average growth of real after-tax income has been faster under Democrats than under any Republican administration.

Under Democratic administrations, living standards on average have grown faster than under every Republican administration in recent history.

Democrats promise change and economic growth and Democrats deliver.

Average growth of real after-tax income has been faster under Democrats than under any Republican administration.

Under Democratic administrations, living standards on average have grown

faster than under Republican administrations.

Democrats promise change and economic growth and Democrats deliver.

This week, Republicans went to the steps of the Capitol to unveil their most recent scheme. They call it a contract with America and the promises they made are virtually the same promises, with the same contradictions, they made over a decade again. They are the same tax breaks for the rich, that drove the country into massive debt; the same promises of a smaller government, that actually got bigger; and the same promises of a better economy that, under Republican leadership, experienced stagnation and decline.

It reminds me of an old story about a man who walked down his street one day and fell into a big hole he didn't know was there. The next time he carefully tiptoed around the hole. But the next day, he fell in again. Finally, he just got up and walked down a different street.

The American people have learned where these Republican policies will lead them. And they are not going to walk down that same street again.

This Democratic Congress has enacted laws which have already had, and will continue to have, real results in the lives of American families. It has not been an easy session. We have worked very hard and made difficult choices. But those difficult choices have reaped rewards. We have begun to put America's fiscal house in order; passed a comprehensive crime bill; lowered taxes for millions of Americans; and restored tax fairness.

Those are the facts.

In a review of these accomplishments, Newsweek notes "The standard for measuring results domestically should not be the coherence of the process but how actual lives are changed. By that standard, he [President Clinton] is doing well."

LOWER TAXES

The tax cut for working Americans that never materialized under the Republicans finally came through under this Democratic administration. Known as the earned income tax credit, this tax cut for the working poor has already provided tax relief for 20 million working households.

Under this administration, the trickle down policies of the 1980's have been turned around and tax fairness has been restored. According to the Economic policy Institute, regressive Federal tax changes for 1977 to 1989 amounted to a $52,000 tax break in 1989 for the richest families. The Clinton administration has reversed these policies and is giving the tax breaks to those who really need them.

The smaller government that Reagan only promised is actually happening under this Democratic administration. With the thoughtful leadership and pragmatic decision making of the President and the Vice President, the Government is becoming leaner and more efficient. Over 100 programs will be completely eliminated. Under this administration, the Federal Government will be smaller and leaner than it has been since John F. Kennedy was President. And the deficit has gone down for 3 straight years.

President Clinton has been the education President, that President Bush only promised to be. Already, he has increased investment in education and job training from Head Start to apprenticeship programs. He has revamped the student loan system. And passed a national service program that, in its first year, will have more youths in a domestic peace corps than the Peace Corps did in its biggest year.

If a government fails to protect the liberty of its citizens, it has failed in one of its most basic duties. Yet for 6 full years, Washington gridlock held anti-crime legislation hostage.

During the 103d Congress, because of the tenacity of this President and his willingness to go to the mat for the people, Democrats enacted legislation to address the Nation's enormous crime problem. The Violent Crime Control and Law Enforcement Act of 1993 will put more cops on the street, build more prisons, ban 19 specific assault weapons, toughen penalties for criminals, and begin to return control of communities to law-abiding citizens.

The bill, supported by every single law enforcement association in the United States, is funded with the money saved from the administration's reinventing Government initiative. Yet, Democrats passed this comprehensive anti-crime legislation over the opposition of all but a few Republicans in the Senate.

The Brady bill, enacted earlier this year, is already working to keep handguns out of the reach of criminals by requiring a 5-day waiting period so that law enforcement officials can conduct criminal background checks.

The Democratic Congress reached out to millions of disenfranchised voters by enacting the motor-voter legislation. This bill makes it easier to register to vote by allowing people to register to vote at motor vehicle agencies, armed services recruitment offices, at other public offices and by mail.

Predictably, Republicans opposed this measure as well and attempted to obstruct its passage.

It has taken 2 years to turn the ship. We are by no means done with the job. But we are making progress.

Changing the course of a Nation; reforming a Government; cutting billions of dollars from the deficit; and achieving results—these are not tasks which can be accomplished by rhetoric. They take hard work, thought and vision.

On these fronts, Democrats have delivered.

TRADE NEGOTIATIONS WITH JAPAN

Mr. DOLE. Mr. President, although the administration declared victory in the 15-month trade negotiations with Japan, I am afraid there is far less here than meets the eye. Naturally, one would expect U.S. negotiators to hail any agreement as a landmark achievement that fulfills every negotiating objective. Unfortunately, the only real achievement was that Japan dodged another bullet.

I take no issue with Ambassador Kantor's efforts on this matter. I believe he performed as well as possible under extremely difficult circumstances. A large part of the difficulty was the seemingly complete absence of a clear and unwavering strategy on the part of the administration to deal with the serious, long-running problem of Japan's closed markets.

Instead, the world watched and was treated to a 15-month exercise in rhetoric, posturing, grand predictions and overreaching, occasionally punctuated by false deadlines, jittery markets and needless brinkmanship. The tremors that shook the financial markets in February of this year were a harrowing experience that seemed to startle the administration about the real and dangerous consequences of a cavalier approach. So finally, to nearly universal relief, the administration decided to ring down the curtain, declare victory and go home.

After all the pomp and ceremony, the administration will take only minimal action: A section 301 investigation will begin of the Japanese "aftermarket" for auto parts. Otherwise, the agreements reached in the other sectors—government procurement, insurance and flat glass—are notable only because they lack the essential ingredient of any deal: A way of measuring progress. The Japanese completely rejected any numerical measurement or target of any kind, and they completely prevailed. The administration now denies ever seeking numerical targets.

Mr. President, whether or not one believes that numerical targets in trade agreements are effective, one thing is certain: United States and Japanese negotiators will be back at the table a year from now in deep disagreement over the fulfillment of the terms of the deal. The section 301 case on auto parts could last as long as 18 months, after which sanctions are possible.

So as the press conferences announcing this tremendous success come to an end, and the microphones are unscrewed from the podiums, and the video cable is rolled up and the negotiators wearily leave the stage and head home, one is left with a familiar feeling: once again, Japan has bought time.

In view of the nearly two decades of U.S. efforts to open up Japanese markets and the continuing trade deficit

with Japan projected to reach $60 billion this year, the feeble agreements reached last weekend seem designed to ensure further repetition of an exceedingly tiresome pattern.

SUPERFUND

Mr. DOLE. Mr. President, this week we ran out of time to do meaningful superfund reform for this year.

But I want to make clear that superfund reform has not died because we were unable to get a bill through this year. We were in the fortunate position of not being forced to act right now. Superfund taxes do not expire until December 31, 1995. So we still have time to get it right.

A lot of very useful work has been done already. These early efforts have served to help us understand the problems we are facing better.

Almost everyone agrees that superfund is a bad law, in both the way it has been structured and implemented. Superfund reform has not worked to date, despite repeated tries, because it has been based on retroactive liability, inflexible and gold-plated remedial action inappropriate to the situation, and an unfair liability and payment scheme always subject to dispute.

I want to commend the efforts of the coalition of interested parties that was formed to identify areas of concern and suggest important steps forward. I have heard from a number of coalition members and know how strongly they felt about the proposal they had worked out.

While I applaud these initial efforts, I also heard just as vehemently from many other groups. They objected to the process by which the agreement was reached, which excluded many groups. Even Senate staff was excluded. Many of those not at the table felt that special deals were cut that would benefit those included at the expense of other private parties and the taxpayers.

I had heard from many of my colleagues who want to reform superfund the right way and were troubled that we might have rushed the bill through before we dealt with the fundamental problems that remain.

Some of the larger areas of concern involved the enlargement of the Federal bureaucracy, the interrelationship between States and the Federal Government—including the issue of cleanups at Federal facilities that troubled many of my colleagues, the need to ensure that sites addressed present real risk or that the sites with the greatest risk are cleaned up first, the need to assure that costs will be reasonable, authorizing new unfunded programs costing more than $500 million, owner-operator participation in the allocation process, other equity issues involving both private and public parties, and the tremendous uncertainties posed by the environmental insurance resolution fund [EIRF], including the constitutionality of a retrospective wholly new tax.

We now can use the time available to us in the next session to make constructive changes in these and other areas of concern.

The efforts of the past year were not wasted. But let's do superfund right. The bill reported was not yet real reform. Nobody was interested in killing superfund. We want to take this opportunity to get something meaningful. That is what I am committed to do.

SERVICE PERSONS READJUSTMENT ACT OF 1994

Mr. DOLE. Mr. President, it might be a little early to be outlining legislative priorities for the 104th Congress, but I want to take a moment to inform the Senate that next year I will introduce the Service Persons Readjustment Act of 1995, a measure which will provide education benefits to our brave service men and women comparable to the benefits that were once earned by their parents and grandparents. In my view, this measure is long overdue.

Fifty years ago, Congress and the American Legion worked diligently to pass the Servicemen's Readjustment Act of 1944, better known as the "GI bill of rights." The original GI bill has been recognized as one of the greatest pieces of legislation ever enacted. By educating America's veterans, the United States was able to transform the country from an industrial giant to a technological world leader. When first passed, the GI bill covered 100 percent of a veterans educational assistance.

Over the past 18 years however, the cost of a 4-year college education, including tuition, room, and board has increased a total of 240 percent. On the other hand, education benefits under the GI bill have increased by only 3.6 percent. Today's educational benefits cover only 37 percent of 4 years of college. Because the current benefit only provides $400 a month for 36 months, 62 percent of eligible veterans cannot afford to go to college.

Last year, Congress enacted legislation to create new nonmilitary programs for "paid" volunteerism with educational, health, and child care benefits for community service. Now let me be clear, I am all for young people volunteering to serve their communities. However, in my view, the ultimate form of national service is military service, and as such, we should provide benefits accordingly. Many young adults now question whether 8 years of their lives, a $1,200 contribution, the rigors of military life, and the frequent deployments to hostile environments—like the Persian Gulf, Somalia, and now Haiti—are worth the benefits of the current GI bill.

Last month, Labor Secretary Robert Reich expressed his concern about the widening of the wage gap between workers with a college degree and those without. The administration's solution is to increase funding for different social programs and to transform the unemployment insurance system to provide more income assistance. Well Mr. President, I think a new GI bill can do a lot to close the wage gap. By providing proper funding for our Nation's veterans we will increase opportunities for America's young men and women to gain an education, we prepare them to compete in the private sector and to gain high paying jobs. We empower them to fulfill their dreams, to become entrepreneurs and small business owners, and to even be captains of industry.

The American Legion has repeatedly asked Congress to increase education benefits for our brave men and women who have served honorably. The legislation which I will introduce will not only increase benefits, but will also teach young men and women the values of working hard and saving money to reach one's goals and dreams. It will create economic equality among all Americans. It will allow for those who are less fortunate to earn an education rather than being dependent on social handouts.

A new GI bill is a wise investment in America's future. People who are trained and educated make more money, pay more taxes and spend more money. Not only will the legislation be good for our Nation's veterans, it will be good for the United States of America. I look forward to working with my colleagues to ensure passage of this legislation.

NEW STRATEGIES NEEDED TO EMPLOY THE DISABLED

Mr. DOLE. Mr. President, the National Organization on Disability recently released an update of the groundbreaking 1986 Louis Harris survey of disabled Americans. The 1986 survey asked people with disabilities for the first time how they saw their lives and what was important to them. Taken together, the 1986 and 1994 Harris surveys allow us to determine America's progress in closing the gap in participation by those with disabilities—and the work that remains.

GOOD NEWS AND BAD NEWS

There is both good and bad news. First, the good news. Education levels have risen—the percentage of people with disabilities who have completed high school has grown from 60 to 75 percent. And fully 60 percent say things have changed for the better—including access to businesses, attitudes, public transportation, and portrayal of people with disabilities.

But there is bad news as well. In 1986, 33 percent of disabled Americans were

working. In 1994, 31 percent. That is right—over the past 8 years employment among people with disabilities has not improved.

Mr. President, Humphrey Taylor, CEO of Louis Harris, presented other survey findings at a congressional briefing. I ask unanimous consent that his remarks be included in the RECORD at the end of my statement.

(See Exhibit 1.)

WHAT'S WRONG?

Mr. President, these employment findings have particular significance this month. In 1945 Congress first designated October as "National Disability Employment Awareness Month." Frankly, after 49 years, I would hope we would not still need a reminder of the importance of employing people with disabilities.

Something is wrong. Indeed, 10 years ago, I created the Dole Foundation because of my concerns, which is the only private foundation devoted to employment of people with disabilities.

Mr. President, we have to start by asking how well the Federal Government is doing its job. Today, it spends billions to promote employment of people with disabilities. We fund vocational rehabilitation programs run by the States, the Social Security Administration, and the VA. We give tax credits and contract preferences to businesses that hire the disabled. The Small Business Administration makes loans to businesses operated by or for people with disabilities. And since 1973, Congress has required nondiscrimination and even affirmative action in Federal hiring and hiring by Federal contractors.

Perhaps all these programs work great. I do not know. But I do know that too few people with disabilities have jobs. If the Federal Government passed out a lot of medicine and not many people got well, we might think new medicine was needed.

WE NEED A NATIONAL STRATEGY

In my view, the new medicine we need is a national strategy on employment of people with disabilities. A year ago, I suggested we translate our good intentions into a national goal. Consider again that goal—by the year 2000, employment among the disabled will increase to that of the nondisabled. That would involve putting perhaps 8 million people to work.

Alan Reich, president of the National Organization on Disability, has called for a goal of 2 million. Less ambitious, but maybe more realistic.

But the point is the same. Let us set a goal, then figure out how to reach it. If a program makes a difference, fine, let us keep it. If not, let us spend our money another way and try something else.

NEXT YEAR

Mr. President, in my maiden Senate speech 25 years ago I said, "We in America are far from the half-way point of assuring that every [person with a disability] can become as active and useful as his abilities will allow."

In my view, we still have not reached that halfway point—and we will only reach it when employment among people with disabilities is at least half that of people without disabilities.

Next year, I understand it is the intention of the Labor Committee to undertake a sweeping reexamination of the Nation's employment and training programs. I encourage them to look at the effectiveness of these programs for people with disabilities.

EXHIBIT 1

REMARKS BY HUMPHREY TAYLOR, CHAIRMAN AND CEO, LOUIS HARRIS AND ASSOCIATES, JULY 21, 1994

In 1986, Louis Harris and Associates conducted what we believe was one of the most important and valuable surveys we have conducted in the firm's 38-year history—the "ICD (International Center for the Disabled) Survey of Americans with Disabilities." This was the first nationwide survey of a cross-section of people with disabilities to measure the quality of their lives their financial and social status, their lifestyles, their needs, their problems and their attitudes.

That survey has been widely quoted and widely used. It has been presented several times in testimony to Congressional committees. It was widely used in the debate about the Americans with Disabilities Act (the ADA) and other legislation. Indeed, I have been told that it had a major influence on the passage of the ADA.

One of the most eloquent and effective users of that survey and other surveys of and about people with disabilities—many of them commissioned by him—has been Alan Reich, President of the National Organization on Disability (N.O.D.). I was, therefore, very delighted to be asked by Alan and N.O.D. to conduct a new study to update and build on our 1986 survey. The result is this new survey, the 1994 "N.O.D/Harris Survey of Americans with Disabilities." Like the 1986 survey, it is based on interviews with just over one thousand (1,021) people with disabilities who are not institutionalized. The definition of disability, as in 1986, was based on various Federal Government definitions (which are described in detail in the report). Fifteen percent of the interviews were conducted with someone else in the household who could speak for the person sampled; many of these "proxy interviews" were for people with severe disabilities which made it difficult or impossible for them to be surveyed.

Our survey was designed to be as representative as possible of all Americans with disabilities aged 16 and over excluding the institutionalized population (whether in nursing homes, hospitals or other institutions).

I believe this is an important and valuable survey. And on this fourth anniversary of the ADA, it is certainly timely. I would stress that it would not have happened without an enormous effort of will (and fund raising) by Alan Reich. Many others in the disability community had talked about doing a new version of our 1986 survey—to cover new ground and measure changes over the last 8 years. Only Alan Reich and N.O.D. made it happen.

There is much more in this survey than I can mention today. We asked a total of 256 questions (although no one person answered more than about 120) on many different subjects. What follows, therefore, is my personal summary and selection of findings not, in any sense, a definitive one.

A VERY HETEROGENEOUS GROUP

Americans with disabilities are not a homogeneous group. They differ very widely in many ways and, of course, they include members of all races, gender, ages and every demographic group.

Our sample of non-institutionalized Americans with disabilities includes people with hundreds of different disabilities:

40% have multiple disabilities.

Their primary, or most disabling, conditions include 54% with many different kinds of physical disabilities, 8% with sensory impairment, 7% with mental disabilities, 10% with cardiovascular disease, 5% with respiratory disease, 3% with cancer, and 4% with diabetes.

Twenty-one percent were born with their disability (6%) or had their disability start in adolescence or childhood. At the other extreme, over a quarter (28%) had no disabilities until they were over 55 years old.

Eleven percent describe their disability as "slight." Most describe their disabilities as either very severe (24%) or somewhat severe (35%).

Seven percent say their disabilities do not limit their activities at all. Half (49%) say their disability prevents them completely from working, going to school or taking care of the house.

Given the very heterogeneous population I hope you will forgive me for talking about them as though they are a homogeneous group, which they are not.

QUALITY OF LIFE

A finding of fundamental importance—if no surprise and totally consistent with our 1986 survey—is that people with disabilities do not, as a group, enjoy the same quality of life as other people. There are, of course, dozens of different definitions of quality of life. Some of those we measured are

Americans with disabilities have much lower incomes. Forty percent live in households with incomes of $15,000 or less, compared to 18% of Americans with no disabilities. Only 10% have household incomes of $50,000 compared to 22% of people with no disabilities.

A quarter (25%) of Americans with disabilities did not graduate from high school compared to 12% of other Americans.

Only one-third (31%) of Americans with disabilities aged 16 to 64 are working although the great majority want to work.

Only 35% are very satisfied with their lives in general compared to 55% for people without disabilities.

Two-thirds (64%) say their disabilities prevent them from getting around, attending events, and socializing as much as they would like. Comparisons with surveys of Americans with no disabilities show that indeed they socialize with friends less often (30% vs. 14% for "less than once a week"), visit supermarkets less often (43% vs. 15% for "less than once a week"), go to restaurants less often (35% vs. 55% once a week or more often), go to movies less often (42% vs. 71% once or more in the last 12 months), go to sports events less often (28% vs. 56% once or more in the last year), and attend church or synagogue less often (36% vs. 43% once a week or more).

When asked about the severity of various problems in their lives, fully 40% say that not having enough money is a major problem. Other major problems for substantial

numbers of people with disabilities which they mention include inadequate health insurance (26%)—even though fully 86% of people with disabilities have some health insurance—inadequate work opportunities (21%) and inadequate transportation (14%).

Only 47% of people with disabilities believe that others treat them as equals—as opposed to feeling sorry for them or being embarrassed.

Over half (58%) say they need help from someone else in work, school, housework or other activities (most, I'm glad to report, say they get this help).

STRONG PERCEPTIONS OF IMPROVEMENT

Given the seriousness and difficulty of the many problems so many people with disabilities face, their positive attitudes are remarkable. For whatever combination of reasons, societal or personal, objective or subjective, there is a strong sense that things have gotten much better for people with disabilities and that they will go on improving. Fully 60% say that in general "things have changed" for the better for Americans with disabilities in the last ten years. Only 15% say things have gotten worse.

More specifically most people with disabilities, when asked about specific changes, see improvements over the last four years:

75% see better access to public facilities like restaurants, theaters, stores and museums.

63% see improved public attitudes toward people with disabilities.

63% see improvements in quality of life.

60% see improved access to public transportation.

59% and 56%, respectively, see improvements in the portrayal of people with disabilities by the media and in advertising.

The future (or their own futures) is somewhat more uncertain. While a plurality of 48% believe the quality of their lives will improve, a large minority (35%) think it will get worse. However, the negative responses mostly come from people aged 45 or older. More than two-thirds of those under 45 expect the quality of their lives will improve.

IMPROVED EDUCATION STATUS

One reason—and it is a very good one—which justifies the sense of improvement and optimism is that people with disabilities are making major gains in education, even if they still compare unfavorably with other Americans. Since 1986, the proportion of people with disabilities who did not complete high school has fallen from 40% to 25%, while those with at least some college education has risen from 29% to 44%.

This is probably the most encouraging single finding in the survey—and certainly the best objective (as opposed to attitudinal) one.

Having said that, it is equally important to note that people with disabilities are, as a group, still substantially less well educated (and, therefore, disadvantaged in the labor market) than other Americans, only 12% of whom did not graduate from high school. But this gap has narrowed since 1986.

MOST AMERICANS WITH DISABILITIES NOT WORKING: NO IMPROVEMENT SINCE 1986

If the improved educational attainment of people with disabilities is the most positive finding of this research, the failure of this improvement to translate into improvements in employment and, therefore, financial advantage is the most disappointing finding.

Indeed, the actual survey numbers are slightly worse in 1994 than they were eight years earlier even if the difference is well within possible sampling error.

In 1986, only 33% of disabled Americans of working age (that is, aged 16 to 64) were working. In 1994, only 31% are working.

Whatever else the ADA may have done, and whatever it may do in the future, it does not seem, as yet, to have resulted in many new jobs for Americans with disabilities.

However, it is possible that there are other forces here which are working against the employment of people with disabilities. The proportion (of working age people with disabilities) who say that they are unable to work because of their disability has increased from 29% to 35%. And the proportion of people who describe their disability as (very or somewhat) severe has risen from 52% to 59%. One possible trend, therefore, is that—perhaps because of the improved ability of medicine to increase life expectancy—the severity of disability in the population is increasing.

BARRIERS TO THE EMPLOYMENT OF PEOPLE WITH DISABILITIES

Whatever the explanation, the absence of improvement in the employment of people with disabilities is obviously a finding which should trigger further discussion and action. When we reported the 1986 survey results, we highlighted the large gulf that exists between people with disabilities who work and those who do not—a financial and quality of life gulf which caused us to conclude that "not working is the true definition of disability." This is equally true today.

What can be done to change this dismal state of affairs? The survey points to several barriers to employment which, in turn, suggest possible remedies. But it is important to recognize that some barriers will be very difficult to eliminate. While the great majority of people with disabilities in the working age population want to work, many (the number varies somewhat in reply to different questions) don't believe they could work. Some of those not working (18%) say they don't want to work. Of the remainder half (51%) say they would not be able to work even if "suitable jobs" were available in their area. There are many problems which relate to the supply side—the supply of labor—not just to the demand side—the demand from employers for workers with disabilities.

Having said that, this survey highlights substantial problems which discourage the employment of people who want to work. Forty-seven percent of working age people surveyed who are not working (and many of those who are) say employers are insensitive to people with their particular disabilities.

A quarter (24%) say they have encountered physical barriers which prevented them from working effectively. A third (30%) of working age people with disabilities say they have, at some time, encountered job discrimination because of their disability (but that means that two-thirds have not). Mostly this involved (at least as the job applicant perceived it) the refusal of a job. A third (33%) including a third of those now working, say they have encountered unfavorable attitudes in the workplace, most often from supervisors and co-workers who id not think they could do the job.

Over a third (38%) say they don't have the skills, education or training they need to get full-time jobs. More than a quarter (28%) cite lack of accessible transportation to get to work, and 18% say they would risk losing benefits or insurance if they worked.

This question—potential loss of benefits as a disincentive to work—is a very tough one, and I don't want to claim that this survey can provide a definite answer on what motivates people not to work, let along on what policy changes, if any, are called for. However, I note that fully 57% of those of working age who are not working say they would lose some income or insurance coverage if they took a full-time job.

COMPUTERS, INFORMATION TECHNOLOGY AND SPECIAL EQUIPMENT

One set of findings in the survey which suggest new employment opportunities relate to computers, information technology, and special equipment. One-fifth (20%) of those working full-time say they were able to work because they obtained equipment which they needed to work, communicate or get around. A quarter (26%) of the working age population that is working or wants to work say they need special equipment or technology to perform effectively at work. While this refers to many different things, from special furniture, wheelchairs, transportation assistance, respiratory aids or screen enlargers, it refers most often to personal computers or lap-top computers—not unlike many other working people.

The greater availability and use of such equipment holds promise of increasing the employment of people with disabilities.

THE AMERICANS WITH DISABILITIES ACT (ADA)

It may seem strange that I have said so little about the ADA. One reason is that the survey doesn't have very much to say about it. People in Washington may be astounded to learn that in this 1994 survey only 40% of people with disabilities say they have heard or read anything about a law called the Americans with Disabilities Act (42%) or believe that any laws have been passed in the last 4 years to give protection to people with disabilities. Only among people with a college education is there a majority who have heard of the ADA.

Among those who have heard of it, almost half (49%) do not believe it will make their lives better or worse, 35% think it will make their lives better; only 1% (the real cynics about government) think it will make their lives worse.

The true impact and value of the ADA will not be known for some years to come, and I have no crystal ball which gives me any special insights as to how well it will work. However, it is possible that the belief we found in this survey that access to public facilities, public transportation, and (among a plurality) work opportunities have all improved in the last four years would not have been as strong if the ADA had not passed.

THE FUTURE

Apart from this speculation about the impact of the ADA, this new N.O.D. survey prompts a few other thoughts about the future.

It underlines the critical importance of employment, and the need to substantially increase it. It points to changes that are needed in the attitudes of employers and coworkers. It underlines the crucial importance of further improvements in education and job training. It highlights the need to change the attitudes and motivation of people with disabilities themselves; if more of them believed they could work and were more assertive, more of them would probably find work. It suggests the use of computers and more special equipment to increase employment. And it underlines the need to change the attitudes of many Americans who, many people with disabilities believe, do not accept them as equals.

A GROWING SENSE OF IDENTITY

While it is critical to stress that Americans with disabilities are a very heterogeneous group, one of the key findings of

this survey is that there is a growing sense of common identity among them.

Some seven years ago, when we presented the results of the N.O.D./Harris research on the Participation in Voting and Elections by Disabled Americans, Alan Reich and I used the phrase "sleeping giant" to describe the population of Americans with disabilities. Sleeping because it exerted very little impact on the political process, on elected officials or on policy formation, but had the potential to do so.

That, it seems, is changing. In 1986, 40% of Americans with disabilities told us that they felt a somewhat (20%) or very (20%) strong sense of identity with other people with disabilities. That 40% has risen over the last eight years to 54%. A modest majority now feels a very a strong 25% or somewhat strong (29%) sense of identity with other Americans with disabilities.

Alan Rich of N.O.D. has perceptively and accurately used the phrase "the awakening giant" to describe this new phenomenon—as America's largest disadvantaged minority seeks to participate in, and contribute more fully to, American life.

My colleagues at Harris are proud of this survey and we are grateful to N.O.D. for asking us to do it.

On the fourth anniversary of the ADA, I sincerely hope you make good use of it. If you do, all of us, with and without disabilities, will be winners.

IN SUPPORT OF BANKRUPTCY REFORM BILL, H.R. 5116

Mr. DOMENICI. Mr. President, I rise today to express my support for the bankruptcy bill now before us. After over 3 years of work, it appears we are about to pass comprehensive reform of the Bankruptcy Code. I applaud the efforts of those who worked so hard to get this done.

We passed by 94–0 a version of this bill in the spring. I thought it was a good bill then, and I still think it's a good bill. But after we passed it, a loophole in the Code was brought to my attention by a constituent in New Mexico.

I want to briefly tell you this man's story, because it illustrates very well the serious problem this loophole can create.

It has been alleged that my constituent's daughter had been sexually molested by another individual. When that individual heard of my constituent's intention to file a criminal complaint and a civil suit for damages arising out of the molestation, the alleged perpetrator filed for bankruptcy protection Chapter 13.

This section of the Code allows you to use your income, beyond what you need to live, to pay as much of your debt as possible over a fixed time. After that time is up, so is your obligation to pay. This is called a "wage earner's plan."

If you reach the end of that fixed period and haven't paid your debts fully, that doesn't matter. The Code gives you a "fresh start." All debts, except for a few like those for child or spousal support, can be erased in this manner.

My focus today is on those debts which cannot be avoided through the use of this part of the Code.

I mentioned child support. When Congress enacted the Bankruptcy Code, it decided that parents should not be able to avoid their obligations to their dependent children by using the bankruptcy laws. The interests of children and their well-being outweighed giving the parents a "fresh start" financially. Therefore, the responsibility to pay these types of debts is not eliminated by the bankruptcy process.

Amazingly, if you commit a willful and malicious act against someone, like an innocent child, you still can get that "fresh start," and the victim will be left with a meaningless and uncollectible right to damages.

Imagine that. Child molesters can avoid full civil liability for their actions merely by filing for personal bankruptcy. That's what may happen to my constituent in New Mexico.

While this Chapter 13 works well for individuals who may have made some bad financial decisions and need to get their personal finances in order, it should not be used by individuals who willfully and maliciously injure other people to avoid full liability.

I say no "fresh starts" for child molesters or anyone else who knowingly commits a violent act against another person.

Upon hearing of this problem the Code, I proposed that we amend Chapter 13's laws to make sure that debts arising out of willful and malicious acts are not forgiven. That proposal has not found its way into this bill.

I have been told that this bill increases the amount of debt which must be paid to creditors under Chapter 13 from $350,000 to $1 million. Presumably, this will give victims of intentional and malicious acts a greater chance for a full recovery of their claim.

However, it does not, as I believe it should, assure victims of complete compensation.

The bill's report also cautions bankruptcy judges, lawyers, and debtors that the bankruptcy laws should not be used as an artifice to avoid civil liability for intentional misconduct. I commend the authors of the report for including this language.

I hope that Federal bankruptcy judges will closely scrutinize these cases and properly penalize those debtors who in bad faith use the Code solely to avoid liability for their intentional acts.

I appreciate the difficult compromises which must be made to pass this type of comprehensive legislation and believe that this bill's approach to the problem is a step in the right direction. However, I would prefer to assure victims of willful and malicious acts that they will be fully compensated for their injuries, not merely increase their chances of success.

For that reason, I intend to continue to push for a change in this area of the law in the 104th Congress.

Today, however, the interests of comprehensive bankruptcy reform are more important than disagreement over a single issue or provision. This bill contains important changes agreed upon after years of work, and I won't stand in its way.

HUMAN EMBRYO RESEARCH AND BIOETHICS

Mr. HATFIELD. Mr. President, the Nation's attention has once again focused on a controversial research proposal which raises enormous moral and ethical questions: Federal funding of human embryo research. An advisory panel at the National Institutes of Health recently released recommendations for the conduct of this research. Once again, our traditional notions of life are being pushed to the limit by the scientific and technical advances that are now possible in medicine.

I raise this issue today not to criticize or applaud the work of the NIH advisory panel. Rather I do so to reiterate my belief that our Nation needs an independent ethics advisory board to evaluate and debate the difficult moral issues that are being raised more and more frequently in biomedical research.

Society will reap great benefits from advances made by modern science. Cures for hereditary diseases, a revolution in agriculture, miracle drugs, and an end to human infertility are all being predicted for our future. History has taught us, however, that new technologies often bring with them costs as well as benefits. New capabilities often pose dilemmas for society because they exceed the ethical and legal parameters we have in place to deal with them.

I have watched these advancements with great inspiration and continue to be one of the leading proponents of Federal biomedical research funding in the Congress. At the same time, however, I have watched as the Federal Government has allowed many of the most difficult biomedical ethical questions of our time to linger with little Federal guidance or dialogue. While society struggles to cope, public officials have too often preferred to allow such issues to be decided by default in a vacuum of leadership. We cannot continue to allow this to happen.

In each session of Congress since 1987, I have introduced legislation to place a moratorium on allowing the Patent and Trademark Office to issue patents on living organisms. Until this year, Harvard University had received the only such patent for the so-called Harvard Mouse. I did not introduce this so-called animal patenting legislation to object to the research that is being conducted using these creatures. My

record shows that I am committed to the advancement of scientific research. I believe, however, that the elected members of Government have a solemn duty to ensure that serious social and ethical issues are addressed. For me, the idea of issuing patents on living creatures that have been somehow altered by man raises many serious ethical questions related to human life and the natural order.

Those who have followed the rapidly advancing field of biotechnology know that ethical parameters are very difficult to formulate. However, I believe that Congress bears a large part of the responsibility for seeing that ethical issues such as these are raised and, where appropriate, lines are drawn.

In order to provoke greater discussion of the ethical implications of biomedical research, I joined my colleagues Senator KENNEDY and Senator DECONCINI in requesting two reports from the Office of Technology Assessment. In its first report, "Biomedical Ethics in U.S. Public Policy," which was released in October 1993, the OTA reviewed the different governmental approaches to issues of bioethics, including the so-called President's Commission and the now defunct Biomedical Ethics Board. OTA found that the United States is virtually alone in the industrialized world in not having a commission to examine bioethics issues. OTA will release a more detailed review of the ethical, privacy, environmental, and policy issues involved in different areas of biotechnology later this year.

In addition, two Senate committees have held hearings on these issues. The first hearing was held by Senator DECONCINI in the Judiciary Committee's Subcommittee on Patents, Copyrights and Trademarks on September 22, 1992. The purpose of this hearing was to examine the ethical issues of gene patenting. A second hearing was held on October 12, 1993, by Senator KENNEDY in the Labor and Human Resources Committee. This hearing focused on the findings of the OTA report mentioned above and the feasibility of creating a standing Ethics Advisory Board. Both of these hearings were constructive and helpful in raising the visibility of biomedical ethics issues.

It has been my goal to foster dialogue on the difficult bioethical issues faced by this country. My hope is that these efforts will result in the establishment of a permanent body assembled to study bioethical policy issues and make recommendations to the administration and Congress.

That is why I was pleased to take a step toward these objectives by introducing legislation to establish a national Ethics Advisory Board to be located within the Department of Health and Human Services. The Board established in this legislation would be composed of 15 members. While located under the umbrella of HHS, the Board would report to the administration and to Congress.

The Board would be part of the Federal research review process already in place at HHS. It would also take requests for review from Congress and would have the authority to choose issues to review on its own motion, but would have no authority to veto research initiatives. The purpose of such a Board would be to promote the dialogue that is lacking on so many ethical issues today. This is dialogue that must take place if we are to have any hope of rational and informed decisionmaking in the field of bioethics.

The reestablishment of a permanent commission is not a universally supported idea. Students of this issue know that past attempts have taken place with mixed, and at times dismal results. Let me make it clear that I am not wedded to the idea of a permanent Ethics Advisory Board, although the information I have reviewed leads me to believe it is the best approach. One of may purposes in introducing this legislation is to provide a tangible proposal to be debated and considered as we continue the discussion on the ethics of biomedicine.

At this point, that debate is advancing. Senator KENNEDY has agreed that an Ethics Advisory Board could be an appropriate mechanism for evaluating biomedical ethics issues. I am working with him to move my legislation forward. In addition, the Clinton administration, led by Jack Gibbons, the President's adviser for Science and Technology, has recently published a proposal in the Federal Register which would create an agency-wide Ethics Advisory Board within the Office of Science and Technology Policy. The head of the National Institutes of Health's National Center for Human Genome Research, Dr. Francis Collins, has also been very interested in our efforts, because some of the most difficult ethical issues we will face will be in the area of genetics.

In closing, let me reiterate that I am not arguing against advances in biotechnology or other advancing areas of science. I am simply saying that society must carefully evaluate new breakthroughs in science and technology and the implications of these new developments. Although it is difficult to legislate in these complex areas, Congress—as the elected Representatives of the people—must play a role in seeing that a forum for discussion is provided and that these important issues are addressed openly.

TRIBUTE TO GORDON B. AVERY, M.D., PH.D. A LEADER IN PEDIATRIC HEALTH CARE

Mr. DURENBERGER. Mr. President, today I would like to invite my colleagues to note a milestone in the career of a nationally known leader in pediatric health care, Dr. Gordon B. Avery, M.D., Ph.D.

Launching a career that included a residency at Bethesda Naval Hospital and service as chief of pediatrics at Quantico Naval Hospital in Quantico, VA, Dr. Avery has successfully labored to provide outstanding leadership in a career that spans four decades.

Born in Beirut, Lebanon, on December 10, 1931, Gordon Avery completed his secondary education in Massachusetts, and went on to receive a bachelor of arts degree from Harvard College, a degree in medicine and a doctorate in embryology from the University of Pennsylvania in 1958 and 1959.

Currently the chief of medicine and pediatrician-in-chief at the Children's National Medical Center, Dr. Avery's achievements on behalf of our children and academic medicine are especially noteworthy. This year, Dr. Avery marks 30 years of service to the Children's National Medical Center. Families whose critically ill children are healed at the Children's National Medical Center owe Gordon Avery a debt of gratitude for his work as both a researcher and clinician, and as a nationally recognized pioneer in the field of neonatology.

Gordon Avery is a dedicated clinician. Under his leadership, Children's National Medical Center was one of the few regional referral centers that helped develop extracorporal membrane oxygenation, or ECMO. Today, ECMO is a well-established technology—a mini heart, lung, and blood machine, with well-trained medical professionals practiced in its effective use to save the lives of premature infants born with under-developed lungs. Over many years, Dr. Avery built and organized a cadre of some of the most talented and committee physicians in the world to pioneer the proper care and optimal administration of health services for newborns.

He is a physician who has led his profession in defining the scope and critical issues in the subspecialty of neonatology. His lectures and publications are not narrowly confined, but instead cover almost the entire scope of what was once a new subspecialty.

Dr. Avery has written and lectured on a variety of topics, including: Transport issues for the high-risk infant; developing and managing the neonatal intensive care nursery; automation in the clinical pediatric laboratory; ethics in the intensive care nursery; moral issues in newborn care; sepsis; apnea in the newborn; and nutrition in the premature infant, to name but a few.

In addition to his 120 published journal articles, he authored and edited a textbook, some would say the textbook on neonatology, "Neonatology, Pathophysiology and Management of

the Newborn." Now in its fourth edition, this text has been translated into Spanish, Portuguese, and Italian.

Dr. Avery holds the post on interim chairman of pediatrics at the George Washington University School of Medicine, and is also the chief operating officer of the Children's Research Institute [CRI] at Children's National Medical Center. CRI is a unique national resource with state-of-the-art facilities and a direct link to a 279-bed pediatric specialty care hospital in the heart of the Nation's Capital. CRI is a privately supported undertaking with six centers and endowed research chairs in areas such as immunology and virology conducting critical pediatric health research.

I have named but a few of the contributions that Dr. Avery has made to the field of neonatology and the effective practice of pediatric medicine. In marking 125 years of service to children, Children's National Medical Center is very proud of this physician's contribution to the institution, our children and the field of neonatology.

Mr. President, I rise today to add my name to the long list of people, including parents, children, and colleagues who applaud the dedication and achievements that mark 30 years of uninterrupted service by Dr. Gordon Avery.

VICTIMS OF REICHSBANKNOTES

Mr. MURKOWSKI. Mr. President, I rise today to speak out on a matter of great importance to a multitude of the people of Taiwan and many Taiwanese-Americans. My long held admiration for the courage of the people of that nation is no secret and so I have become greatly troubled that I have not received an answer from the Government of Japan regarding the circumstances underlying the allegations of the forced issuance of Reichsbanknotes in Taiwan by the Government of Japan.

At issue, Mr. President, is the revelation that the Government of Japan, beginning in 1924, mobilized their colonial police and the military policy in Taiwan to compel the Taiwanese to sell their farm lands and other properties to raise cash to buy German Reichsbanknotes. This saga goes back to 1922 and 1923, when Reichsbanknotes, the German currency in circulation at that time, were given to the Japanese Government by the defeated German Government to fulfill a portion of Germany's obligation of reparation to Japan under the provisions of the Versailles Treaty. In Taiwan, Japanese governmental enterprises, including the Taiwan Sugar Co., the Taiwan Tobacco and Wine Monopoly Bureau, and the Taiwan Salt Co., paid a portion of employee salaries to its Taiwanese employees by the transfer of Reichsbanknotes.

The Government of Japan has in recent years acknowledged its obligation to redeem these Reichsbanknotes because similar notes held by citizens of South Korea were retired in August 1965 when diplomatic relations between South Korea and Japan were established. Reichsbanknotes sold to the Taiwanese by the Japanese, however, have not been retired as of this date even though several demands have been made upon the Japanese Government by the Taiwanese Reichsbanknotes Creditors Association since 1973.

Mr. President, because of the compelling evidence presented to me and my colleague, Senator ROBB of Virginia, the Foreign Relations Committee's East Asian and Pacific Affairs Subcommittee on which we serve has made not one, but two direct inquiries to the Japanese Ambassador regarding this matter. To date, we have received no response from the Government of Japan.

At this time, Mr. President, I ask unanimous consent that a translated version of a news story that appeared in the December 25, 1993, edition of the Mainichi Shinbun be printed in the RECORD. This news article documents first hand accounts of how parents of surviving Reichsbanknote holders were forced by Japanese colonial police to buy Reichsbanknotes from the Japanese Government 70 years ago.

There being no objection, the translation was ordered to be printed in the RECORD, as follows:

Lin Mu-Zon: Born July 31, 1933, Resides in Pintung County, Taiwan.

Grandfather owned and operated coal mining in Taipei and grandfather and father owned 960,000 square meters (237 acres) of land for rice and sugar cane plantation. Japanese police and neighborhood unit head forced my grandfather to buy Reichsbanknotes. My grandfather refused and then Japanese military police joined Japanese police, if my grandfather refused to buy, they will put my grandfather into prison. So, in order to satisfy demand of the Japanese police and Japanese military police, my grandfather sold one third of land for 5 luggagefuls of Reichsbanknotes.

The land my grandfather sold was turned over to Taiwan Sugar Co. (Japanese Government Enterprises) and the land today is still owned by Taiwan Sugar Co. The current value of land sold by my grandfather is estimated at 20 billion Taiwanese yen (U.S. $800 million).

Ask to return my grandfather's land to my family.

Chen Chi-Yao: Born March 7, 1925, Resides in Kaohsiung, Taiwan City.

Drafted by Japanese Army. There was a typhoon upon returning home after World War II, I discovered a bagful of Reichsbanknotes stored in the attic of my home.

According to my mother, my father was doing trading rice and sugar with Japan. Instead of cash, Japan pay one third at the beginning and later one half of payment to my father in Reichsbanknotes. At the beginning of trading, rice and sugar suppliers accepted a portion of payment in Reichsbanknotes, but later the suppliers refused to accept Reichsbanknotes. due to this my father sold property to cover the loss and send my two aunts to be employed by other to earn living.

Chen Tien An: Born October 10, 1921, Resides in Tainan County, Taiwan.

My father owned and operated family grocery store with average income. Japanese police and neighborhood unit head came and forced my father to buy Reichsbanknotes which my father left when he passed away. I was mechanics employed by Japanese Navy Base in Kaohsiung during World War II. Japan can afford to buy back Reichsbanknotes from us now.

Chen Chin Shan: Born November 15, 1927, Resides in Ping-tung County, Taiwan.

My father owned 500 ton ship and was doing trading. My family was wealthy so I went to Japanese school with Japanese children instead attending Taiwanese school for Taiwanese children.

My father was forced to buy these Reichsbanknotes currently owned by my family by Japanese Government. My wife's family also owned Reichsbanknotes. My father-in-law's elder brother was mayor of township and Japanese Government forced him to buy Reichsbanknote.

Liu Jin-Chang: Born March 6, 1923, Resides in Hsin Chu County, Taiwan.

Farm income alone can not support the family therefore my father went to Taiwan Sugar Co. and A-Li Shan Railway Co. to work as a temporary employee. One third of my father's salary was paid in Reichsbanknotes. My father died when I was a child. My mother kept Reichsbanknote in the cabinet believing that Japan will repay for Reichsbanknote.

JAPAN'S RULE ON TAIWAN AND REPAYMENT

Colonial Rule: After Sino-Japanese War in 1894, China ceded Taiwan to Japan. Japan established Taiwan Governor's office to rule Taiwan for 51 years. During that time native (Abroginees) revolted against Japan and were crushed by Japanese Army (Wu-Shia Incidence). Japan's policy was to force Japanese culture and language on Taiwanese.

Demands for Repayments: 1952 peace treaty was signed between Japan and Taiwan. Demand for repayment on property was to be determined separately. In 1972 Japan established diplomatic relations with People's Republic of China and terminated its diplomatic relation with Taiwan. Due to this, this problem is still unresolved.

Approach to Demands: Japan paid 2,000,000 yen for family of each person who died while serving in Japanese army. Military savings, salary and pensions shall be paid in accordance to wholesale price index. Victims demand 2000 times and Japanese Government is asking for 20 times of the amount of 1945 price.

Mr. ROBB. Would my distinguished colleague yield for a moment? I thank the Senator.

As my friend from Alaska, the ranking Republican on the East Asian and Pacific Affairs Subcommittee, knows, I too, consider myself a friend of Taiwan and would like to associate myself with my colleague's remarks in that regard. Senator MURKOWSKI and I are not the only Members of this Body who have sought to determine the true circumstances surrounding this matter of post-World War I reparations and the Government of Japan's use of Reichsbanknotes in Taiwan. Our Department of State has approached the Government of Japan about this controversy. Let me quote what the State Department was told,

The Government of Japan has researched this issue previously and found no evidence that the activities which form the basis of the Taiwan Reichsbanknote Creditors Association's allegations against Japan took place.

Mr. President, despite the Japanese Government's statements to the contrary, I have in my possession a transcribed news story from the Taiwan Daily News dated August 19, 1930. The headline reads and I quote, "One Million and Five Hundred German Bonds received from Germanys as Reparation Payments to be Sold to the General Public by Japanese Government." Mr. President, I ask unanimous consent that this news story, too, be printed in the RECORD. I thank the Senator from Alaska for yielding to me.

There being no objection, the translation was ordered to be printed in the RECORD, as follows:

[From the Taiwan Daily News, Aug. 19, 1930]

ONE MILLION AND FIVE HUNDRED BONDS RECEIVED FROM GERMAN AS REPARATION PAYMENTS TO BE SOLD TO GENERAL PUBLIC BY JAPANESE GOVERNMENT

(Telephone From Tokyo on 18 (August 1930))

Government of Japan has decided to sell German Bonds paid to Japan between April and August this year to be sold to public and announced that applications must be submitted to Ministry of Finance by August 31 (1930) and terms are as follow:

Qualification—Creditable merchants who has been engaged trading with Germany for last three years.

Commodities purchased by merchants from this Reparation credit must exclude luxurious items.

Minimum purchase to be 50,000 Marks.

The purchasers to receive Reparation Credit from Japanese Imperial Government Reparation Material Transfer Commission in London.

Mr. MURKOWSKI. Mr. President, I thank the Senator from Virginia. I hope that the Government of Japan will be responsive to the subcommittee's requests for information so that we can make an informed decision as to the proper role for our Government in resolving this dispute.

Mr. President, I yield back the floor.

CHARITABLE MEDICAL CARE ACT

Ms. MOSELEY-BRAUN. Mr. President I am pleased to join my distinguished colleague from Missouri, Senator DANFORTH, in introducing the Charitable Medical Care Act of 1994. This legislation is designed to ensure that licensed providers, who, in good faith, provide medical treatment without compensation, are not sued. Currently, because of malpractice concerns, health care professionals have a disincentive to volunteer their services. Further, this act does not apply in situations of gross negligence or willful misconduct.

Protection from liability for voluntarily providing uncompensated care is not a new idea. Currently, eight States, including my home State of Illinois, have laws in place that free doctors, who practice voluntarily and in good faith, from at least some part of malpractice liability. These States include: Virginia, Utah, North Carolina, Florida, Kentucky, South Carolina, Iowa, and Washington, DC.

Our legislation builds upon existing Good Samaritan laws. Good Samaritan laws prevent an individual who acted in good faith to be held liable in the event a mishap occurs. In 1959, California enacted the Nation's first Good Samaritan statute. Today all 50 States, including Washington, DC, have adopted some form of a Good Samaritan statute. These statutes exempt the volunteer from tort liability for ordinary negligence in rendering emergency aid to an individual. The rationale for these laws is to encourage health professionals to aid persons in need of assistance.

The need for free clinics and volunteerism by health professionals has never been more striking. The number of uninsured increased from 35.4 in 1992 to 37.4, an increase of 2 million in 1 year. Volunteerism by health care professionals has been instrumental in providing health care to a portion of the uninsured. Free clinics and medical volunteers focus their services on preventive and primary care. Free clinics offer an alternative to emergency rooms and represent an enormous savings to the entire health care system. In the tradition of family doctors, these clinics offer a primary care continuum.

Free clinics supplement community clinics that provide care to those without insurance as well as those on Medicaid. Together these clinics provide the majority of care in underserved communities. More than 1,500 free and community clinics serve over 10,000,000 individuals each year in this country. In my State of Illinois last year, 17,350 people were served and over $600,000 worth of care was provided.

The potential impact of charitable care is not insignificant. It is estimated that charitable medical care meets the needs of 30 percent of the currently uninsured population. Free clinics have served a valuable service and will continue to provide vital access to health care for the poor. While I am a firm supporter of universal coverage, it appears that, at least for a while, millions of Americans will remain uncovered. The number of uninsured increased from 35.4 million in 1992 to 37.4 million in 1993 representing an increase of 2 million uninsured individuals. These figures are expected to continue to increase.

The role of free clinics and volunteerism by professionals is, and will remain, an important part of the health care delivery system. This is particularly true in urban and rural underserved areas. Thus far, free clinics have been very successful in serving the community. Their success is due to their broad-based community support and the volunteerism of the medical community. Medical liability suits are very rare.

Doctors and other medical personnel who volunteer their services to provide quality medical care to the poor are an essential component of free/community clinics. Free clinics cannot provide services, however, if barriers to volunteerism remain. The only way we can increase volunteerism to individuals is to offer some protection from liability. It is critical that we encourage doctors to volunteer their services to those who cannot afford such care. I believe the legislation I am introducing today with Senator DANFORTH will go a long way toward achieving this goal.

Mr. President, I would like to conclude my remakes today by thanking my friend, Senator JOHN DANFORTH, for his leadership and hard work in the area of health care. His sponsorship of this legislation on one of his last days in the Senate illustrates his compassion and dedication to improving health services for all Americans.

I urge my colleagues to join us in support of this important legislation.

ALBANIA'S TREATMENT OF ITS GREEK MINORITY

Mr. PRESSLER. Mr. President, I call attention to particularly troubling reports of the abuse of human rights in Albania. I had the opportunity to discuss, at length, the deterioriating situation between Greece and Albania with King Constantine of Greece on September 7. On that same day, an Albanian court found five ethnic Greeks guilty of espionage and imposed prison sentences ranging from 6 to 8 years in a trial which, according to Minnesota Advocates for Human Rights, was marred by procedural inadequacies and substantive shortcomings.

The five male defendants, all members of the ethnic Greek organization Omonia, the civil rights organization of the ethnic Greek minority in Albania, originally were charged with treason and illegal possession of weapons. Albanian prosecutors dropped treason charges, which carry the death penalty, after objections from Athens. The men, Vangjel Papakristo, Panajot Marto, Kosta Qirjako, Irakli Sirma, and Theodhori Bezhani, were arrested after a raid on an Albanian conscripts' camp in April. Two Albanian soldiers were killed in that raid.

The judge said the Greek Government had given three of the five men $130,000 to buy rifles in the Greek town of loaninna near the Albanian border. He claims their mission was to arm ethnic Greek Albanians to secede from Albania.

Greece has accused Albania of staging this political trial to strike fear in

the heart of the Greek minority in southern Albania. Greece has deported some 70,000 Albanians, mostly illegal immigrants since the dispute erupted in August. In addition, Greece has tightened border controls and blocked European Union aid to Albania.

The Balkans historically have been a very volatile region. The most recent tensions created by the Albanians have thrown fuel on the fire. Kangaroo courts have no place in today's civilized world. The Albanian trial clearly was a sham, concocted for purely political purposes. It had no relationship to the standard concepts of justice observed in democratic countries. That trial and the subsequent convictions appear to be part of an effort to intimidate ethnic Greeks to abandon their homes in Albania and move to Greece. We have seen this type of intimidation before. It is the prelude to ethnic cleansing. Let us not allow the situation to deteriorate any further.

Mr. President, I ask unanimous consent that an article by Nicholas Gage from the New York Times appear in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ANOTHER BALKAN FLASH POINT

The conviction of five leaders of Albania's ethnic Greek community on espionage charges in a political show trial has aggravated tensions between Greece and Albania and set in motion repercussions that could affect the entire Balkans and even the United States.

Observers from half a dozen foreign human rights groups have described the trial, which ended Sept. 7 with sentences of six to eight years in prison, as a gross violation of international standards. Albanian opposition leaders called the trial a political maneuver.

The defendants said they were physically and psychologically tortured during detention, and during the trial they were denied the right to question the prosecution's witnesses or to present their own. A representative of Amnesty International, Bjorn Elmquist, declared that the trial was "a staged process" that the authorities manipulated for propaganda. And Minnesota Advocates for Human Rights said in a report that "despite broad accusations and strong rhetoric, the prosecution did not present direct evidence of the charge." The defendants were convicted even though there was never proof that they were in any position to know Government secrets, much less pass them on to Greek agents.

Why did the Government try these men? They are the most vocal leaders of the civil rights organization Omonia (Greek for harmony), founded by the Greek minority in Albania. (The number of Greeks in Albania, located mostly in the southern region called Northern Epirus, is put at 400,000 by Athens, 60,000 by Tirana and 280,000 by the Central Intelligence Agency.)

These convictions (whose appeal is being considered this week) are part of a wave of persecution of Albania's Greek minority launched by the Government of President Sali Berisha. Since he came to power in 1992, he has forced virtually all Greek officers out of the armed forces, has drastically reduced Greek representation in the police, judiciary and public administration, and has cut back Greek-language schools.

All these measures, including the trial, are intended to make ethnic Greeks in Albania feel that the are powerless, have no hope of retaining their ethnic identity and must abandon their homes and move south to Greece.

The trial so angered the Greek Government that it expelled more than 70,000 illegal Albanian workers. Critics in Europe and the U.S. called the expulsions excessive. But Athens argues that other European countries have refused to accept Albanian workers, while Greece took in 400,000, who send home more than $350 million a year.

Why would Mr. Berisha provoke Greece and lose a major part of Albania's vital income? The most credible explanation is that the pressure on ethnic Greeks to abandon their homeland is the first step in his plan to enlarge Albania dramatically.

He hopes to force the Greeks out in order to secure the southern flank. Then he can encourage Albanian enclaves in the former Yugoslavia to revolt and seek union with Albania without worrying that Greece will take advantage of the unrest to occupy Northern Epirus.

MIDDLE EAST PEACE PROCESS

Mr. PRESSLER. Mr. President, I rise today to speak about the Middle East peace process. I must confess that on the question of peace in the Middle East, I have been a skeptic. Yet now, over a year after the signing of the Declaration of Principles between Israel and the Palestinian Liberation Organization, I am pleased to say that some—though not all—of my skepticism has dissipated.

In the last few days alone, the six nations of the Gulf Cooperation council have renounced the secondary and tertiary boycott of Israel. Should they have done so long ago? Without a doubt. Should they now renounce the direct boycott of Israel? Absolutely. But let us not damn them with faint praise: even these small moves have taken the courage to move away from long standing policies.

In addition, the Israelis and the Jordanians are fast approaching a peace treaty. There are further agreements on border crossings and tourism. King Hussein and Prime Minister Rabin have met again. Even Tunisia, former headquarters of the PLO, has agreed to exchange interest sections with the Israelis. Again, it is not a whole loaf, or even half, but it is a good beginning.

To see these kinds of developments, to watch lifelong enemies of Israel begin to face the reality of her existence, is quite uplifting. There is, however, another side to the peace process story.

For those of us who have watched the PLO over the years, watched Yasser Arafat go from one terrorist act to another, it was difficult to imagine him being able to make the transition from murdering to governing. We could not imagine it, and they have not yet done it. Arafat has conferred an interesting title on himself—"the President and the Symbol". Yet he shows few of the traits one expects of a modern political leader. In fact, Arafat is perilously close to being little more than a dictator.

We are told repeatedly that Palestinians will gauge the peace process by the change they feel on the ground. Give me money, Arafat says, or my people will turn on the peace process. Please note, Mr. Arafat, that nations have fallen all over each other to give you money, with the sole proviso that you put standard principles of economics and accounting ahead of posturing and political rhetoric. You have refused to do that.

Political posturing on the issue of Jerusalem caused the breakdown of the recent donors' meeting in Paris. Failure to guarantee open accounting has held up implementation of Israeli-Palestinian agreements. The few ministers Arafat has named have expressed frustration with his governing style, his autocracy and his conduct of Palestinian international relations. Arafat has shut down newspapers that disagree with him and shown a disturbing preference for leadership through secret police, armed militia, and the like.

I could go on with a litany of complaints about Arafat and the Palestinian Authority—the failure to change the Palestinian Covenant, Arafat's failure to condemn acts of terror, etc. The bottom line seems to be that governing is not glamorous and that running the Palestinian Authority is not the same as running the PLO.

Israel has taken great risks to move along the peace process. More Israelis have died in the year since the Declaration of Principles than died in the previous year of the Intifada. In spite of that sorry situation, the Israeli Government has stood firm in its pursuit of regional peace and stability. That steadfastness has begun to produce concrete results.

The United States must stand firm with Israel. I will continue to urge the Clinton administration—and its successors—to honor our commitments to Israel's security. I also will continue to urge that decisions must be made by all the parties involved. We must let the parties involved work out their peace.

We also must stand firm on another issue: Jerusalem must remain the undivided capital of Israel. Only once has Jerusalem been divided, from 1948 to 1967. Since Jerusalem was reunited by Israel in 1967, its holy sites have been open to all religious pilgrims. We must never allow Jerusalem to be divided again.

For that reason, last March I urged the administration to veto a U.N. resolution that referred to Jerusalem as occupied territory. Our Government should not undermine the status of Jerusalem as Israel's undivided and eternal capital.

I have noticed that the Government of Syria, which seems to be facing up to the need for accommodation with Israel, apparently expects a payoff from the United States in return for peace. President Assad, you better not start spending yet.

Syria wants the Golan Heights, and it wants aid and arms from the West. Syria will not get the Golan unless Israel chooses to cede that strategic territory. It most certainly will not get a penny from American taxpayers unless it gives up terror and drug trafficking and conforms to accepted standards of behavior in the civilized world. In addition, requests for American troops to serve as a buffer force between Syrian and Israeli forces in the Golan area must be examined carefully by Congress and the American people. The Golan Heights are not the Sinai desert. I hope no commitment is made by our State Department to introduce troops into that area unless such an action has had the benefit of ample public analysis and scrutiny.

We all want peace in the Middle East, but peace must be made by the nations of the Middle East. The Palestinians, Syrians, and Lebanese must realize—as have the Jordanians and Egyptians—that peace with Israel brings its own rewards; not necessarily massive external aid, not necessarily arms, but certainly a brighter, more secure future for their children.

AMERICANS MISSING IN CYPRUS

Mr. PRESSLER. Mr. President, I rise today to acknowledge the recent passage of S. 1329, the Missing in Cyprus bill. This important legislation will take a critical step forward in investigating the disapperance of the five Americans who have been missing since the illegal Turkish occupation of Cyprus in the summer of 1974. The establishment of an independent investigative commission will help ascertain the fate of those missing Americans. Their families hopefully will receive a long overdue accounting of their loved ones. It is doubtful that the personal wounds caused by this brutal conflict can ever be healed, but this bill is a step in the right direction. In addition, the same type of investigation needs to be undertaken to establish the whereabouts of the 1,614 Greek-Cypriots still missing since 1974.

The United Nations Commission on the Missing in Cyprus has reached no conclusion as to the whereabouts of the missing Americans and Greek-Cypriots. The past 20 years have yielded no viable resolution of this matter. S. 1329 directs the U.S. State Department and the appropriate international organizations to investigate and determine the fate of these missing individuals. It is time we knew the truth about the atrocities committed by the Turkish military in 1974 and the subsequent coverup by the Turkish Government.

I have introduced legislation, S. 2300, which would provide a strong incentive for the Turkish Government to comply with S. 1329. My bill would eliminate all United States military and economic assistance to Turkey until the five missing Americans and 1,614 Greek-Cypriots have been accounted for, released, and returned home. I ask my colleagues to consider my bill as a complement to S. 1329 in solving this important issue.

After a decade of unproductive dialog, the United States should reexamine its policy toward Turkey. The Government of Turkey keeps very precise records on all prisoners, both criminal and political. For that reason, it should not be difficult for the Government of Turkey to provide an accounting of the missing persons. Adherence to basic principles of human rights should continue to be a fundamental pillar of U.S. foreign policy. S. 1329, along with my bill, will provide a framework to end the trail of tears caused by this illegal occupation.

THE RETIREMENT OF SENATOR DENNIS DECONCINI (D–AZ)

Mr. THURMOND. Mr. President, I rise today to pay tribute to a fellow member of this body. DENNIS DECONCINI, who will retire from the U.S. Senate at the end of this Congress.

A native of Tucson, AZ, DENNIS established an impressive record of public service prior to his election to the Senate in 1976. His background includes a stint in the U.S. Army and Army Reserve; serving on the staff of the Governor; and, being elected Pima County attorney. Such experience has served DENNIS well in the Senate, particularly in his roles as a member of the Judiciary and Intelligence Committees, where he has done a fine job.

Mr. President, it has been a pleasure for me to serve with Senator DECONCINI a man of integrity, ability, and dedication for almost two decades, and we will all miss him. I wish DENNIS good health, happiness, and success in all his future undertakings.

REPRESENTATIVE BUTLER DERRICK

Mr. THURMOND. Mr. President, I rise today to pay tribute to a friend of mine, Representative BUTLER DERRICK of South Carolina, who will retire from the House of Representatives at the end of the 103d Congress.

The South is known as a small and friendly place where everyone knows one another, and that is certainly the case in the county—Edgefield—from which BUTLER and I hail. I have known the Derrick family for years, and BUTLER all his life, and there is one thing that every person in Edgefield County knows, the Derricks are people of integrity, ability, and dedication.

These qualities are ideally suited for a career in public service, and that is the road that BUTLER has taken. A graduate of the University of Georgia's law school, BUTLER served in the South Carolina House before his election to the U.S. House of Representatives in 1975. A hard working man, BUTLER steadily climbed the ladder of the Democratic House leadership to the position he holds today, that of chief deputy whip.

Mr. President, we are proud of BUTLER's many accomplishments in public service and thank him for his loyal service to his State and Nation. He leaves Washington knowing that he has worked hard for his constituents and I wish him and his lovely wife, Beverly, good health, happiness, and success in all their future undertakings.

REPRESENTATIVE ALEX MCMILLAN

Mr. THURMOND. Mr. President, I rise today to pay tribute to a good friend of mine, a man who I hold in high esteem, Representative ALEX MCMILLAN of North Carolina, who is leaving the House of Representatives at the end of the 103d Congress.

A successful businessman from Charlotte, NC, ALEX was first elected to Congress in 1984 after establishing an impressive record for public service. As a Member of the House, ALEX earned the reputation of being a bright and diligent Congressman, and he quickly gained important positions on some of the most significant committees in the House of Representatives.

Mr. President, ALEX MCMILLAN is a man of integrity, ability, and dedication. He has done an able and commendable job representing the people of North Carolina's Ninth Congressional District. His successor will certainly have big shoes to fill. I wish ALEX, and his lovely wife, Caroline—who is one of the finest and most attractive women I know—good health, happiness, and success in all their future endeavors.

REPRESENTATIVE ARTHUR RAVENEL

Mr. THURMOND. Mr. President, I rise today to pay tribute to a loyal Republican, an able and dedicated Congressman, and a very good friend of mine, Representative ARTHUR RAVENEL of South Carolina, who will leave the House of Representatives at the end of the 103d Congress.

ARTHUR was elected to the House in 1989 after establishing an impressive record for public service that included serving in the U.S. Marine Corps and in both Houses of the South Carolina State Legislature. A fiercely proud and patriotic Charlestonian and Southerner, Arthur diligently represented the interests of his district and was a

loyal member of the South Carolina Congressional Delegation. If there was an issue before the Congress that would benefit our State, ARTHUR RAVENEL was always ready to fight for its victory.

Mr. President, South Carolina's First Congressional District is one of the most beautiful and historic regions in the United States, if not the world. Much to his credit, ARTHUR RAVENEL not only used his position to advocate historic and natural preservation and conservation that would keep the South Carolina lowcountry beautiful; but, he also worked hard to bring new commerce to this area so that the people of his district and State could enjoy better and more prosperous lifestyles. Few people worked harder than ARTHUR RAVENEL to bring much needed disaster relief to Charleston and other South Carolina towns and cities after Hurricane Hugo wrought such devastation on the Palmetto State. Never was it more evident that ARTHUR's folksy campaign slogan of "I be for you" was the truth, than in the aftermath of Hugo and his tireless efforts to help victims of this destructive storm.

During his tenure in the Congress, ARTHUR RAVENEL was an important ally to the people of his District, and the State of South Carolina. I will miss ARTHUR's wit and humor, but he may leave here knowing that he did an outstanding job of representing the people of the First Congressional District. I commend him on his accomplishments for the public, and on the fine family that he and his first wife Louise raised. I wish ARTHUR and his lovely wife, Rick, good health, happiness, and success in all their future endeavors, and look forward to visting them whenever I am in Charleston.

IN HONOR OF SENATOR DAVID BOREN

Mr. SASSER. Mr. President, I rise today to honor my distinguished colleague, DAVID BOREN, of Oklahoma on the eve of his retirement from the United States Senate to become President of the University of Oklahoma. It has indeed been a pleasure to work with DAVID for the last 16 years.

His education as a Rhodes Scholar and experience as a political science professor prepared him well for his work in politics. In 1966, Senator BOREN began his long and fruitful career in public service. He was a three-term Representative to the Oklahoma House of Representatives, served as Governor of Oklahoma for 4 years and then began his 16-year tenure in the U.S. Senate. During his years in the Senate, DAVID BOREN has worked tirelessly to support Oklahoma's interests while maintaining his commitment to serving the entire United States.

DAVID BOREN has traditionally been a moderate who favors a bipartisan approach to solving tough legislative problems. He was Chairman of the Select Intelligence Committee for six years where he distinguished himself as a knowledgeable and fair leader. He also served on the select committee named to investigate the Iran-Contra affair.

In recent years, DAVID BOREN has not hesitated to criticize Congressional procedures. He was the moving force behind the Joint Committee on the Organization of Congress, which examined Congressional procedures and made suggestions toward the improvement of the legislative process, and I was pleased to work with him on the Committee. In this capacity, DAVID BOREN's guiding principle was to restore the reputation of the U.S. Senate and help members of Congress better serve their constituents. He has rightly pointed to partisanship as one of the many obstacles to Congressional efficiency, and he believes members of Congress too often use Congressional rules to hinder legislative action.

As issue that DAVID BOREN has also been steadfast in supporting is campaign finance reform. During the Reagan and Bush Administrations, he fought to enact legislation in this area, and, after years of often heated debate, a campaign finance reform bill was passed during the 102d Congress only to be vetoed by President Bush. With the support of President Clinton, Senator BOREN has continued his work for reform of the campaign system during the 103d Congress—I commend his commitment to this endeavor and back him in his efforts.

Senator BOREN will be sorely missed in the Senate, and I believe the State of Oklahoma will be hard-pressed to find a comparable replacement. However, our loss in Congress will certainly be the University of Oklahoma's gain, and I wish Senator BOREN the best in his new position as President of the University.

GATT: A FACT CHECK

Mr. HOLLINGS. Mr. President, On Wednesday, October 5, Ambassador Mickey Kantor appeared before the Committee on Commerce, Science, and Transportation to testify on the Uruguay round of the General Agreement on Tariffs and Trade [GATT].

I have been friends with Ambassador Kantor for over 20 years, and we continue to be good friends. But he and I draw different conclusions about our trade policy, and about the direction of our economy. Ambassador Kantor was very generous with his time on Wednesday, but due to the large number of Senators in attendance at the hearing, I did not have time to fully debate every point with him. Today, I would like to outline some of the differences of opinion I have with the Ambassador based on his testimony.

First, sovereignty. Ambassador Kantor claims that our sovereignty is "more protected under the Uruguay round and this implementing legislation than it has been for 47 years." I wholeheartedly disagree with this assessment, and in fact I think it is a very dangerous and misleading assessment.

Ambassador Kantor claims that our sovereignty is protected because section 102 of the implementing bill provides that no provision of the Uruguay round nor the application of it that is inconsistent with any law of the United States shall have effect. That is just palaver. The dispute resolution panels under the World Trade Organization [WTO], meeting in secrecy in Geneva, will not care one hoot about what section 102 of our implementing bill says. A WTO panel can declare our Federal, State, and local laws inconsistent with the rules of GATT, and—unlike the current GATT regime—there will be two powerful incentives for the United States to change our laws. First, we will no longer be able to block a panel decision because under the new WTO rules there must be consensus to block a decision. And since the United States is always the good Boy Scout of the world, we know that there will be strong political pressure to fall in line with whatever the WTO says. Second, the new WTO rules will authorize cross-retaliation, so that, for example, if another country brings a successful challenge against a U.S. environmental regulation, that country can retaliate against U.S. intellectual property. We all know that the result will be a massive lobbying effort by the U.S. intellectual property industries to lobby the Congress to weaken environmental laws.

The pressures to change our laws are great even under the current GATT rules, despite our current ability to block panel reports and despite the current unavailability of cross-retaliation under GATT rules. I happen to be chairman of the committee that authorized the Marine Mammal Protection Act [MMPA], and I am well aware that there were voices within the current administration arguing that the United States should amend the MMPA to conform to the two GATT panel decisions finding it GATT-illegal.

In further defense of the WTO, Ambassador Kantor points out that the first sentence of article IX of the WTO rules says that the WTO will operate by consensus. He needs to read a little further, because the second sentence provides that, "where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting." Here is where I have tremendous concern over the procedures of the WTO. The WTO will be a commercial United Nations, with each of the 117 nations having one vote. But unlike the United Nations, where the United

States has veto power in the Security Council, the United States will have the same voting power as Cuba, or Sri Lanka, or Macau. In other words, Castro's vote cancels out our own vote. Furthermore, over half of these 117 nations have voted against us three quarters of the time in the United Nations.

Second, manufacturing jobs. Ambassador Kantor stated before our committee that the number of manufacturing jobs in the United States has increased over the last 11 months. This is a very clever way for him to put it because the truth of the matter is that we have fewer manufacturing jobs today than when President Clinton took office. In January 1993, we had 18,094,000 workers in manufacturing; the latest figures from the Bureau of Labor Statistics show 18,077,000 in manufacturing.

More important is the long-term decline in manufacturing jobs. Since 1960, our manufacturing sector has dropped from 26 percent of our work force to 16 percent. And when we passed the last round of the GATT, the Tokyo round in 1979, we were promised a great renaissance of American industry, but instead we have lost 3.2 million manufacturing jobs and have racked up a total trade deficit of $1.4 trillion.

As President Clinton himself has said, "most people's wages aren't going up because they're set in a competitive global economy." That's couching it in soft terms. Most working Americans have seen their wages decline by about 20 percent in real terms over the past 20 years. Worst of all, the gap between the rich and the poor in the United States is the widest documented since the Census Bureau started keeping these statistics following World War II. During the 1980's, the incomes of the richest 1 percent of Americans grew 63 percent, while the bottom 60 percent of families experienced a decline in income. These are the devastating effects of deindustrialization.

Third, the CAFE decision. If you picked up a newspaper in Europe last Saturday, you would have read that the United States lost the case before a GATT panel on our corporate average fuel economy [CAFE] standards for automobiles. However, the headlines in the United States read that we won. Why? Because the office of the U.S. Trade Representative did not release the decision to the public until it had done a snow job on the members of the press corps, who evidently didn't care to take time to read the opinion themselves.

Our fuel efficiency standards, which save the Nation some 2.5 million barrels of oil each day and save consumers some $40 billion per year in gasoline costs, apply equally to U.S. and foreign car manufacturers. Nevertheless, the Europeans challenged our CAFE laws at the GATT, claiming that they discriminate against their less fuel-efficient cars. Despite what U.S.T.R. says, the GATT panel severely weakened our CAFE laws by finding that the method used to calculate penalties is discriminatory and therefore GATT-illegal. And while Ambassador Kantor downplayed the importance of adverse GATT decisions before the Commerce Committee by saying that the tuna-dolphin case would have cost us only $250,000, I would like to point out that fines against the United States for our CAFE law could run over $291 million, and we all know that Japanese manufacturers already have expressed their intentions to challenge under the WTO any future United States policies designed to increase CAFE standards.

Fourth, effect of delaying GATT. I am flabbergasted to hear Ambassador Kantor report that the Department of the Treasury claims that delaying implementation of GATT in the Congress will cost us $70 billion in economic growth. How can that be when no other major industrialized country in the world has ratified GATT? How can this be when the World Bank's estimate of GATT's increase to U.S. GNP is $160 billion over 10 years? Does Secretary Bentsen really believe that we will lose $70 billion of that $160 billion in the next few months—months in which no country is even obligated to implement the Uruguay round? And let me remind Ambassador Kantor and Secretary Bentsen that the $160 billion figure has been termed overly optimistic by most economists—even the pro-GATT economists. The Institute for International Economics has estimated the gains of GATT to be $42 billion over 10 years, while the Economic Policy Institute projects a lower gain of $7 billion over 10 years. The wizards at Treasury somehow get a 70 billion dollar loss out of this before any major country ratifies GATT—and, of course, it is all the fault of Congress because we have decided to take the time guaranteed to the congressional committees under fast track to examine the 641 pages of the implementing bill and the 455 pages of the statement of administrative action. Instead of fast track, the administration wants instant track.

Fifth, the stock market. Before our committee, Ambassador Kantor attributed Tuesday's drop in the stock market to rumors that the House would delay a vote on the GATT. This interpretation was contrary to every news analysis I heard, each of which attributed the drop to inflation. Furthermore, I would like to point out that the day I announced that the Committee on Commerce would hold the GATT implementing bill for its full 45 days, the stock market rose 14 points. And the market dropped precipitously last month upon release of figures from the Department of Commerce indicating that the United States is racking up its largest yearly trade deficit ever.

So I could well draw conclusions opposite of those of Ambassador Kantor on what is important to Wall Street. Perhaps the more important point is that by engaging in this sort of debate, we only encourage Wall Street to act on the rumor of the day. Our debate about GATT should be about the long-term economic interests of this country and not about unfounded temporary jitters of Wall Street.

Sixth, GATT as a "tax cut." The administration has characterized the GATT as a $36 billion "tax cut" for Americans. Before our committee, Ambassador Kantor agreed that we would be more accurate in describing tariff cuts as decreases in costs to the consumer. The problem with this analysis is that it assumes that the savings will indeed be passed on to the consumer. My office is filled with clothes whose prices prove the consumer rarely gets the savings. Instead, the retailer gets to pocket the mark-up. For example, I have two identical women's jackets, one made in the United States where labor costs are around $8 per hour, and the other made in El Salvador where the labor costs are around 60 cents an hour. Yet both jackets cost $108. The retailers are pocketing the difference, sticking it to the consumer, and putting the consumer out of a job all at the same time.

Seventh, textile exports. Ambassador Kantor may be correct in saying that textile and apparel exports have increased 7.58 percent for 1993 and 1994, while imports have increased 4.45 percent. This is only half of the math problem, though. Since imports are at $36.07 billion while exports are at $10.3 billion, the truth is that imports are up $1.6 billion while exports are up $781 million.

A close analysis of apparel exports shows what is really going on in the global market. In 1993, the United States exported $4.9 billion of apparel. Of that, $143 million was simply reexports of foreign apparel. Of the remaining $4.8 billion, $3.1 billion consisted of exports of cut parts. In other words, the fabric was cut here and sent to low-wage countries to be sewn. Of the $1.7 billion of exports of finished apparel, over 95 percent went to Canada, Europe, and Japan. Only a paltry amount of $77 million went to the rest of the world.

Eighth, the future of trade policy. Ambassador Kantor said on Wednesday, "The definition of insanity is doing the same thing over and over again and expecting a different result." But that is exactly what we will be doing if we pass the Uruguay round. As Sir James Goldsmith testified immediately following the Ambassador, the WTO will continue the current policy and take it from a trot to a gallop. It will intensify the deindustrialization of the United States by making it even easier for U.S. manufacturers to move off-shore. And it will not open new

markets for the United States to the extent claimed by the administration because the GATT is structured on an Anglo-American free market system while there is a whole other world out there operating under a different economic system. The GATT will knock down United States tariffs and subsidies, while leaving intact the structural, nontariff barriers favored by Japan and other competitors. Case in point: If the GATT is so great, why do we need a new bilateral trade agreement with Japan? It is time to abandon our current high-minded, self-sacrificial free trade policy and unabashedly rebuild the industrial strength of this Nation.

WTO AND PUBLIC PARTICIPATION

Mr. HOLLINGS. Mr. President, I would like to submit for the RECORD a letter to President Clinton from Paul McMasters, national president of the Society of Professional Journalists; John Seigenthaler, chairman of the Freedom Forum First Amendment Center at Vanderbilt University; and 51 other press leaders and press organizations regarding public access to decisionmaking under the proposed World Trade Organization, which will supplant the General Agreement on Tariffs and Trade [GATT] if Congress passes the Uruguay round implementing legislation.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

September 14, 1994.

President BILL CLINTON,
The White House,
Washington, DC.

DEAR MR. PRESIDENT, As advocates for openness in government, we would like to register our deep concern about the dispute settlement process proposed as part of the World Trade Organization agreement. As it now stands, this proposal is riddled with provisions denying access to governmental deliberations that are an affront to the democratic traditions of this nation.

This unprecedented secrecy is particularly offensive, given the vast powers to punish and penalize that this body will hold, not over just the federal government, but state and local ones, too. Maximum access should be required in this dispute resolution process for the following reasons:

(1) The proposed process would have the power to determine the legality of a wide variety of laws at the local, state and federal levels, although officials from all levels would not be able to take part in the deliberations.

(2) The deliberations affect not only trade issues, but consumer, worker and environmental protections as well.

(3) Penalties exacted in this process could be severe.

We urge you to insist that signatories to this agreement understand that when state and federal laws are subjected to an international authority to the extent proposed in this document, that citizens of the United States have a constitutional right to access to those deliberations. Here are some of the secrecy and confidential provisions of the agreement that we hope will be revised to conform with democratic practices and traditions:

(1) The public and press should be able to monitor deliberations of the dispute settlement panels. Under the present proposal, those sessions would be closed to both the public and the press.

(2) Documents presented during panel deliberations should be made available to the public as they are in the U.S. judicial proceedings. The decisions of the panels in this process have the force of law, with serious penalties for a non-complying nation, yet the only concession to demands for openness on this point has been a proposal to provide a summary of this information. That falls far short of the public's needs in such critical matters.

(3) The American public's First Amendment right to petition the government should be made a part of this proposed agreement. As it stands, there are no means of direct input from the people, no right of public comment or amicus briefs.

(4) Provision should be made for conflict-of-interest disclosure requirements. As the proposal stands, there is no way for the public to determine whether panelists deciding an issue have economic or other interest in that matter. You may recall that the NAFTA dispute settlement panel operates like the one proposed for the WTO, and during a recent timber subsidy case between Canada and the United States it was discovered belatedly that two attorneys on the panel worked for the Canadian lumber industry.

(5) Documents relating to appeals of WTO panel decisions should be made public. Under the current proposal, all of the appeal process is conducted in secret.

The First Amendment advocates whose names appear below take no position, as a group, on the World Trade Organization agreement itself. Some may support it, others may oppose and still others may be undecided. But all of us, as a group, urge you and your negotiators to restore democratic openness to this crucial process. To do otherwise would break a sacred pact with the American people.

Sincerely,

Paul K. McMasters, National President, Society of Professional Journalists; Jo-Ann Huff Albers, President, Assoc. of Schools of Journalism and Mass Communication; Paul Anger, President, Associated Press Sports Editors; Gilbert Bailon, President, National Association of Hispanic Journalists; John Seigenthaler, Chairman, The Freedom Forum First Amendment Center at Vanderbilt University; Diana Baldwin, Chairman, Oklahoma Project Sunshine, Oklahoma City, OK; David Bartlett, Radio-Television News Directors Association, Washington, DC.

Maurine H. Beasley, Professor of Journalism, University of Maryland College of Journalism, 1993–1994 President, Association for Education in Journalism and Mass Communication; Lawrence K. Beaupre, Editor, The Cincinnati Enquirer, Vice President, Associated Press Managing Editors; Susan Bischoff, President, American Association of Sunday and Feature Editors; Ron Bridgeman, Editor, The Oak Ridger, Oak Ridge, TN; Benjamen Burns, Michigan FOI Committee, Inc., Northville, MI; Colorado Press Association, Colorado Freedom of Information Council, Denver CO; Lucy Dalglish, National Chairwoman, Freedom of Information Committee, Society of Professional Journalists; Kathleen Edwards, Manager, Freedom of Information Center, Columbia; MO; Dinah Eng, President, Asian American Journalists Association.

Gregory Favre, President, American Society of Newspaper Editors; The Florida First Amendment Foundation; Miami, FL; John R. Foreman, Editor, Champaign-Urbana News-Gazette, Illinois State Chairman for Project Sunshine; Terry Francke, Executive Director, California First Amendment Coalition; The Freedom of Information Foundation of Texas, Dallas, TX; Joseph E. Geshwiler, Editorial Associate, Atlanta Constitution, President, National Conference of Editorial Writers; Loren Ghiglione, The News Southbridge, MA; Bob Giles, Editor and Publisher, The Detroit News, Chairman, The Foundation for American Communications; Dorothy Gilliam, President, National Association of Black Journalists; Kelly Hawes, Metro Editor, Muncie Star, Muncie, IN.

William Hilliard, Former Editor, The Oregonian, Portland, OR; Max Jennings, Editor, Dayton Daily News, Dayton, OH; Ron Johnson, President, College Media Advisers; Gary Klott, President, Society of American Business Editors and Writers; Bill Kovach, Curator, The Nieman Foundation, Cambridge, MA; Linda Lightfoot, Baton Rouge Morning Advocate, Baton Rouge, LA; Michael Loftin, The Chattanooga Times, Chattanooga, TN; Bill Loving, President, FOI Oklahoma, Inc.; Diane McFarlin, Sarasota Herald Tribune, Sarasota, FL; Robert G. McGruder, Managing Editor, Detroit Free Press.

Karen Lincoln Michel, President, Native American Journalists Association; The National FOI Coalition; Ohio Coalition for Open Government, Dayton, OH; Burl Osborne, The Dallas Morning News, Dallas, TX; Geneva Overholser, Vice President and Editor, The Des Moines Register, Des Moines, IA; Peter Prichard, Editor, USA TODAY; Hyde Post, Managing Editor, Atlanta Constitution, President, Georgia First Amendment Foundation; Charles Rowe, Fredericksburg Free Lance Star, Fredericksburg, VA; Edward Seaton, Editor in Chief, The Manhattan Mercury, Manhattan, KS; John Simpson, Editor, USA TODAY International; Timothy Smith, Director, Ohio Center for Privacy and the First Amendment.

Dick Smyser, The Oak Ridger, Oak Ridge, TN; State of Connecticut, Freedom of Information Commission, Hartford, CT; Frank Sutherland, Editor, The Tennessean, Nashville, TN; William B. Toran, Professor Emeritus, Columbus, OH; Georgiana Vines, Immediate Past President, Society of Professional Journalists, Managing Editor, Knoxville News-Sentinel, Knoxville, TN; Pete Weitzel, Senior Managing Editor, Miami Herald, Miami, FL.

TRIBUTE TO SENATOR HARLAN MATHEWS

Mr. SASSER. Mr. President, I want to take a moment to reflect on the contributions of my esteemed friend and colleague, Senator HARLAN MATHEWS,

who will be leaving the Senate at the end of the session.

President Woodrow Wilson once said,

There is no cause so sacred as the cause of a people. There is no idea so uplifting as the cause of humanity.

In a State rich in patriotism and duty, HARLAN MATHEWS has been one of Tennessee's most dedicated public servants. He leaves behind him a legacy of service that challenges all who follow.

Senator MATHEWS began his illustrious career in public service in 1950 as a member of the planning staff of Governor Gordon Browning. And in 1954, he was named to the budget staff of Governor Frank Clement.

Senator MATHEWS also served for 10 years as Commissioner of Finance under Governors Clement and Buford Ellington—the longest tenure of any commissioner of that department.

HARLAN MATHEWS kept breaking records, and in 1974, he was elected State Treasurer and served in that office for a record 13 years.

Then in 1987, HARLAN MATHEWS joined the staff of Governor McWherter as Deputy to the Governor, serving as Secretary of the Cabinet until his appointment to the Senate in January 1993.

Like many of our best public servants, HARLAN is a modest man—a man of the people who never forgot his Alabama and Tennessee roots.

Senator MATHEWS brings a great spirit of humanity to the task of government. He brought to the Senate that tough compassion, tenacity and quiet strength that is characteristic of our great people.

Through a keen mind and dint of hard work, Senator MATHEWS served well the people of Tennessee during his all too brief tenure in the United States Senate.

I certainly could not have asked for a greater ally for deficit reduction than Senator MATHEWS. And he certainly can take a well deserved bow for his role in passing the largest deficit reduction package in history and for helping to fire up the engines of economic growth, creating tens of thousands of new jobs in Tennessee over the past 20 months.

Senator MATHEWS and I did not always agree on the various issues brought before this great body. But our differences of opinion certainly ended when it came to Tennessee.

There could be no greater advocate of Tennessee than Senator MATHEWS. There could no more dogged supporter of the Volunteer State, its people and its commerce than Senator MATHEWS.

Senator MATHEWS and I worked closely to bring the first non-stop air route from Nashville to London. And we worked side-by-side to provide for the civilian use of the Millington Naval Air Station.

Few people outside of this body know that Senator MATHEWS has the distinction of serving on three major Senate Committees: Energy and Natural Resources, Foreign Relations, and Commerce, Science and Transportation.

He used his seat on those Committees as a voice for his fellow Tennesseans. Whether it was promoting foreign trade or R&D at Oak Ridge, preserving the Great Smoky Mountain National Park or helping our transportation industry maintain its competitive edge, HARLAN MATHEWS was Tennessee's champion.

Like all of my colleagues, I wish Senator MATHEWS and his wonderful wife Patsy all the best in their future plans.

And I am sure Senator MATHEWS will be adding to the impressive list of accomplishments and contributions which I so briefly touched upon today.

Mr. President, I am proud to have called HARLAN MATHEWS "colleague."

ON UNFUNDED FEDERAL MANDATES

Mr. KENNEDY. Mr. President, I regret that we have not been able to move forward on consideration of the Federal Mandate Accountability and Reform Act of 1994.

Many mayors and other municipal officials from Massachusetts have told me about the difficulties they are having in paying for both federally mandated requirements and local priorities such as education and law enforcement. I am deeply concerned that the costs of meeting Federal requirements are making it harder and harder for many communities to hire more teachers, more police officers, or more firefighters. While it is important for the Federal Government to meet its national responsibility in protecting the environment, ensuring worker safety, preventing discrimination, and securing other basic rights for all citizens, Congress must also be sensitive to the burdens Federal legislation may impose on State and local governments.

I have consistently fought for more Federal funding to help Massachusetts communities meet Federal requirements such as those under the Clean Water Act. But I also believe that the time has come for Congress to review the entire problem of unfunded mandates more carefully. That is why I support S. 993, the Glenn-Kempthorne Federal Mandate Accountability and Reform Act of 1994.

I appreciate the efforts of Senators GLENN and KEMPTHORNE to craft a balanced and fair approach to the problem of unfunded mandates. By requiring Congressional Budget Office estimates of the State and local costs of new legislation, and providing for a specific vote if those expenses are not financed through savings or authorizations, their bill will ensure that Congress deals more effectively with the problems faced by States, cities, and towns in complying with new Federal laws.

The Glenn-Kempthorne bill is supported by the Clinton administration and by Members of both parties. It has been strongly endorsed by the major organizations representing State, county, and municipal officials. It is a good bill that addresses a serious problem for States and local governments, and it deserves to pass.

THE NATIONAL AFRICAN AMERICAN MUSEUM ACT

Mr. SIMON. Mr. President, as I said last night, I would have liked to reach agreement with my colleague from North Carolina on the National African American Museum. I am disappointed that agreement could not be reached.

It is unfortunate that the Senate is not able to pass the National African American Museum Act prior to adjournment. I urge those interested in donating artifacts or collections to the National African American Museum, to keep the Smithsonian in mind. It is too bad the American people, the Smithsonian and its millions of world-wide visitors have to lose out to this delay. My colleague in the House, Representative JOHN LEWIS, and I will be offering legislation again next year.

The debate on the museum has gone on far too long. I respect the right to filibuster; however, that right has been abused. The time has come for this country to have a national museum to honor and document the heritage of this country's 30 million African Americans.

I appreciate the strong bipartisan efforts of my colleagues in support of this museum over the past 5 years. I would specifically like to thank Senator JOHN MCCAIN and Senator WENDELL FORD for their efforts in support of this legislation. They have been helpful since I first introduced legislation in 1989.

Some will continue to ask why this museum? Why not an Irish American or a German American museum? The history of the United States unfortunately shows us that two groups were severely mistreated and had a very different American experience. Their experience should be remembered and their heritage should be remembered. One group, Native Americans, has been successful in having its story told nationally by the Smithsonian. The second, African Americans, will be remembered appropriately when this act is signed into law.

Museums are tools of immense power to educate and enrich. An African American Museum would help to educate all Americans about the contributions of African Americans. The museum will help facilitate the knowledge and understanding of African American culture that may change unhealthy attitudes and help foster better relations between people of all races.

African Americans make up 12 percent of the population in the United

States, and there are over 29 million African American citizens. Of the over 40 million schoolchildren in the United States, 16.2 percent are African American. These children need to learn about their ancestors' role in shaping this Nation. All Americans would be enriched by this knowledge. In addition, of the 30 million visitors to the Smithsonian every year, many are from other countries. These travelers also use museums to gain cultural impressions and information. If we are to preserve and present the American heritage to all Americans and to the world, then we must include the contributions of African Americans.

We often describe American culture as a multi-patterned quilt, intertwined with many fabrics. A fundamental thread of the American fabric is the history, culture, and art of African Americans. The heritage of African Americans is unique. If we are to educate Americans about our history and culture, and if we wish to present to the world an accurate picture of American heritage, we must show the African American experience in a national museum.

I thank my colleagues again for their support, and look forward to enacting the National African American Museum early next year.

HONORING DR. NINA McCLELLAND

Mr. RIEGLE. Mr. President, on Wednesday, October 19, colleagues, family, and friends of Dr. Nina McClelland will gather to pay tribute to her in honor of her retirement from National Science Foundation [NSF] International. It is my distinct pleasure to join them in honoring her distinguished career and major achievements in the fields of public health and the environment.

Dr. McClelland began her career as a chemist-bacteriologist at the Department of Health in Toledo, OH, in 1951. From 1956–63, she served as the chief chemist at Toledo's wastewater reclamation facility. But her work would not remain at the State level for long. In 1968 she was named Director of the Water Research Program at NSF International. Her commitment and excellence in this position earned her regular promotions within the agency, where she went on to serve as Director of Technical Services, Vice President of Technical Services and Treasurer. In 1980, she was appointed Chairman of the Board of Directors and Executive Committee, President, and Chief Executive officer; she has served in this capacity for the past 14 years. It is her exceptional leadership in this post that NSF International now must seek to replace. The task will be easy.

Throughout her career, Dr. McClelland has been sought after by the academic and international community. Since 1971, she has lectured frequently at the University of Michigan's School of Public Health, first as a nonresident lecturer and later as an adjunct professor. And in 1986, she served as a consultant to the United Nations on the interregional symposium on improved efficiency in the management of water resources. Her achievements in science are notable, but it is her ability to communicate her professional knowledge and experience as both instructor and consultant that truly demonstrates the depth of her talents.

Moreover, Dr. Nina McClelland has devoted a tremendous amount of her time and energy to community and professional organizations. She has served on boards and committees for a myriad of organizations: the Centers for Disease Control, the National Academy of Sciences, the U.S. Environmental Protection Agency, and the United Way, to name only a few. She has received honors and awards too numerous to mention for her vast contributions in the fields of public health and the environment. And she has worked tirelessly with local, national, and international professional organizations for years.

Mr. President, Dr. McClelland has had a truly remarkable career. We have all profited from her unswerving commitment to improving public health and the environment. Her work has been an inspiration to countless colleagues and students, and she is admired by us all. I am honored to have this opportunity to pay tribute to Dr. McClelland. Her tireless efforts and service have made our community a better place to live, and I wish her a long happy, and fulfilling retirement.

STATEMENT OF SENATOR CHRISTOPHER J. DODD—TRIBUTE TO MY STAFF

Mr. DODD. Mr. President, in the midst of our busy schedules, we do not pause often enough to thank the people who make this institution run: the Senate staff. These are people who toil for long hours for far less money than they could earn elsewhere. They display a splendid dedication to public service and the democratic process.

Outside this Chamber, there are five portraits hanging in the reception room. Those portraits reflect the decision by a committee that several decades ago decided who had been the most effective Members of the U.S. Senate in our history. Then Senator John F. Kennedy chaired that Commission. The Senators chosen were Senator Taft, Senator Calhoun, Senator Clay, Senator Webster, and Senator La Follette.

There is no such facility, that I know of, where Members of the Senate staff are so recognized for their contributions. They are rarely, if ever, mentioned in the press. They never get an opportunity to give a speech on the Senate floor. But I know each and every one of my colleagues deeply appreciates the work that the staff does.

I am deeply appreciative of my staff, both for their dedication to me and to this institution. I want to especially single out a few individuals who have recently left my staff or will be departing at the end of this Congress.

Bob Dockery served as my senior foreign policy adviser virtually since my arrival in the Senate in 1981. His knowledge of Latin America, sound political judgment, and utter reliability are legendary in the Senate. He is also a man of unparalleled principle and professionalism.

Sarah Flanagan has served the last 18 months as the staff director of the Subcommittee on Children, Family, Drugs and Alcoholism, which I Chair. One of the Senate's leading experts on education policy, she has played a key role in a number of major initiatives, including the Safe Schools Act, the Elementary and Secondary Education Act, and the ounce of prevention component of the crime bill.

Patty Cole was a longtime staffer of the Subcommittee on Children. She was a key mover behind a wide range of social legislation, including child care and early childhood education. Just this year, we passed a reauthorization bill that greatly expanded and improved the Head Start Program, and it was due in no small part to Patty's hard work.

Doug Sosnik was my administrative assistant for nearly 3 years. He took a leave of absence during that time to manage my successful reelection campaign in 1992.

I also want to thank a number of other departing staffers, all of whom we miss: Sira Berte, my scheduler; Gia Daniller, a legislative correspondent; Monica Guthrie, who worked in my reception area; Matt Hersh, a foreign policy legislative assistant; Jeanne Ireland, a fellow who worked on health care reform legislation; George Kramer, a fellow who worked on securities litigation; Sara Lanza of my foreign policy staff; Jorge Lopez, a fellow specializing in violence prevention; Erin Martin, my deputy press secretary, and Daniel Wirls, a fellow who worked on congressional reorganization.

In addition, I wish to pay tribute to the rest of my personal and committee staff for all of their hard work and commitment: Jill Adleberg, Chuck Bunnell, Adria Deasy, Suzanne Day, Sheila Duffy, Carolyn Egan, Marvin Fast, Bob Gillcash, Joan Gillman, Pat Gilory, Del Greer, Michelle Halloran, Holly Hanson, Cory Heyman, Diana Huffman, Stanley Israelite, Donna Jones, Kathy Keup, Michael Leahy, Jane Loewenson, Ed Mann, Katherine McCarron, Barbara McCredie, Tom Mezzio, Janice O'Connell, Tony Orza, Joe Palmore, Belinda Parker, Dana

Petaway, Michael Powell, Lee Reynolds, Christopher Ross, Lois Santiago, Andrea Siaflas, Deya Smith, Ashley Smoot, Mark Stephanou, Suzanne Stokes, Rick Van Ausdall, Pat Walsh, Courtney Ward, Ted Webber, and Emily Wolf.

TRIBUTE TO REAR ADM. ROBERT C.J. KRASNER, ATTENDING PHYSICIAN TO CONGRESS

Mr. HEFLIN. Mr. President, I want to take a moment to pay tribute to Rear Adm. Robert C.J. Krasner, who has served Congress tirelessly as its attending physician. Unfortunately, Admiral Krasner will be leaving his position after this session of Congress ends.

Robert Krasner was born in New Jersey, where he graduated from Lafayette College with a degree in history and literature. He attended medical school at the University of Maryland. In the early 1970's, after completing his medical degree, Dr. Krasner was commissioned under the Berry plan as a lieutenant in the medical corps of the U.S. Naval Reserves. He went on active duty in 1973.

By the end of a tour in London, he had become Lieutenant Commander Krasner. He transferred to the Bethesda Naval Hospital for training in internal medicine, eventually earning a diploma in tropical medicine from the Walter Reed Army Institute of Research. While on a tour in Indonesia, he was selected for promotion to commander.

Commander Krasner then served as staff physician in the Office of the Attending Physician. In 1982, he was assigned to be a staff internist at the Naval Hospital in Oakland, CA, serving there for 4 years.

In 1986, by-then Captain Krasner was sent back to the Office of the Attending Physician as director of clinical services. In May 1990, he was appointed the attending physician and promoted to the rank of rear admiral.

Admiral Krasner's decorations include the Navy Commendation Medal, the Meritorious Service Medal, and the Legion of Merit. He is a fellow of the American College of Physicians, a member of the Academy of Medicine of Washington, and a member of the International Society of Travel Medicine.

Dr. Krasner took great personal interest in each of his patients. Every time a blood test was performed, he personally got back to the Member and let him or her know the results. Any time a Senator or Congressman was referred to a specialist, he always followed-up and impressed everyone with his detailed, personal approach to every problem. I particularly remember while a patient at Bethesda Naval Hospital when he came by to check on me on a Saturday night around 1 a.m. after having attended a Navy function in Annapolis. Early the next morning, he was back at Bethesda Naval Hospital checking on my condition again. He was a tireless worker.

He took every step possible to guarantee the privacy of each Member's medical condition. Realizing that medical conditions demand complete privacy and that the Halls of Congress are full of a wide and large array of gossipers, he took great steps to guarantee that there were no leaks out of his office and that the right of privacy was fully and constantly protected.

Members of Congress have been very fortunate to have had the outstanding services of Admiral Robert Krasner over the last 8 consecutive years, particularly his last four as attending physician. we will miss him, we wish him well, and we offer our congratulations and thanks for a job well done.

REFERENCE SECTION 309 OF H.R. 5116, BANKRUPTCY AMENDMENTS ACT OF 1994.

Mr. THURMOND. Mr. President, I wish to congratulate the chairman of the Judiciary Committee's Courts and Administrative Practices Subcommittee on passing H.R. 5119, the Bankruptcy Amendments Act of 1994, in the Senate last night. I wish to ask the distinguished chairman one question relating to the amendment which I offered on the bankruptcy bill relating to the exception from discharge of certain fees and assessments which become due to condominium, cooperative and similar membership associations. Mr. Chairman, is it not correct, that although section 309 of H.R. 5116 as passed in the House and the Senate refers in particular to condominium and cooperative housing, that the section is broad enough to cover and intended to cover a variety of residential housing community associations?

Mr. HEFLIN. You are correct, Senator THURMOND. As long as the residential housing community association has the attributes of condominium and cooperative associations, including mandatory membership and mandatory assessments for maintaining common areas, which run with the land, section 309 would apply to the members of the association. The type of housing association makes no difference to the underlying purpose of section 309, which is to avoid the unfair burden on the other members of the association which results from discharging the debtor's assessments in the situations specified in section 309.

SECTION 216 (STATUTE OF LIMITATIONS) OF H.R. 5116

Mr. HEFLIN. Mr. President, I rise today to speak about section 216 of H.R. 5116 regarding limitations on avoiding powers of the bankruptcy trustee or estate representative.

The overriding purpose of any statute of limitations is to provide a definite and reasonable period of time for a plaintiff to provide potential defendants with notice of the time during which they may be at risk of suit so that they may take steps to preserve documents and witnesses necessary for their defense. The majority of circuits which have ruled on the issue regarding the statute of limitations contained in section 546(a) have held that, an avoidance action must be brought within two years of the filing of a chapter 11 petition, even if a trustee or other estate representative is subsequently appointed or the case is later converted, is intended to facilitate prompt and efficient resolution of bankruptcy cases. A need to provide a period of time for a later appointed bankruptcy estate representative to investigate and institute actions has been identified; this balances the rights of all parties by preserving the two year statute of limitations for estate representatives, and by providing for a maximum of 3 years if a trustee or estate representative is appointed during the initial 2 year period. This amendment prevents prejudice against potential defendants that would result from having to defend stale actions and should encourage estate representatives to investigate and resolve actions earlier in a bankruptcy case, thus minimizing estate expenses and maximizing the value of the estate to all creditors.

NORTH AMERICAN FREE-TRADE AGREEMENT IMPLEMENTATION ACT

Mr. STEVENS. The State of Alaska has an interest in resolving a question which has arisen regarding implementation of a statutory change made last year in connection with NAFTA. Section 521 of the North American Free-Trade Agreement Implementation Act, Public Law No. 103–182, amended 19 U.S.C. 58c(a)(5) to impose a $6.50 fee for the arrival of each passenger aboard a commercial vessel or aircraft from outside the customs territory of the United States. The reason for this change was to recover a portion of the revenue lost as a result of the elimination of a series of duties and tariffs under NAFTA.

NAFTA imposed a new fee of $6.50 for cruise passengers arriving in the United States from the Caribbean, Mexico and Canada. Previously, such passengers were exempt from the Customs user fee. The law also raised the fee for both air and sea passengers arriving from other foreign destinations from $5.00 to $6.50.

As a result of the wording of the NAFTA implementing legislation enacted by Congress last year, the Customs Service is claiming authority to collect the Customs user fee multiple

times during the course of the same voyage. Substituting the phrase "from outside the customs territory of the United States" for the phrase "from a place outside the United States", had this unintended consequence.

This point is particularly important to cruise passengers in Alaska where this interpretation could require the Customs user fee to be assessed more than once in a single voyage. For example, during the course of an Alaska voyage when the vessel may call in Ketchikan, Juneau, Valdez, Seward, and Sitka and may sail outside the customs territory of the United States between each of those Alaskan ports as part of one continuous cruise voyage, under the Customs Service interpretation the fee would be collected three, four, or even five times. This was not Congress' intention. Could the distinguished chairman of the Finance Committee please clarify if it was the intent of Congress to require multiple collection of the $6.50 Customs user fee?

Mr. MOYNIHAN. The changes in the passenger processing fee that were approved in the NAFTA legislation were intended only to increase the fee temporarily and eliminate the existing exemptions from the fee, again temporarily. They were not intended to alter the manner or frequency of collection, with one exception.

The NAFTA legislation replaced the phrase "from a place outside the United States" with the phrase "from outside the customs territory of the United States" to clarify that the passenger processing fee would be applicable to passengers on so-called "cruises to nowhere." These cruises are not traditional cruises, but rather cruises that simply leave a U.S. port, venture outside the customs territory of the United States, and then return to the original port of departure.

Mr. STEVENS. Do you believe Congress needs to enact a clarifying technical amendment in order to limit the collection of this fee to once per voyage?

Mr. MOYNIHAN. If the Customs Service attempts to impose the fee multiple times in the course of a voyage between ports in the United States, I would be pleased to work with the senior Senator from Alaska, as always in a bipartisan fashion, to enact legislation during the next session to clarify that there would be a single collection to cover the costs incurred by Customs in processing arriving passengers.

FEDERAL MANDATE ACCOUNTABILITY AND REFORM ACT OF 1994

Mr. DURENBERGER. Mr. President, I rise today to join the U.S. Conference of Mayors, the National Association of Cities, the National Association of Counties, the National League of Cities, and countless State and local governments in support of S. 993, the Community Regulatory Relief Act of 1993.

During my years in the U.S. Senate, I have seen the burden of unfunded Federal mandates grow dramatically and have fought to return fiscal priority-setting and decision-making to the levels of government closest to the people. As chairman of the Senate Subcommittee on Intergovernmental Relations, I raised the consciousness of members to the growing threat of Federal mandates—a term which had only become a part of the intergovernmental lexicon a few years earlier. I sponsored and promoted legislation which addressed unfunded mandates in spite of opposition from those who refused to acknowledge the seriousness of the issue.

Beginning in the 98th Congress with my sponsorship of the Intergovernmental Regulatory Relief Act, I sought to not only determine the costs to State and local governments of complying with Federal regulations, but I demanded that the Federal Government assume the costs of new regulations and create a 10-year schedule for reducing the costs of compliance with existing regulations as well. Again, in the 100th and 101st Congress, I introduced regulatory relief bills which addressed what was finally becoming a concern to members outside the Governmental Affairs Committee. This year, in addition to my cosponsorship of the bill currently before us, I cosponsored a similar bill by Senator COVERDELL and sponsored the Preemption Clarification and Information Act of 1993 with Senator LEVIN.

As a member of the Advisory Commission on Intergovernmental Relations, I maintained my strong opposition to unfunded mandates and argued that this issue is not about political turf protection—rather, it is about accountability. One level of government should not decide what is in the public interest, while another level is required to fund it.

There was a time when Federal mandates were imposed on State and local governments and funding was provided through block grants and revenue sharing programs. Funding for these programs ended in the 1980's even as Federal aid to State and local governments sharply declined. Adding insult to injury, 100 new mandates were forced on States during the same decade. Although Federal aid to State and local governments has increased in the last several years, in real terms, it is still significantly below its earlier levels.

Mr. President, if the past is prologue, unfunded mandates will pose an even greater threat in the decades ahead. While we are unable to undo the damage which has already been done, we can—today—protect the fiscal viability and autonomy of State and local governments in the future. The Community Regulatory Relief Act accomplishes this and more.

First, this legislation requires Federal agencies to include cost-benefit estimates in proposed or final regulations that impose costs of $100 million per year or more on State, local, or tribal governments. Not only does this ensure that estimates of immediate and future compliance costs are included with a regulation, but it tells people what economic benefit the government thinks they'll be getting for their money—not simply an altruistic or ambiguous benefit.

Second, CBO would be directed to prepare estimates of the cost of Federal mandates not only on State, local, and tribal governments, but on the private sector as well. Federal mandates are more than a threat to the budgets of governing bodies—the repercussions of even a small mandate are felt throughout the economy. A recent study found that the costs of Federal regulations to our economy exceed $500 billion per year, or $5,000 per household. Clearly, no study of mandates is complete without a measure of its impact on the private sector.

Finally, and most significantly, S. 993 provides a majority point of order to lie against any bill which fails to include funding proposals to cover State, local, and tribal governments' costs. My mail is replete with pleas from State and local officials in Minnesota whose budgets stand at the brink of bankruptcy. New Federal mandates threaten to break their budgets or force them to slash vital funding for locally recognized needs. Needs that we in Washington, with out bloated budget deficits and burgeoning public debt, conveniently ignore or downplay.

Mr. President, I do not question the intentions of those who introduce legislation to promote public health and safety, protect the environment, ensure fair labor practices, or prohibit discrimination—I myself have sponsored or voted in favor of numerous measures which I felt improved the quality of life for not only my constituents in Minnesota, but for all citizens. I only ask that we in Congress do that which is responsible and fund those objectives that we deem worthy of mandating.

"National Unfunded Mandates Week" is this coming October 24 to 30. This year, let's not have this week serve only as a reminder of the burden the Federal Government has placed on State and local governments. Let's make this a turning point by showing our commitment to relieving this burden by passing the Federal Mandate Accountability and Reform Act of 1994.

State and local governments are not asking for a handout—they are simply asking that the Federal Government return to them their ability to address the unique concerns of their respective

regions. I do not believe this is asking too much.

FINAL PASSAGE OF ESEA CONFERENCE COMMITTEE AGREEMENT AND GENERAL COMMENTS ON EDUCATION REFORM

Mr. DURENBERGER. Mr. President, on Wednesday I voted to pass the conference committee report on H.R. 6—legislation reauthorizing the Elementary and Secondary Education Act [ESEA].

Again, I want to thank Senators KENNEDY, KASSEBAUM, PELL, and JEFFORDS for their leadership during this long and at times, contentious process. They hung tough in shaping this legislation despite very strong opposition from the House of Representatives and from some Members in this body as well.

It has been a privilege and a pleasure to serve with my colleague on the Labor and Human Resources Committee. Our ability to work together on a bipartisan basis has resulted in some very important legislation. From Direct Lending and National and Community Service to Goals 2000 and ESEA, we have made a contribution to reforming education in this country.

HIGHLIGHTS OF THE BILL

While some provisions in this bill concern me, overall I am pleased with its final form.

Unfortunately when it comes to formulas, there will always be winners and losers. The title 1 formula in this bill seems to focus on Federal money to the poorest children and the communities and States most in need of assistance. My own State of Minnesota tells me that this is a formula that they can live with.

Reasonable compromises were reached on a number of difficult social issues including school prayer, school violence and school health related issues.

There are provisions which address one of my great concerns—federalizing education. Senator GREGG's amendment regarding unfunded mandates is now part of this legislation. It is clearly stated that if any requirement in this bill results in an unfunded mandate, affected States and communities don't have to comply. In addition, the Secretary of Education may not decide what standards or assessments a State may use. Finally, the bill prevents federally mandated opportunity to learn standards.

INCLUSION OF CHARTER SCHOOLS AND THE COMMUNITY SCHOOLS PARTNERSHIP ACT

There are two provisions in this bill I want to briefly discuss. I am very pleased that my recommendations regarding the Charter Schools Program were accepted by the conference committee. The changes I proposed authorize a stronger role for States in awarding grants, defer to States what public agencies may charter schools, and promote a stronger leadership role on charter schools for the U.S. Secretary of Education.

The legislation makes clear that charter schools must be non-sectarian, may not charge tuition and may not discriminate in admitting students. Charter schools have been authorized in 10 States and a dozen or more States are actively considering legislation to authorize charter schools.

I am also excited about inclusion of the Community Schools Partnership Act which creates and develops community-based, volunteer operated foundations in primarily low-income neighborhoods, towns and cities throughout the United States. These partnerships will improve education achievement levels and increase access to educational opportunities for all students.

CONGRESS CONTINUES TO STRUGGLE TO DEFINE A PROPER FEDERAL ROLE

Mr. President, I noted at the beginning of my remarks that this legislation was developed over a period of many months in a bipartisan process involving the Clinton administration and both Republicans and Democrats on the Senate Labor and Human Resources Committee.

Even though I don't agree with every item in this bill, I respect the process that produced it. I feel that I have had a sufficient opportunity for input—many of my own ideas were incorporated. And I believe it now deserves to become law.

On a more personal note, ESEA also represents my last opportunity to vote on a major education bill before I leave the U.S. Senate. I can't let that opportunity pass without offering at least a few more general comments on the Federal Government's role in helping to prepare future generations of Americans for work and for life.

Sixteen years ago, I entered the Senate at a time when much of the so-called education debate in this chamber was about creating a Federal Department of Education.

I supported creating that Department, Mr. President. And, I opposed efforts early in the 1980's to dismantle the new Department once it had been created. I continue to support a limited and appropriate Federal role in education to this day—most recently exemplified by my support for cloture and final passage of the ESEA reauthorization bill now before us.

ESSENTIAL PRINCIPLES FOR REFORM: COMPETITION AND CHOICE

A second major education issue during that period, Mr. President, was what role vouchers and tuition tax credits might play in expanding educational choices for America's parents and students.

I was an active participant in that debate on the side of those who wanted to expand parent choices—not just beyond traditional public schools but among public schools as well.

One of my mentors in those days—and still a frequent advisor—was Joe Nathan, a former teacher and administrator in the St. Paul public schools who now heads the Center for School Change at the University of Minnesota.

Back in the early 1980's Joe Nathan wrote a far-reaching book called "Free to Teach" in which he outlined the kinds of reforms in education needed to make it possible for both teachers and students to do their jobs better.

I talked about that book in a speech I gave at Hamline University in St. Paul 10 years ago next month. And, at the risk of repeating a gross overgeneralization, I described Joe Nathan's ideas as falling under two simple principles.

"One of those principles focuses on the student and one on the teacher," I told the audience at Hamline. "One is 'choice and the other is competition'."

About a year before I gave that speech, many Americans were shocked to learn that we were "A Nation at Risk." A blue ribbon commission appointed by President Reagan identified a whole litany of flaws and short-comings in our Nation's education system summed up by the following chilling quote:

"If an unfriendly foreign power had attempted to impose on America the mediocre educational performance that exists today, we might well have viewed it as an act of war."

A NEW EMPHASIS ON IMPROVED PERFORMANCE AND QUALITY

Despite this strong indictment—and a whole host of other reports from a variety of credible critics—it wasn't until the Education Summit called by President Bush in 1989 that an appropriate role for the Federal Government in addressing these shortcomings began to emerge.

Out of that Education Summit—involving the President and the nation's governors—came our first National Education Goals.

To help achieve those goals, President Bush and Education Secretary Lamar Alexander then launched a proposal they called America 2000.

I was a strong supporter of the Bush-Alexander initiative and proud that it was unveiled at the Saturn School of Tomorrow in St. Paul, MN. Beyond all the bells and whistles and rhetoric, the President used this opportunity in St. Paul to introduce a new national purpose in education.

Previously, the Federal Government's interest and involvement in education focused primarily on equalizing access to opportunity for every American child—the traditional goal of chapter I, special education, and other Federal education programs.

The Federal Government's interest in education was now being extended to quality—to results—to setting goals and measuring improvement in what students actually learn.

Most important, the Federal Government's role was to be enabling and empowering—for States, for school districts and individual schools, for parents and teachers and students—the Federal Government setting broad goals, creating opportunities, providing modest resources—but leaving decisions on how to achieve those goals up to those who know best—in each local community.

A NEW, BROADER DEFINITION OF "PUBLIC EDUCATION"

One of the central themes of the Bush-Alexander initiative was school choice—harkening back to the voucher-tuition tax credit debate of the early 1980s, but also incorporating new lessons that were being learned about school choice in various States including Minnesota.

Unfortunately, the Bush-Alexander initiative did not incorporate one of the key lessons being learned as States began to allow parents more control over which schools or programs their children attend.

Put simply, as the Bush-Alexander initiative bogged down in the Congress over whether choice programs should include both public and private schools, States like Minnesota were moving beyond that debate to fundamentally redefine American public education.

Minnesota did that first with its Post-secondary Options Program—allowing juniors and seniors in high school to attend public or private post-secondary institutions at State expense.

Minnesota also moved quickly to encourage new and alternative ways of delivering public education—through private, non-profit organizations under contract with local districts, through new area learning centers, that serve at-risk students and students who have dropped out of high school, and—in a landmark piece of legislation adopted in 1991—by allowing parents and teachers to form new, innovative "charter public schools."

Tying these new ways of delivering public education together is Minnesota's Open Enrollments Program—which allows students to cross district boundaries and attend the public school of their choice—anywhere in the State where there is room for them.

Taken together, then, Minnesota meets the challenging principles for reform summarized in Joe Nathan's book, "Free to Teach"—choice and competition.

No longer do Minnesota public school districts have an exclusive franchise on public education within a pre-defined geographic area. Minnesotans now have not just choice—but a number of ways of creating more choices.

To help promote the charter school idea nationally, I joined with Senator LIEBERMAN in 1991—and with a larger bipartisan group of both Senators and Representatives in 1993 to introduce what I then called the "Public School Redefinition Act."

As I noted earlier, this legislation—creating a new Federal grant program to support the start-up of charter schools—is now incorporated into H.R. 6.

MAJOR EDUCATION INITIATIVES IN THE 103D CONGRESS

Before I close, Mr. President, I'd like to briefly note the other major accomplishments of this Congress in the broad area of education and education reform. Despite the partisanship and legislative gridlock we're experiencing in a number of important issue areas, I'm pleased that there has been a great deal of bipartisanship, cooperation, and action on a number of major education initiatives in this 103d Congress.

The first of these initiatives—launching a new direct student loan program—actually had its roots in legislation initially authored by Congressman TOM PETRI. Senator PAUL SIMON and I introduced similar legislation to the Senate in the fall of 1991. The Petri/Simon/Durenberger "Income Dependent Education Assistance (IDEA) Act" was designed to reduce costs and offer needed flexibility for students burdened by ever-rising levels of debt and student loan defaults.

The Congress incorporated a pilot program modeled on the IDEA proposal in the Higher Education Amendments of 1992. And, the same concepts were then picked up by President Clinton and introduced in the spring of 1993 and incorporated in last year's major budget initiative. I was pleased to be the lead Republican cosponsor of this important proposal, along with Senator KENNEDY, the chair of the Labor and Human Resources Committee.

Renamed the Ford Direct Loan Program, a growing percentage of student loans will now be directly by the Federal Government through schools. And consistent with the flexibility offered by the Petri/Simon/Durenberger IDEA proposal, students will be able to repay their loans as a percentage of their post-college incomes.

In addition to reducing the level of student loan defaults, this new program will eventually save several billion dollars a year in administrative expenses—making an important contribution to deficit reduction at the same time we're improving access to an important Federal program.

A second major initiative in this Congress, Mr. President, is the National and Community Service Trust Act. Again, I felt privileged to be the lead Republican cosponsor of this legislation, along with Senator KENNEDY, that was given final approval just over a year ago. The first national service participants—in the new program called AmeriCorps—were sworn in by President Clinton earlier this fall.

I'm especially pleased that at my insistence, this legislation incorporated the word Community into its purpose and its title—as well as the name of the Corporation for National and Community Service that will give this program its overall guidance and direction. And, I'm pleased that the legislation included a series of studies and demonstrations I suggested as a way of refining and focusing the mission of this important new initiative prior to its first reauthorization in 3 years.

While most of the attention given to this new program is going to the stipended service opportunities it offers, I continue to believe its greatest contribution will come through its Educate and Serve America programs—grants to States, schools, community organizations and others to help integrate community service opportunities into the elementary, secondary and post-secondary school curriculum.

These goals were given an added boost through legislation that Senator WOFFORD and I introduced last year called the Wofford-Durenberger Service Learning Act. Portions of that legislation were included in both the National and Community Service Trust Act and the ESEA reauthorization legislation.

My own State is a national leader in service learning, Mr. President—an aspect of this movement that's a critical element in broader education reform. If young people are given the opportunity to serve their communities, I believe they can be a powerful force for change and improvement in their lives and in the quality of life for all those around them. And, if properly incorporated into the school curriculum, I'm convinced that community service opportunities can help produce improved educational results.

A third major educational initiative in this Congress, Mr. President, was the School to Work Opportunities Act. I was again pleased to act as the lead Republican cosponsor of this legislation—once more linking up with my distinguished colleague from Illinois, Senator PAUL SIMON.

The School to Work Opportunities Act assigns a limited but collaborative role to the U.S. Departments of Labor and Education to encourage States and local communities to start local workplace learning initiatives including youth apprenticeships.

These new initiatives are aimed at the majority of young people who will never finish college. Most of them won't even begin college, yet there's a growing recognition that today's competitive marketplace requires employees who have skills that go well beyond the capacity of many high school graduates.

I'm especially pleased that this new legislation includes sections I authored creating a national clearinghouse for information on work-place learning, as well as expanding eligibility under this legislation for workplace learning programs that begin at a younger age and

that link the large number of young people who work part-time to teachers and others who can make that work experience a part of their education. And, I was pleased to make several major contributions to the governance sections of the bill—more clearly focusing accountability and responsibility for these programs within State government.

A fourth major education initiative in this Congress, Mr. President, was passage of legislation reauthorizing the Federal Head Start Program. While this legislation continued to expand the authorized funding level for this vital program, it also paid increased and needed attention to Head Start Program quality and accountability.

That's essential, Mr. President, if we are to begin to achieve the first of our National Education Goals—ensuring that every child starts school ready to learn.

My own contributions to the Head Start reauthorization were largely based on the input I received from Minnesotans—particularly on the need to encourage a greater degree of collaboration between Head Start, federally subsidized child care programs, and other programs that assist low-income children and their families.

I was pleased to discover during this reauthorization that at least some collaborative activity is now going on. But the changing needs of today's low-income families will require more—including linkages and even comingling of funds from child care and Head Start programs, more flexibility in offering full-day Head Start services for parents who are in school or working, and increased access to at least some Head Start services for families who are income-eligible, but not formally enrolled in a Head Start Program.

A final important education initiative in this Congress, Mr. President, is the Goals 2000 legislation that was approved earlier this year.

Members of this body worked long and hard to make sure Goals 2000 would not become a new Federal license to run local schools. I believe we succeeded—by eliminating much of the prescriptive language preferred by the House. In particular, I'm pleased we were able to keep the role of input-oriented Opportunity to Learn Standards to a minimum—clearly an optional part of state and local reform initiatives.

And, I'm especially pleased that the final version of Goals 2000 includes the provisions I had suggested that authorizes the use of school improvement funds to help start charter schools and other innovative public schools, to support public school choice, and to help launch programs that offer parents and students useful consumer information to help them make wise educational choices.

I'm also pleased that Goals 2000 includes a provision I authored along with Senator HATFIELD that makes it possible for up to six States to be delegated authority to waive Federal rules and regulations. Minnesota has indicated to me that they are interested in being one of those six "super ed-flex" States.

Mandate reform is a part of all the major education initiatives we've adopted this year, Mr. President. That affirms the reality that the best way the Federal Government can be supportive of State and local education initiatives is to simply get out of the way.

Let me conclude these comments where I began, Mr. President, with an appeal to my colleagues on both sides of the aisle to continue the work we have begun to design an effective and proper role for the Federal Government in education.

Flexibility, choice, competition, parent and teacher empowerment, making the whole community the classroom—these are the essential elements of education reform.

We can encourage high standards, we can give support and encouragement, we can help equalize access to resources, and we can help communicate what works and what doesn't.

But, we can't decide what will work where. And, we can't second guess local communities on how best they will respond to the challenges or opportunities we send forth.

If we follow that guidance, Mr. President, the national government can play a useful and supportive role in improving results—in meeting the challenges articulated by Joe Nathan and A Nation at Risk and the National Education Goals and the needs and aspirations and potential of every American child.

THANK YOU TO JON SCHROEDER

Before I close, I want to thank a key member of my staff, Jon Schroeder, who has been my policy advisor and now State director since 1984. Education has always been Jon's No. 1 issue, in terms of both interest and expertise. His efforts over the past 10 years have been instrumental in shaping my own views on this and a number of other important issues. With his help, I have been able to push Minnesota's forward-looking education reform agenda. And I have been able to accomplish important education reforms on a national level—national and community service, direct lending, results oriented education, choice and headstart among others.

His efforts to promote interest in charter schools on a nationwide basis, is particularly notable. Jon serves me effectively in many ways, but he has truly excelled in his efforts to help me achieve many of Minnesota's education priorities. I wish him well in his new career endeavors.

Thank you, Mr. President. I yield the floor.

AWARD TO CALIFORNIA TAQUERIA

Mr. BOND. Mr. President, I rise today to pay special recognition to the recipient of this year's Retail Firm of the Year Award given by the Minority Business Development Agency of the U.S. Department of Commerce. I am very pleased to be able to recognize California Taqueria, a mexican restaurant in Kansas City, MO.

This family-run business was started by Vincent Ramirez nearly 10 years ago as a small fruit and doughnut stand. Ramirez's wife, Marcella, and daughter, Rosina Valdivia, are partners in California Taqueria. With hard work and an untiring commitment, the Ramirez's dream has now grown into one of Kansas City's most successful restaurants. California Taqueria now seats 60 people, but due to its growing popularity, the restaurant will move at the end of the year to a new location that will seat 150 people, including patio seating and a rooftop deck.

The Ramirez family epitomizes the kind of dedication, work ethic, and ideals necessary to achieve the level of prosperity of California Taqueria. This Kansas City family is a fine example of hard working, goal driven individuals who banded together to surmount difficulties in order to fulfill their aspirations. California Taqueria recently was named the Chicago regional winner during Minority Enterprise Development Week from among businesses in 10 different States. Winners from the five regions then competed for the national award, ultimately claimed by California Taqueria. Vincent Ramirez and his family will be honored in Washington next week with this year's national award for the Retail Firm of the Year. It is my great pleasure to congratulate the Ramirez family and California Taqueria for this significant accomplishment.

SOUTH DAKOTA ASSOCIATION OF TELEPHONE COOPERATIVES

Mr. PRESSLER. Mr. President, I would like to take this opportunity to express my gratitude to the South Dakota Association of Telephone Cooperatives [SDATC]. At their 1994 annual meeting, SDATC adopted a resolution of appreciation for the work my staff and I did on S. 1822, the Communications Act of 1994.

We worked with Senator STEVENS, Senator EXON, Senator ROCKEFELLER, Senator DORGAN, and Senator KERREY of Nebraska, the so-called Farm Team, to incorporate certain rural safeguards in S. 1822. All Farm Team Senators were original cosponsors of S. 1822 and committed to the overall competitive policy goals of that legislation.

At the same time, we all represent sparsely populated States that may not support competition in all regions. Some areas of our States would not have had electricity or telephone service without the Rural Electrification

Administration [REA]. Rural telephone cooperatives have taken the lead in upgrading their networks, deploying fiber optic cable, and installing digital switches. We must ensure they can continue to do so. Our Nation's communications policy must ensure that the benefits of advanced telecommunications services are shared by all Americans.

I ask unanimous consent that a letter from Don Lee, administrator of SDATC, and SDATC 1994 Resolution No. 24 be placed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOUTH DAKOTA ASSOCIATION OF TELEPHONE COOPERATIVES, INC.,
Mitchell, SD, September 1, 1994.

Senator LARRY PRESSLER,
Room 133—Senate Dirksen Building, 1st and C Street, NE, Washington, DC.

DEAR MR. PRESSLER: Enclosed please find a copy of the Resolutions adopted by the SDATC while convened at their 1994 Annual Meeting in Pierre.

We appreciate your support, both in the past and future.

If you have any questions or comments, please feel free to contact me at 605-995-2573.

Sincerely,

DON LEE,
Administrator.

SDATC 1994 RESOLUTION

Whereas, Senator Larry Pressler and his staff have worked diligently to protect the rural industry in the hearing markups and deliberations on the U.S. Senate on SR1822 and,

Whereas, SDATC members desire to show their appreciation to Senator Pressler and his staff for their diligent work and invaluable assistance to the Farm Team on this legislation. Therefore be it

Resolved, That SDATC hereby expresses its gratitude and appreciation for the work done by Senator Pressler and his staff on SR1822.

GEN. BUSTER GLOSSON

Mr. HELMS. Mr. President, I am grateful for the leadership of the distinguished chairman of the Senate Armed Services Committee, Mr. NUNN, as well as that of the remarkable senior Senator from South Carolina [Mr. THURMOND].

They have advised on and consented to the nomination of Gen. Buster Glosson to retire as a lieutenant general, a wise and informed position the Senate will do well to follow.

General Glosson's career has been spectacular. He has led people at the highest levels of Government both in peace and in war.

His career began in 1965 when he was graduating from the ROTC Program at the University of North Carolina State. From that day on, his life has been a series of successfully completed missions and assignments. An extraordinary ability to inspire the confidence of his superiors and the loyalty of his subordinates have characterized his entire service.

Success, Mr. President, is not always an unalloyed advantage. It has at least one negative effect. Those who cannot replicate it often feel constrained to denigrate it. In a pyramidal structure like the Air Force any senior officer is in a position of extreme visibility, a target, and inevitably attracts competition. And so it was with General Glosson.

It is unfortunate that in the process of reviewing the general's qualifications, every possible decision was informed, or rather misinformed by the general's detractors rather than illuminated by his own performance and the testimony of those who knew him best. Otherwise, we would not now be discussing his nomination, for he would not have resigned.

One of the most moving tributes that I have ever read was volunteered to the Senate Armed Services Committee by five pilots who flew, under General Glosson's direction, the previously untried F-117's, called by the world "stealth bombers."

These are the aircraft that won the gulf war, aircraft Glosson had to send out knowing each pilot in them knew there was a high possibility he might not come home, not because of anything wrong with the planes or their pilots, but because the triple A was sometimes so thick in the air a bee would have been in danger.

He instructed them not only in how to fly missions, but how to report on them on return—truthfully, whatever mistakes occurred. Mr. President, I would like the Nation to read that letter.

Mr. President, I ask unanimous consent that that letter be printed at this point in the RECORD.

If my grandchildren ever enter the armed services of their country, this is the kind of man I want them under, a man who tells his subordinates that their most important mission in life—not just in battle, but in life—is to take care of their people: a fighter pilot with over 3,800 flying hours who has never lost a wingman; a man who told a thousand fighter pilots a few hours before sending them to war:

There is not a damn thing in Iraq worth dying for until the first soldier, marine, or airman crosses the border * * * then your responsibility has no limit * * * good luck and Godspeed.

Success, Mr. President, is not always an unalloyed advantage. It has at least one negative effect. Those who cannot replicate it often feel constrained to denigrate it. In a pyramidal structure like the Air Force any senior officer is in a position of extreme visibility, a target, competition. And so it was with Glosson.

It is unfortunate that in the process of reviewing the general's qualifications, every possible decision was informed, or misinformed by the general's detractors rather than illuminated by his own performance. Otherwise, we would not now be discussing his nomination, for he would not have resigned.

Mr. President, I ask unanimous consent that the general's biography and related materials be included in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 20, 1994.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We are Desert Storm veterans who are concerned at the continuing negative portrayal of Lt. Gen. Buster Glosson's integrity and offer our own experience in Desert Storm in rebuttal. Each of us worked closely with General Glosson during the war and personally observed his honesty. It seems incomprehensible to us that the leader we knew and observed under intense pressure during the war, would be accused of ducking truthfulness. Two examples attest to General Glosson's integrity under fire.

In the final days before the war, General Glosson, as the 14th Air Division Provisional Commander, took it upon himself to brief his flying wings. During these personal visits to each Air Force fighter wing in theater, General Glosson explained the pending campaign, emphasized the difference between bravery and stupidity, and stressed the importance of integrity in war. On integrity, he told us that we were human and would make mistakes. When they happened, we had to admit them or suffer the same consequences as his generation for their lack of integrity during Vietnam or after the Panama F-117 incident. He stated, if a mosque was accidentally bombed, tell your commander. Admit your mistakes so we can all finish his war with our integrity intact.

This same spirit and honesty and willingness to bare all was also evident later in the war while General Glosson was running the "Black Hole" as Director of Campaign Plans. Each night, General Glosson personally reviewed the gun cameras film of the F-117, F-111 and F-15B pilots. These were the crews dropping precision weapons on the most difficult targets, with some F-117 targets in urban, downtown Baghdad. We worried about incidents of pilots mistakenly dropping their bombs on the wrong target, and the potential for collateral damage and civilian loss of life. As the 14th Air Division Provisional Commander of all AF fighter wings in theater, General Glosson was personally responsible for his pilots' errors. Yet, in each case where bombs went astray. General Glosson did not hesitate. He forwarded the gun camera film to higher headquarters for public release.

Detractors during the war and after have angrily accused General Glosson of being blunt, tactless, intolerant of sloppy work, and impatient with individuals who cannot give a straight answer. Yet, even these rivals will admit that no commander has been more honest and forthright with his troops. Many Desert Storm veterans—soldiers, sailors, airmen, and marines alike—owe their lives to General Glosson's integrity and sound decisions.

Having witnessed General Glosson's performance and truthfulness under the pressure of war, we can only come to one conclusion—he must be innocent. Please allow Lt.

Gen. Glosson to retire in grade, as he deserves.

Sincerely,

ROBERT D. ECKRIDGE,
Lieutenant Colonel, USAF.
THOMAS R. O'BOYLE,
Major, USAF.
GREGORY A. ———,[1]
Lieutenant Colonel, USAF.
GARY W. GREEN,
Lieutenant Colonel, USAF.
——— ———,[1]
Major, USAF.

[1] Illegible signature.

[Biography]

SECRETARY OF THE AIR FORCE,
OFFICE OF PUBLIC AFFAIRS,
Washington, DC.

LIEUTENANT GENERAL BUSTER C. GLOSSON

Lieutenant General Buster C. Glosson is deputy chief of staff for plans and operations, Headquarters U.S. Air Force, Washington, DC. He is responsible to the secretary of the Air Force and chief of staff for the planning, operations, requirements and force structure necessary to support the warfighter with air and space power. As the Air Force operations deputy to the Joint Chiefs of Staff, he determines operational requirements, concepts, doctrine, strategy, training and the assets necessary to support National Security Objectives and Military Stategy.

The general entered the Air Force in 1965 as a distinguished graduate of the University of North Carolina State Reserve Officer Training Corps program. He flew combat missions as a flight commander in both North and South Vietnam. He commanded the Air Force Fighter Weapons Squadron and two tactical fighter wings. During the Gulf War, he commanded the 14th Air Division (Provisional) and was director of campaign plans for U.S. Central Command Air Forces, Riyadh, Saudi Arabia. He is a command pilot with more than 3,600 flying hours primarily in the F-4, F-15C and F-15E.

General Glosson and his wife, Vicki, are both from Greensboro, NC. They are the parents of a son and a daughter.

Education

1965—Bachelor of science degree in electrical engineering, North Carolina State University.

1977—Armed Forces Staff College, Norfolk, Va.

1981—National War College, Fort Lesley J. McNair, Washington, DC.

Assignments

1. March 1965–July 1966, student, pilot training, Moody Air Force Base, Ga.
2. July 1965–December 1967, instructor pilot, T-38, 3500th Pilot Training Squadron, Air Training Command, Reese Air Force Base, Texas.
3. December 1967–September 1971, T-38 Instructor, academic instructor and flight examiner; assistant operations officer, then operations officer, 3250th Fighter Training Squadron, Air Training Command, Tyndall Air Force Base, Fla.
4. September 1971–April 1972, student, USAF Operational Training Course, F-4, 4435th Tactical Fighter Squadron, Tactical Air Command, George Air Force Base, Calif.
5. April 1972–September 1972, aircraft commander, F-4E, 4th Tactical Figher Squadron, Pacific Air Forces, Takhil Royal Thai Air Force Base, Thailand.
6. September 1972–April 1973, air operations officer, 366th Tactical Fighter Wing, Pacific Air Forces, Takhil Royal Thai Air Force Base, Thailand.
7. April 1973–September 1974, chief, fighter and forward air controller, standardization and evaluation, Headquarters 13th Air Force, Pacific Air Forces, Clark Air Base, Philippines.
8. September 1974–July 1977, executive officer to the director; special assistant to the director, legislative liaison, Washington, DC.
9. July 1977–January 1978, student, Armed Forces Staff College, NDU, Norfolk, Va.
10. January 1978–August 1978, student, USAF Operational Training Course, F-4D, 307th Tactical Fighter Squadron, Tactical Air Command, Homestead Air Force Base, Fla.
11. August 1978–August 1979, chief, Standardization and Evaluation Division, 58th Tactical Fighter Wing, Tactical Air Command, MacDill Air Force Base, Fla.
12. August 1979–June 1980, executive officer to the commander, USAF TFWC, TAC, Nellis Air Force Base, Nev.
13. June 1980–August 1980, chief, Standardization and Evaluation Division, 414th Fighter Weapons Squadron, Tactical Air Command, Nellis Air Force Base, Nev.
14. August 1980–July 1981, commander, 414th Fighter Weapons Squadron, TAC, Nellis Air Force Base, Nev.
15. July 1981–June 1982, student, National War College, Fort Lesley J. McNair, Washington, D.C.
16. June 1982–July 1983, chief, Tactical Forces Division, deputy director for forces, Headquarters U.S. Air Force, Washington, D.C.
17. July 1983–August 1984, chief, Programs Division, Deputy Director for Resources, Headquarters U.S. Air force, Washington, D.C.
18. August 1984–July 1986, vice commander, then commander, 347th Tactical Fighter Wing. Tactical Air Command, Moody Air Force Base, GA.
19. July 1988–June 1987, commander, 1st Tactical Fighter Wing, Headquarters Tactical Air Command, Langley Air Force Base, VA.
20. June 1987–September 1988, deputy chief of staff, plans and programs, Headquarters U.S. Air Forces in Europe, Ramstein Air Base, West Germany.
21. September 1988–July 1990, deputy assistant secretary of defense (legislative affairs), OSD, Washington, D.C.
22. July 1990–August 1990, deputy commander, Joint Task Force Middle East, USCENTCOM.
23. August 1990–May 1991, CENTAF director of campaign plans, USCENTCOM, and commander, 14th AD (Provisional), Riyadh, Saudi Arabia.
24. May 1991–May 1992, director, Legislative Liaison, and director AF Issues Team, the Pentagon, Washington, D.C.
25. June 1992–present, deputy chief of staff for plans and operations, Washington, D.C.

Flight information

Rating: Command pilot
Flight hours: More than 3,600
Aircraft flown: F-4, F-5, F-15C, F-15E and T-38

Major awards and decorations

Distinguished Service Medal
Defense Superior Service Medal
Legion of Merit with two oak leaf clusters
Distinguished Flying Cross
Defense Meritorious Service Medal
Meritorious Service Medal with two oak leaf clusters
Air Medal with three oak leaf clusters
Air Force Commendation Medal
Presidential Unit Citation
Air Force Outstanding Unit Award with "V" device and two oak leaf clusters
National Defense Service Medal with service star
Vietnam Service Medal with service star
Republic of Vietnam Gallantry Cross with Palm
Republic of Vietnam Campaign Medal
Kuwait Liberation Medal

Recent publication

"Impact of Precision Weapons on Air Combat Operations," Air Power Journal, Summer 1993.

Effective dates of promotion

Second Lieutenant, Jan. 23, 1985
First Lieutenant, Sept. 6, 1966
Captain, May 25, 1988
Major, Aug. 1, 1976
Lieutenant Colonel, Dec 1, 1979
Colonel, Oct 1, 1982
Brigadier General, July 1, 1988
Major General, Jun 1, 1991
Lieutenant General, Jun 1, 1992
(Current as of October 1993).

YAKIMA PROJECT ACT

Mr. GORTON. Mr. President, late Wednesday night the Senate approved several Bureau of Reclamation authorization measures, including the Yakima River Basin Water Enhancement Act. I would like to take time today to mention one provision of that act and, as the bill's author, discuss the intent behind it.

The act includes language authorizing the electrification of pumps at the Chandler Pumping Plant near Prosser, WA. That action is intended to free up water to use instream for fish enhancement purposes. The bill's language directs the Bonneville Power Administration to provide for project power needed to effect the electrification of the pumps at that facility.

The delivery of wholesale power to consumer-owned distribution systems is central to Bonneville's mission. It is not in the region's interest to have Bonneville compete with such systems to serve new load directly to end-use customers—whether public or private. Bonneville agrees with this and, as a matter of policy, prefers not to violate the service territory of preference power systems.

Currently, the Chandler Pumping Plant is within the service territory and is served by the Benton Rural Electric Association. While the act requires Bonneville to provide for project power for the plant, nothing in the act precludes Bonneville from serving those pumps through Benton REA. At the same time, as a member of the Senate Appropriations Subcommittee on Energy and Water, it is my hope to minimize the costs associated with this project.

In order to serve both the goals of keeping costs down and respecting the service territory of consumer-owned distribution systems, I would expect Bonneville to serve the Chandler Pumping Plant through Benton REA unless, in consultation with the Bureau

of Reclamation, they find that the cost of such service is substantially more than the cost of service directly form BPA. I have confirmed that this is also the expectation of the House sponsor, Mr. INSLEE.

I thank the Chair for this opportunity to provide explanation of a small but important part of this bill.

PRESIDENTIAL SIGNING OF COMMUNITY DEVELOPMENT AND BANKING LAW

Mr. PELL. Mr. President, I speak today to bring attention to what turned out to be an almost unnoticed event when it occurred recently: the signing of the Riegle Community Development and Regulatory Improvement Act of 1994. While not able to compete with the more demanding news items of the day, such as the events in Haiti or the developments in the O.J. Simpson case, this act will have significant, lasting, and positive effects on the daily lives of millions of Americans.

The Community Development initiative will give much-needed access to credit and financial services to individuals previously left out by established banking practices. Our inner cities, the working poor, minorities, and women have too often been left unfairly behind in the pursuit of the basic lending services available to the more traditional customer. This program will help alleviate that disparity and in the process, provide the basis for community development in the distressed communities of our country that need it most.

I commend the President for making good on his campaign promise to make this a priority in his administration. He has delivered quickly and effectively. I also salute the Banking Committee and in particular, its chairman, Senator RIEGLE, who has worked diligently to see this proposal through a difficult legislative process. I also wish to commend those in the private sector who worked side by side with the President and the Congress to make this vision of hope into a concrete, workable plan in reality. I am particularly proud of the efforts of a banking concern in my home State, the Fleet Financial Group, for being in the forefront of this process and indeed for implementing earlier this year a comprehensive $8 billion program, called Fleet INCITY, in this very area. Terry Murray, the chairman and chief executive officer of Fleet, and Agnes Bundy, the director of Fleet INCITY, deserve special praise for putting together this program and making the idea of community banking a reality. I look forward to the day when we can point to revitalized cities and empowered individuals and say with satisfaction that they were, in part, a result of the work done this year to try to bring lending and financial services to all.

Once again, I commend all involved for the achievements and advancements made in community development and banking. With them, a new day is dawning for our inner cities and for those least advantaged in our society, with the ultimate benefit, of course, coming to society at large.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, October 5, 1994.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Administration is committed to maintaining close consultations with the Congress on major foreign policy and national security issues, but consultations between the Executive and the Legislative branches are never perfect. In particular on the ABM Treaty demarcation discussions and the Nuclear Posture Review, consultations were not held with the Senate Foreign Relations Committee. We are working to assure that this does not occur again.

We are committed to a regular dialogue with the Committee on all foreign policy and security issues and will make special efforts to improve serious two-way communication on arms control issues.

Sincerely,

SAMUEL R. BERGER,
Deputy Assistant to the President for National Security Affairs.

TIME FOR A REVIEW OF UNITED STATES POLICY TOWARD CUBA

Mr. PELL. Mr. President, this morning the Senate Foreign Relations Committee held a hearing on United States policy toward Cuba. I believe a serious review of United States policy toward Cuba is long overdue and I hope today's hearing will serve as a starting point for that process. I have traveled to Cuba three times since the revolution, meeting with President Castro and other high-level officials, dissidents, political prisoners, and members of the religious community. I have been frustrated by the Cuban Government's failure to implement political reforms and demonstrate respect for human rights. I believe current policy, however, is counterproductive to promoting a peaceful transition to democracy and improving human rights.

A recent CIA report warned President Clinton could face a major crisis in Cuba. Serious instability 90 miles away, could lead to a mass exodus of refugees—far more than we saw in August—and spur demands for a United States military intervention. I think we are heading along a dangerous path and I urge the Clinton administration to reassess its approach.

I am deeply troubled by the Clinton administration's recent tightening of sanctions and its unwillingness to enter into broad talks with the Cuban Government. I was pleased, however, that the United States took one small step in the right direction by finally reaching an agreement this week to expand telecommunications between our countries.

It is my view that the embargo hurts more than it helps. We should move toward lifting an embargo which provides the regime with a convenient scapegoat for its economic woes and a rallying point for Cuban nationalism. Rather than isolating the island, we should be expanding contact with the Cuban people. By flooding the island with people, ideas and information, we will better undermine the Castro regime.

The approach I outlined has bipartisan support and I would point out that previous administrations, Democratic and Republican, have understood that it is in the United States interest to normalize relations with Cuba. Pierre Salinger recently wrote in the Washington Post August 28, 1994 that President Kennedy, who imposed the embargo, realized he made a mistake. Five days before his death, Kennedy sent a note to Castro calling for negotiations to normalize relations. In his posthumously published book "Beyond Peace," former President Nixon wrote that we should have an open door policy toward Cuba, dropping the embargo and opening the way to trade, investment and economic interaction. Officials who served in the Reagan and Bush administrations have likewise criticized the embargo calling for a change in policy as has the Wall Street Journal, The Washington Post, the New York Times, USA Today, the Economist, the Journal of Commerce, the Chicago tribune and U.S. News and World Report.

We heard testimony today from several Members of Congress who have a keen interest in Cuba, including Senator MACK. We also heard from two former government officials, William D. Rogers, who served as Assistant Secretary for Inter-American Affairs under the Ford administration and Wayne Smith, who as a foreign service officer, served as Chief of the U.S. Interests Section in Havana during the Carter administration and the beginning of the Reagan administration. It was of particular interest to hear the lessons they learned from their experience in dealing with Cuba and their recommendations for where our policy ought to be headed.

Secretary Rogers noted that the original reasons for our policy have evaporated. He believes the embargo is counterproductive and should be dismantled and he called for opening diplomatic communication. He emphasized that we must learn from the fall of communism in the Eastern bloc noting that Eastern Europe collapsed not because we blocked communication but because we kept those lines open. As he so eloquently stated, Communist regimes can end with a wimper rather than a bang, and the United States is contributing to a hard landing rather

than a soft one. He warned that our current policy is increasing the likelihood of violence and having a polarizing effect in Cuba.

Dr. Smith noted that United States policy is all stick and no carrot and urged the United States to respond to positive steps, including Cuba's cooperation on stopping the refugee flow, its initiation to the UN Human Rights Commissioner to visit Cuba, the opening up of the agricultural sector to the private sector, its expansion of freedom of religion and its dialog with some members of the Cuban American community. Contrary to some Members of Congress who believe the embargo should be expanded internationally, he pointed out that the international community is adamately opposed to the United States embago and that the United Nations condemned the embargo by a vote of 88 to 4. He believes the embargo should be lifted lock, stock and barrel. If that is not politically possible, he called for lifting the ban on remittances, abolishing travel restrictions, ending the ban on the sale of food and medicines, and closing TV Marti.

Our colleague Senator SIMON pointed out that our policy is more national passion than national interest. He urged the lifting of the travel ban, which he believes is unconstitutional and plays into the hands of the Cuban regime, and the embargo on the sale of food and medicine.

Mr. President, I hope my colleagues will join me in taking a hard look at United States policy toward Cuba and support a policy that will promote a peaceful transition to democracy in Cuba.

CONSULTATION BETWEEN THE BRANCHES

Mr. PELL. Mr. President, over a number of years, the Committee on Foreign Relations and other committees of the Congress have had difficulty in ensuring effective and meaningful consultations by the Executive Branch on key issues. Over time I, as chairman of the committee, as well as other members have expressed dissatisfaction with the consultation practice and there have been some improvements in certain areas. Unfortunately, the situation has remained far from satisfactory.

In the last year, several events have drawn attention to the problem. Last November, the administration decided to seek changes in the 1972 Anti-Ballistic Missile Treaty and dispatched a National Security Council staffer to broach the subject with the Russians. That negotiation was in process before the Committee on Foreign Relations was informed as to the administration's thinking on the matter and the decision to proceed was taken without particular regard for whether members of the committee agreed with the approach and the decision.

A second problem occurred more recently, when the committee learned of the administration's nuclear posture view from the newspapers. We were subsequently informed that the Pentagon had been tasked to tell us about this view but failed to carry out the assignment.

It might well be that decision makers, including the President, could make more informed decisions if they were to receive the benefits of the committee's assessment when significant foreign policy issues are faced. It might even be that the ensuing decisions could be better. In any event, they certainly would be the product of serious attention by both the Members and the officials of the Executive Branch.

A nominee recently considered by the Senate has certain responsibilities with regard to consultation, and the Senator from Illinois (Mr. SIMON) and I raised the matter of consultation with him. It soon became clear that corrections should be sought from the White House to ensure that all departments of the government understood the necessity of true consultation with the Committee on Foreign Relations as well as other committees. At Senator SIMON's request, the Deputy Assistant to the President for National Security affairs, Samuel R. Berger, provided assurances to the Committee. I ask unanimous consent that Mr. Berger's letter to me be printed in the RECORD following my remarks.

Mr. President, there are a number of people of good will and good intent in this administration. I know that they do not truly desire a situation in which information is shared grudgingly and belatedly. They would desire a situation in which information was shared more openly and true consultation was arranged when appropriate.

Too often the Congress and the Executive Branch are in needless and pointless conflict as they attempt to chart the proper course in matters central to our national interests. I take Mr. Berger's communication to this committee as a genuine commitment to seek a better way that will be of benefit both to the Executive Branch and the Congress, and by extension the Nation.

Thank you, Mr. President.

TRIBUTE TO SENATOR DECONCINI

Mr. PELL. Mr. President, I wish to salute my old friend and colleague, the senior senator from Arizona, DENNIS DECONCINI, on the occasion of his retirement from the Senate.

Senator DECONCINI family were among my earliest supporters when I first ran for the Senate and when he himself later came to the Senate we found ourselves joined in many common causes.

In his capacity as chairman of the Intelligence Committee and as chairman of the Commission on Security and Cooperation in Europe, Senator DECONCINI frequently dealt with matters that also were of concern to the Committee on Foreign Relations. I always found him well briefed and articulate in putting forward his viewpoint in support of worthy and humanitarian programs.

He has always been a cheerful presence in our midst and I have appreciated the Arizona oranges which arrived on my birthday with special greetings from DENNIS and his wife Susan. When my oldest son took up residence in Arizona a few years ago, DENNIS was quick to claim him as a constituent.

I am sorry that DENNIS DECONCINI has decided to leave the Senate. I wish him a long and productive retirement in the Arizona sunshine.

TRIBUTE TO SENATOR MITCHELL

Mr. PELL. Mr. President, it is with a real sense of loss and regret that I rise in tribute to our very distinguished colleague and highly respected leader, GEORGE MITCHELL, on the occasion of his retirement from the Senate.

As I said here when we first learned of his decision to leave, the Senate is a better place for having had the benefit of his steady leadership and his special gift for effective advocacy. He addresses the issues before this body with precision, clarity and, for most of us, great persuasiveness.

And he has run the cumbersome machinery of the Senate with great skill, fairness, and consummate patience. He has always been a faithful and ardent advocate for his party's priorities, while maintaining a solid base of good faith on both sides of the aisle.

All in all, it seems to me that GEORGE MITCHELL has exemplified all of the best characteristics of an effective legislative leader, especially in the fluid and sometimes volatile environment of the U.S. Senate. He leaves a new standard of performance that his successors hopefully will emulate.

I might add that I have been especially appreciative of the leader's stalwart support of a number of pieces of legislation in which I have had a special interest, such as the landmark reauthorization of the Elementary and Secondary Education Act on which we took final action just this week. And I also particularly appreciate his support of the work of the Foreign Relations Committee as we strive to define the role of the United States in the post cold war world. In all of this, he has been unfailingly courteous and considerate.

For all of these reasons, I am truly sorry to see GEORGE MITCHELL leave this body. We shall miss him. But I wish him well in his future endeavors and hope that the Nation will continue

to be the beneficiary of his great skills and many talents.

TRIBUTE TO SENATOR DANFORTH

Mr. PELL. Mr. President, I salute our departing colleague, the senior Senator from Missouri, JOHN DANFORTH. Although we often have found ourselves on opposite sides of the issues, I have great respect for him and for the sense of probity he has brought to this body.

Senator DANFORTH has been a force for the good here in the Senate, and I have appreciated the fact that he crossed party lines to support my efforts on such matters as control of drunk driving and education for prisoners. His perspective as a member of the clergy has been, I believe, a positive contribution to the life of the Senate.

I wish JOHN DANFORTH well in all his future endeavors.

TRIBUTE TO SENATOR BOREN

Mr. PELL. Mr. President, I rise in tribute to my friend and colleague, the senior Senator from Oklahoma, DAVID BOREN, who will soon be leaving the Senate to begin a new career as president of the University of Oklahoma.

I have shared a number of interests with DAVID BOREN since he came to the Senate in 1979. In his capacity as chairman of the Select Committee on Intelligence, he was concerned with many issues that were also of concern to the Committee on Foreign Relations.

I especially appreciated his concern that the United States might lapse into a state of isolationism in the wake of the cold war. And in that connection, I share his interest in the concept of U.S. participation in a standing international military force.

Our shared concern about world affairs culminated last year in a memorable around-the-world tour that took us to China, southeast Asia, the Mideast, and Europe.

Another notable aspect of DAVID BOREN's Senate career has been his unabashed commitment to reform, both as chairman of the Joint Committee on the Organization of Congress and as the principal sponsor of campaign finance legislation. It is a sad irony that both of these good causes have fallen victim to procedural impasses in the final days of Senator BOREN's tenure. It remains for those of us who stay to continue his fight.

I extend all best wishes to DAVID and Molly BOREN as they move on to a new life and new challenges.

TRIBUTE TO SENATOR HOWARD METZENBAUM

Mr. SASSER. Mr. President, I rise today to pay tribute to my good friend from Ohio, Senator HOWARD METZENBAUM. Senator METZENBAUM is retiring at the end of this session, closing his public career as one of America's leading advocates for the common man.

Whether he's fighting on behalf of the American worker or taking on the powerful special interests, Senator METZENBAUM brings a dogged determination rarely seen in the Senate. He has especially been an effective advocate for the forgotten people in our society—the poor, the elderly, women, minorities, and those who could not afford high-priced lobbyists to represent their interest. Of course, they didn't need to, they had HOWARD METZENBAUM in their corner.

His tenacity of purpose and strength of will has been both a blessing and an annoyance, depending on one's point of view. During debate on the Senate floor, his knowledge of Senate rules and sharp wit can either be powerful allies or difficult obstacles to overcome. Regardless of how one stood on the issues, no one expressed their conscience, their values, or their ideals more effectively or purposely than HOWARD METZENBAUM.

During his tenure in the Senate, HOWARD METZENBAUM has been one of the most productive Senators in passing or improving legislation. As chairman of the Senate Subcommittee on Antitrust, Monopolies and Business Rights, he led efforts to protect workers' insurance benefits at bankrupt companies. He also investigated price fixing among companies and oversaw restructuring of the savings and loan industry.

As chairman of the Senate Subcommittee on Labor, HOWARD METZENBAUM helped enact important legislation to improve the lives of workers. Senator METZENBAUM was instrumental in passing a bill requiring advance notice to workers of plant closings. He also used his position on the subcommittee to produce compromise legislation revising a Supreme Court ruling that allowed age-based discrimination in employee benefits.

Most important, HOWARD puts his own special touch on every piece of legislation he comes across, and we are better for it. Countless times, he has stayed on the Senate floor ensuring that nothing slips through in the dead of night. He is aptly named the Senate watchdog and his efforts have probably saved the American taxpayers over a billion dollars.

Now, he leaves us to spend more time with his wife and family, a prospect I know many of us envy. However, I'm confident we have not heard the last of HOWARD METZENBAUM. His voice will always be ready to speak up for the downtrodden, the discriminated, and the forgotten people of our Nation. It has been an honor and a privilege to serve with him all these years, and I will miss him deeply. I wish him well in his future endeavors.

CONNECTICUT'S BLUE RIBBON SCHOOLS

Mr. LIEBERMAN. Mr. President, I rise today to recognize eight Connecticut elementary schools that yesterday received Blue Ribbon School awards from the U.S. Department of Education. This year 276 schools from 45 States and the District of Columbia were honored by the Blue Ribbon School Program for their excellence in leadership, school organization, teaching, curriculum, and parental involvement. The selection was based on evaluations of written materials from nominated schools and reports of experienced principals who conducted site visits.

The program also recognized three schools for excellence in mathematics and three for excellence in science. I am especially proud that two of the three schools receiving special honors in mathematics were from Connecticut. Improving student achievement in mathematics is a critical goal given our need to stay competitive in a technologically advanced global economy.

At a time when American parents are concerned about the challenges facing today's schools and schoolchildren, it is important to identify and learn from those schools that have achieved excellence. I commend the teachers, parents, students, and administrators of Connecticut's Blue Ribbon Schools for their accomplishments and congratulate them for their awards. Connecticut's Blue Ribbon Schools are: Anna M. Reynolds School, Newington; Flanders Elementary School, East Lyme; Mitchell Elementary School, Woodbury; New Canaan Country School, New Canaan; Noah Wallace School, Farmington; the Rectory School, Pomfret; Roger Sherman School, Meriden, and Stratfield School, Fairfield. The two schools awarded special honors in mathematics are Mitchell Elementary School and Noah Wallace School.

THE USE OF PERMANENT PAPER FOR HISTORICAL DOCUMENTS

Mr. MOYNIHAN. Mr. President, I was recently contacted by the New York Public Library regarding the Federal Government's policy on the use of recycled paper and a possible conflict between the President's Executive order on recycling, Executive Order 12873, and the requirement of Public Law 101-423 that permanent paper be used for historical documents. Happily, this matter seems to have been resolved to the satisfaction of all parties concerned. Fran McPoland, Federal environmental executive at the Environmental Protection Agency, has written the New York Public Library that the requirement for the use of recycled paper does not conflict in any way with the requirement for the use of permanent paper for historical documents. The administration fully intends to use

permanent paper for documents of enduring historic value.

The Federal environmental executive was appointed by the authority of Executive Order 12873. One of the roles of the Federal environmental executive will be to assist individual agencies in the development of specifications to fulfill the requirements of both the Executive order on recycling and the joint resolution on permanent paper. Executive Order 12873 also called for the appointment of agency environmental executives in each executive department and major procuring agency.

Mr. President, for the information of all Senators, I ask unanimous consent that a letter from Federal Environmental Executive Fran McPoland to Paul LeClerc, president of the New York Public Library, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE FEDERAL
ENVIRONMENTAL EXECUTIVE,
Washington, DC, July 19, 1994.

Mr. PAUL LECLERC,
President, The New York Public Library, New York, NY.

DEAR MR. LECLERC: As the Federal Environmental Executive appointed by the authority of the President's Executive Order on Recycling, I am in the receipt of your communication regarding the necessity to ensure that the federal government's use of recycled paper not be perceived to be in conflict with P.L. 101-423's requirement to use permanent paper for documents of enduring historical value. I am writing to assure you that there is no such conflict, and to tell you of the steps this Administration is taking to ensure that the recycled paper requirements are not implemented in such a way as to result in the inappropriate use of acidic paper.

The Administration is completely aware of and strongly supports the Joint Resolution on permanent paper and its goals. Paper which contains recycled material and is either permanent of alkaline is available for purchase, and it is our intention to continue to use these papers for documents of enduring value.

I will be working with the individual agencies to develop specifications to fulfill the goals of the Executive Order and the Joint Resolution. Executive Order 12873 called for the appointment of Agency Environmental Executives for each Executive department and major procuring agency, in addition to a Federal Environmental Executive within EPA, the position to which I have recently been appointed. I intend to transmit a copy of this letter to all Agency Environmental Executives in order to restate our position that the requirements for use of recycled paper are not to conflict in any way with the concurrent requirement for permanent paper use. Furthermore, I am meeting this week with the Agency Environmental Executives, and I intend to discuss and reaffirm our commitment to the use of permanent or alkaline paper during this meeting. I will be continuing to work closely with these executives to ensure on-going sensitivity to this issue as we implement Executive Order 12873.

I very much appreciate your interest and concern for the permanence of historical documents, and applaud your efforts to reduce the use of acid papers by the federal government. We fully share your concern, and I look forward to continuing to work with you on issues of recycling and paper permanence.

Sincerely,

FRAN MCPOLAND,
Federal Environmental Executive.

THE CASE FOR AMMUNITION CONTROL

Mr. MOYNIHAN. Mr. President, 3 weeks ago, the city of Chicago became the first in America to ban the sale of handgun ammunition. I rise today to congratulate the Chicago City Council for this courageous action, which I hope will prompt other cities and towns to follow suit.

Chicago has long been a pioneer in seeking innovative ways to fight gun violence; 12 years ago, the city banned the sale of all handguns. That was a step in the right direction, but as we all know, such a move could only have had a limited effect. There are roughly 70 million handguns in circulation in the United States. Unless abused, they will last almost indefinitely.

That is why we must go after the bullets. A gun is useless without ammunition. If we have perhaps a two-century supply of handguns, but only a 4-year supply of ammunition, then clearly gun control must lead to ammunition control. The Chicago City Council has displayed foresight in recognizing this inevitable fact.

Mr. President, ammunition control is not a new idea. Indeed, many local jurisdictions already employ efforts to regulate ammunition. The District of Columbia and some other cities prohibit a person from possessing ammunition without a valid license for a firearm of the same caliber or gauge as the ammunition. Beginning in 1990, the city of Los Angeles banned the sale of all ammunition 1 week prior to Independence Day and New Year's Day in an effort to reduce injuries and deaths caused by the firing of guns into the air.

Such efforts are laudable, but these are isolated attempts to cure what is in truth a national disease. The scourge of gun violence now affects even the most tranquil of our neighborhoods. So we must press for national laws, as the Senator from New York has done over the last decade. I have repeatedly introduced legislation to ban or heavily tax some of the most pernicious types of bullets. And I will continue to push for Federal legislation to restrict those rounds most often used in the commission of crimes as well as particularly dangerous rounds such as Black Talons and bullets capable of piercing the soft body armor worn by police officers.

The city of Chicago deserves high praise for the precedent it has set. As Daniel Kotowski, project coordinator for the Illinois Council Against Handgun Violence, has said, "A city can only do so much to control handguns, but Chicago has done all it can." I commend the Chicago City Council for their brave decision and I hope that the rest of the country will not be far behind.

THE RETIREMENT OF THE MAJORITY LEADER

Mrs. MURRAY. Mr. President, it is with great admiration and respect that I rise today to honor our esteemed Majority Leader, Senator GEORGE MITCHELL, on his retirement from the Senate.

When I first came to the U.S. Senate almost 2 years ago, I was unsure what my reception would be. The Majority Leader and his staff quickly put me at ease. He treated everyone, veterans and newcomers alike, with dignity and respect. He dispelled many of the myths about the good old boys network. The Leader immediately gave every member of my freshmen class a part in the decisionmaking process.

I have had the privilege of serving with him for only the past 2 of this 12 years. Even in this short time, I have stood in awe of his unending patience, fairness and perseverance. Nowhere were these qualities more apparent than in his effort to shepherd comprehensive health care reform through the legislative and political thicket. Although the legislation did not pass, his leadership laid a strong foundation upon which we will build a successful bill next year.

He has championed numerous other issues during my tenure. His commitment to women's issues and a woman's right to choose has been unshakeable. He made the landmark Family and Medical Leave bill the first order of business of the 103rd Congress. He withstood filibusters and threats from the gun lobby to push the Brady bill to passage, and his persistence brought us a major anti-crime bill with an unprecedented ban on assault weapons.

High on his accomplishments list should also be many significant environmental and infrastructure bills, and his unceasing attempt to reform Congress and campaign financing. His roots as a son of immigrant parents are reflected in his deep devotion to defending civil rights and to improving education and the lives of average, working Americans.

It is with fondness and some sadness that I wish the Majority Leader well on his departure from the Senate.

NATURAL RESOURCES AND WASHINGTON STATE IN THE 103D CONGRESS

Mrs. MURRAY. Mr. President, Washington State is a special place to live. Perched on the edge of the Pacific Ocean, it looks west across that vast body of water toward Asia. It is bisected by towering peaks, across which

glaciers march and streams tumble. Islands dot its western shores, and open spaces stretch from border to border. The air is clean. The water is clear. Wildlife abounds.

Simply stated, Mr. President, Washington State is defined by its natural resources. Whether people hail from small towns or metropolitan Puget Sound, they all recognize that few places offer the diversity of climate, culture, geography, or economics of Washington State.

This situation puts my State in a quandary. Natural resources make Washington a great place live; unfortunately, there are many different ideas regarding how these resources ought to be used.

Long before I ran for office, my State was divided by conflicts over natural resource management. It is a part of life; after all, the Federal Government is the largest single landowner in the State. During the past two decades, natural resources policy has dominated public discourse, usually with mixed results.

During 1993 and 1994, Congress and the executive branch of Government have faced some big natural resource challenges affecting Washington State. We confronted one of the longest-running disputes ever—the Old Growth forest debate; and, we began to address what is perhaps the most complex—the Pacific Salmon crisis.

Mr. President, I am going to spend a few minutes summarizing the actions, accomplishments, and shortfalls of the past 2 years, and talk about some of the challenges we will face in the next 2 years. This is very important, because how this Government handles these issues has—and will have—a direct effect on the quality of life for everyone in Washington State.

CLINTON FOREST PLAN

In 1992, the situation in our Federal forests was nearly impossible. Court injunction had brought everything to a halt. We faced the consequences of a decade of over-cutting, 5 years of mismanagement, inaction, litigation, and social divisions.

President Clinton pledged his leadership to the Old Growth forest issue. He didn't have anything to gain by stepping in, other than trying to set forest policy back on its feet. The inherent controversy of the issue virtually guaranteed that one—or both—sides would be angered by his actions. The President's goal, in his own words, was to resolve the stalemate and bring the 25 million acres of national forest under a scientifically credible, legally responsible, and economically sustainable management plan. This is a goal I supported at the time, and one I still support today.

After convening a "forest summit" in Portland during April 1993, the administration created the Forest Ecosystem Management Assessment Team. This team was composed of a variety of scientific experts and agency personnel. Its charge was to create a set of options for ensuring multi-species habitat conservation on the national forests, while permitting a sustainable timber harvesting program.

The plan has not been without its critics. In fact, there have been no less than 15 challenges in Federal courts to the forest plan in the past summer from environmental groups and the timber industry lawyers alike. But, through unprecedented cooperation between Federal and State Governments, industry, private landowners, and communities throughout the Northwest, the plan is moving forward slowly but surely.

On June 6, 1994, Judge William Dwyer issued an order dissolving the injunction banning timber sales from Federal lands. From that point forward, the forest plan went into effect. The first step toward resuming the timber sale program has been watershed analysis. This involves doing biological assessments of some 150 key watersheds throughout the region. Funds have been appropriated for these purposes the past 2 years.

It is hoped these actions will result in a gradual resumption of timber sales to a sustainable level of 1 billion board feet per year. In the short term, such sales will include off-the-shelf sales that have been sold but not harvested, or that have been prepared but not sold. Added to an eastside harvest of several hundred million feet, the total amount is certainly more than we've seen in recent years. In the absence of the Clinton Forest Plan, I believe this entire issue would remain tangled in the courts, with little prospect of resuming timber management.

Oral arguments on the legal validity of the plan will take place November 10, 1994. All of the pending challenges have been consolidated into one case. I eagerly anticipate a final ruling by Judge Dwyer before the end of this year on the plan.

Government policies—first through in-action and now through action—have created serious economic hardship in timber communities in Washington State since 1989. Therefore concurrent with the formation of the forest plan, President Clinton crafted the Northwest Economic Adjustment Initiative. This economic development aspect of the President's plan recognizes the responsibility of Government in helping these areas manage change constructively.

The initiative establishes a framework to assist workers, businesses, and communities that rely on a forest-product based economy to adjust to their changing economies. The impacted timber communities can access funds through 18 existing Federal loan and grant programs. Since last year, counties and municipalities throughout the Pacific Northwest using resources under the plan have begun escaping the burdens of the timber sale injunctions.

Under the initiative, more than $1.3 billion will be provided through congressional appropriation from 1993 through 1997 to the Pacific Northwest. In fiscal years 1994 and 1995, the Federal Assistance package was nearly $250 million each year.

The fundamental principle of this plan is stewardship, and the key to its success is job creation. By taking care of our natural resources, we will be taking care of the towns and people who depend on them. Watersheds are being rebuilt and soil erosion is being controlled. Incentives are provided for non-Federal land managers to implement habitat conservation plans. Our forests are being managed to ensure biodiversity, high water quality, and a healthy environment over the long term.

Programs provide displaced timber workers and their families with rent and mortgage assistance, job retraining benefits, additional funds for food banks, and a flexible mitigation fund, providing funds that otherwise would be locally unavailable to assist impacted families and individuals. Other programs address the needs of communities to replenish and diversify their economies. Grants and low interest loans fund the development of industrial areas, the redevelopment of downtowns, as well as developing the infrastructure of tourism.

A big part of implementing the initiative successfully has been identifying barriers to participation and eliminating them. Some are administrative, and others are statutory. We haven't found them all, but we have over come several.

On the administrative front, the Secretary of Agricultural signed an order early this year allowing watershed restoration contracts to be offered with a local award preference. This has been critical to ensuring job opportunities favor dislocated workers.

Legislatively, obstacles were identified in the Forest Service Community Assistance Program and several Rural Development Administration [RDA] programs. Last year, I authored legislation with Senator MARK HATFIELD and Rep. NORM DICKS to resolve the forest service issue in favor of communities such as Pt. Angeles and Aberdeen. This year, we passed a similar bill to open RDA programs to all timber communities.

Earlier this year, I received a letter with good news from the city of Forks, one of several cities on the Olympic Peninsula hard bit by years of Federal timber policy mismanagement. They were celebrating the ground-breaking in March for a new mill. This mill will be the largest mill on the Northern Olympic Peninsula. It will create 42

jobs, and give the city of Forks the opportunity to market themselves to the secondary growth manufacturing sector. This would not have been possible without the $280,000 Rural Business Enterprise Grant to the city of Forks for the development of the Forks Industrial Park.

Throughout the region, the initiative is designed to provide 31,000 new job opportunities over 5 years. This morning I heard the national unemployment rate had fallen to a 4-year low of 5.9 percent. In Washington State, unemployment trend has been very promising. When I came to the Senate 2 years ago, double-digit unemployment rates were prevalent in counties throughout timber country. Last month, rates in these counties ranged from 5.1 percent in Clark, to 5.3 percent in Snohomish, to 5.9 percent in Jefferson, to 7.0 percent in Lewis, to 7.5 percent in Skamania county. Statewide, the rate was 6.1 percent last month, compared with 7.5 percent 1 year ago.

Housing starts in Washington State are up 3.1 percent over the past year, compared with annual 3 percent decreases over the previous 4 years. The bottom line, Mr. President, is after years of conflict and controversy, things in my State are looking up.

Mr. President, I have received other letters like this, as well as a year-end report summarizing Northwest Economic Adjustment Initiative. Each of these reports different successes of the program over the past year. I now ask unanimous consent that these materials be included in the RECORD.

Mr. President, this plan is by no means perfect. It is very complex, and slow to implement. The region will endure years of transition in the future, and it should be clear to everyone the problems of the past cannot be cured quickly. However, we have made great progress from where we were in 1992. There has been a sea-change in forest policy, and a shift in direction for the land management agencies. I believe these changes are welcome in a region that has been rife with controversy for too long.

SALMON RECOVERY

The forest plan set a precedent for resource management that will serve us well long into the future. This year, and in coming years, we will face what is perhaps the most complex natural resource question—the Pacific Salmon crisis.

Everywhere we look along the Pacific coast today, we see salmon runs in trouble. In the smallest coastal streams, to the most distant inland tributaries, returning wild salmon have dwindled year after year.

In 1990, petitions were filed with National Marine Fisheries Service proposing Endangered Species Act protection for five salmon stocks. In December, 1991, the Snake River Sockeye were listed under the Endangered Species Act. In early 1992, they were joined by the Snake River Spring and Fall Chinook. Most recently, the National Marine Fisheries Service has announced plans to look at the prospect for extinction for every run of anadromous fish-all salmon, steelhead, and sea-run cutthroat trout—in the west.

The seriousness of the situation struck home this spring, when the entire coastal fishing season was shut down as a result of poor ocean conditions. This led five counties and the State of Washington to declare a state of emergency. Commercial and recreational fishing interests went along with this policy, because they recognized the dire situation was are facing.

In response to the problem, the Department of Commerce assembled a $15.7 million assistance package for fishing communities. This package hasn't been everything people would have liked, but it showed once again a government willing to step up and deliver when Government policies lead to economic hardships.

The future for salmon is in doubt if there is not a comprehensive, coordinated plan that looks at each phase of the salmon life cycle. Such a plan can work on each agency of Government at each level works to solve the problem.

Let me give an idea of how complex this issue has become:

This year, there were three major court decisions finding the Government in violation of salmon-protection laws.

There are no less than five Federal agencies with legal responsibility for keeping salmon healthy.

There are four laws and two treaties binding us to salmon recovery, not including the Endangered Species Act.

There are three administrative processes currently underway to address salmon recovery: the Recovery Plan for ESA-listed stocks; the Northwest Power Planning Council's Strategy for Salmon; and the Bonneville Power System Operational Review, a comprehensive EIS covering the entire Columbia/Snake River system.

If any of these latter processes are remotely inconsistent, chances are that legal wrangling over salmon will continue.

This past spring, U.S. District Court Judge Malcolm Marsh delivered a resounding wake-up call to the Northwest regarding salmon. He ruled on a suit brought by the States of Oregon and Idaho against the 1993 biological opinion for salmon. Judge Marsh found, among other things, the National Marine Fisheries Service relied on flawed data to guide its conclusion that power dams pose "no jeopardy" to listed salmon. Overall, the judge condemned Government action to date by saying current efforts are "too heavily geared toward a status quo that has allowed all forms of river activity to proceed in a deficit situation—that is, relatively small steps, minor improvements and adjustements—when the situation literally cries out for a major overhaul."

More recently, another sobering call echoed in the ears of the Federal agencies that manage Columbia River fish. The 9th U.S. Court of Appeals ordered the Northwest Power Planning Council to reconsider its strategy for salmon. Among other things, the Council was found at fault for not establishing biological objectives for salmon, and for not giving sufficient credence to recommendations by the affected tribes and States agencies.

These decisions—when taken together are at once damning, sobering, and enlightening. They leave the Pacific Northwest one judicial step removed from total power system paralysis.

This is the new reality we must face: the courts have effectively taken control of the issue. The 1994 biological opinion is based on the same flawed data used in the 1993 opinion, and several groups have already filed notice of intent to file suit against it; the status quo in the power system is now recognized as insufficient by the Federal courts.

Mr. President, as I have said before, salmon are the lowest common denominator in our region. We must collectively decide—as a region and a people—that we are dedicated to recovering this species, and agree to put everything on the table to achieve this goal. All of us together must ask ourselves whether we are committed to recovering salmon to healthy, harvestable populations. It we are, then we must be willing to face the costs, consider every available option, and find a way to share the burden with equity.

There is no silver bullet. A strong, broad-based recovery strategy is needed that addresses each phase of the salmon life cycle. Most importantly, all of these actions must be coordinated rationally to ensure that future crises are handled correctly. Each plan—the Recovery Plan, the United States-Canada Treaty, the Forest Plan, and the Power Planning Council's Strategy for Salmon—must all be coordinated together to ensure maximum benefit to the salmon. We must constantly remind ourselves the cost of acting now may be infinitely less than being forced to act later.

This fall and winter, several critical decisions will be made affecting the course of the salmon debate. This December, the Power Planning Council will unveil its revised Strategy for Salmon. At roughly the same time, the National Marine Fisheries Service will unveil its draft final recovery plan. Finally, the settlement negotiations currently underway before Judge Marsh should yield an agreement for a multiyear river operating plan with biological objectives.

Each of these plans must complement the others. They must all be

consistent, and they must be coordinated. We will know very early next year whether significant progress has been made. I am committed to working with my colleagues in Congress and the Clinton administration to review these events next year and act as necessary to steer the region toward a rational salmon policy.

ENDANGERED SPECIES ACT

One issue that faced more attention in Congress over the last 2 years than any other is the Endangered Species Act. If there is one State that has experienced the highs and lows of ESA more than any other, it is my State of Washington. People live in Washington because it is special. It is blessed with incredible natural beauty, and it provides a unique quality of life for all its citizens.

Since enactment of ESA 20 years ago, to its saving of the bald eagle, to its role in the spotted owl debate, to the endangered salmon crisis today, it has always been part of the Washington State policy landscape.

At the heart of almost any natural resource conflict you will find ESA. This is particularly true in my State. In the case of salmon, changing the Endangered Species Act [ESA] would only address the symptom, not the cause. Even without the ESA, we would still have a crisis on our hands. There are critics on the right who appear to be interested in repealing ESA, or gutting its essential principles; there are others on the left who don't want it touched. Let me be very clear on this: neither extreme is going to solve the problem.

The problem we are facing is balancing competing values. The fundamantal premise of ESA remains valid: that by taking care of our ecosystems, we are ultimately taking care of ourselves. I truly believe each generation must leave the environment in no worse condition for the next. We also have economic development values that are fundamental to a democratic, free market society. Sometimes, these two sets of values come into conflict.

Some have suggested that when such conflicts occur, the ESA is at fault, and therefore it must give way. We should not be so quick to generalize. As I mentioned above, there are a number of other Federal laws requiring actions to protect natural resources. These include the Northwest Power Planning and Conservation Act, the Magnuson Fisheries Conservation and Management Act, the United States-Canada Treaty, and United States treaty obligations under the Boldt decision, the National Environmental Policy Act, and the National Forest Management Act. The existence of these laws demonstrate that America has always placed a high priority on protecting the environment, and continues to do so.

Until now, ESA has functioned as a fire alarm, going off when species are on the brink of extinction. Inevitably, this is a result of mismanagement, lack of coordination, or litigation. And it creates confusion, controversy, and acrimony. In short, a train wreck. Clearly, this is a problem. It affects the lives—and livelihoods—of many Washingtonians. Clearly we must find a way to make this law work better for people.

I believe a little preventive medicine would make ESA work much better than driving an ambulance to the crash site every time. I've spent my whole life dealing with kids. Believe me when I tell you everybody wins when a child gets prenatal care, preventative health care, and head-start. I think the same would be true of ESA. If the agencies work together, ahead of the curve, sharing information and recognizing their mutual interests, I believe we can achieve the goals of ESA without creating economic chaos.

I am prepared to support a moderate, thoughtful approach to ESA reauthorization that balances these competing concerns and enables the agencies of Government to work better for people in this country.

CONCLUSION

Mr. President, I have not begun to scratch the surface of all the natural resource issues facing Congress. The 104th Congress will no doubt spend innumerable hours wrestling with the challenges I have discussed here. But it will also be faced with many others.

The Clean Water Act must be re-visited. Wetlands policy will continue to confound. The Farm bill will surface issues ranging from soil erosion, to pesticide use, to water quality. And we have a number of pollution-control laws in need of review.

In the past 2 years, I have seen this system of government attempt to come to grips with environmental conflicts. It has not been easy. But I believe progress has been made on several fronts, and I will always subscribe to the theory that reasonable people can come together to solve problems. We almost saw it happen with the Superfund re-authorization bill this year.

We had a number of small victories as well. In addition to the community assistance bills I mentioned above, I pushed through a bill to preserve the ban on log exports from public lands. I also introduced early retirement legislation to help the Forest Service downsize to meet its changing mission and budget structure. This bill was enacted early this year as part of a larger Government downsizing program. And finally, like so many other years, Congress used its power of the purse to steer environmental policy. The Interior appropriations subcommittee, on which I am privileged to serve, has provided funding to support the forest plan and help communities pursue conservation goals throughout the country.

I look forward to the coming Congress with anticipation. There will be many on-going issues to monitor, especially involving forest policy and salmon recovery. The U.S. Senate and the House of Representatives should be the places where society finds its compromises. As always, the heart and soul of my home State will be at the center of our debates. I hope, as an institution, we will be able to work through our differences and find solutions that serve the interest of our States, our constituents, our families, and future generations.

The material follows:

THE PRESIDENT'S ECONOMIC ADJUSTMENT INITIATIVE FOR THE PACIFIC NORTHWEST AND NORTHERN CALIFORNIA—IMPLEMENTATION IN WASHINGTON STATE—FISCAL YEAR 1994

Timber impact areas: Chelan; Clallam; Columbia; Cowlitz; Ferry; Grays Harbor; Kittitas; Klickitat; Lewis; Mason; Okanogan; Pacific; Pend Orielle; East Skagit; East Snohomish; Stevens; Whatcom; Yakima; Quilcene, Queets, Clearwater in Jefferson County * * *.

PREFACE

Washington state has been responding to the impacts of federal forest management policies since 1989. Programs provide displaced timber workers and their families with rent and mortgage assistance, timber retraining benefits, additional funds for food banks, and a flexible mitigation fund. This fund provides resources that otherwise would be locally unavailable to assist impacted individuals and families.

A notable success in this area is the "New Chance" Program. New Chance is a 10-week program for unemployed men and women who need or want help in exploring retraining options and new career opportunities. Coursework is customized to meet individual needs, and may include self-esteem assessment, life planning, interest inventories, reading, writing, math and computer training, as well as education and training exploration.

Other state programs address the needs of communities to replenish and diversify their economies. Grants and low interest loans fund the development of industrial areas, the redevelopment of downtowns, as well as tourism support facilities.

An example of a success in this area is the partnership between the Timber Public Works Trust Fund and the Community Economic Recovery Board to finance a water project for the City of Omak in Okanogan County. The project resulted in a new water supply for the city so that it could pursue its economic diversification strategy. It also gave Omak Wood Products the means to retain 400 jobs and satisfy Environmental Protection Agency water discharge requirements.

Another state priority is the development of value-added forest products industries. The state's Forest Products Program provides technical assistance, grants and loans to firms wishing to diversify, retool, expand into new markets and develop new product lines.

The example from Forest Products program:

During the 1993 state legislature two programs were created with the goals of habitat restoration and job creation. To date, the program has granted a total of $8,398,033 to 30 projects utilizing $6.5 million appropriated

to Jobs of the Environment and $8 million for fish restoration. These projects will create 359 new jobs of displaced forest products workers.

The state continues its commitment to the timber impacted workers, communities and businesses of the state. The President's Initiative enhances these efforts.

* * * * *

THE WA-CERT

* * * * *

Appendix B provides the complete listing of these projects and their status at the close of the federal fiscal year.

HIGHLIGHTS OF 1994

This section highlights accomplishments in four broad categories: 1) Workers and Families, 2) Communities and Infrastructure, 3) Business and Industry and 4) Ecosystem Enhancement.

Workers and family

The Department of Labor awarded two grants through the Se Title III Secretary's Reserve. The first grant was to the Olympic Consortium. The Olympia Consortium serves Clallam, Jefferson and Kitsap Counties. The $1.2 grant will be used to provide retraining assistance to workers.

The second grant of $600,000 was awarded to the Pacific Mountain blank blank. The PTC is using the funds to augment an earlier grant received when the ITT Rayonier plant closed in Grays Harbor County.

Of the $12 million available to the region in DOL Title III monies, $1.2 million were allocated in Washington state.

Communities and infrastructure

Funding in this category is available the Economic Development Administration (EDA), the USDA Farmers Home, Rural Development Administration (RDA), the US Forest Service (USFS) and state resources.

The US Forest Service awarded $2.7 million in grants to projects in timber impact counties. Awards range from an $18,000 grant to the Skamania Economic Development Council for the Downtown Stevenson Improvement Project, to a $40,000 grant to the City of Cosmopolis in Grays Harbor County for and Inflow and Infiltration Study, the first step towards the community solving a sewer system problem.

The Cosmopolis project is one example of agencies working together to benefit a community. When the USFS funded study is complete, RDA will step to the table to begin structuring the financial package for construction phase of the project.

Another example of partnering is the City of Oroville's Dorothy Scott Airport Light Industrial Park. This project got its start prior to the Initiative when the state's Timber Public Works Trust Fund and Community Economic Revitalization Board provided $175,000 in loans and $500,000 grant to the project. Then the USFS stepped to the table with a $150,000 grant. The final piece of the financing puzzle is a $790,000 EDA grant, which is imminently pending. The project will foster creation of 175 jobs.

Of the $3 million available to the region in EDA Technical Capacity grants were awarded to jurisdictions in Washington state.

RDA has been very successful in investing its allocations in Washington state. Highlights include a $2,399,400 Community Facilities loan to the Quinault Indian Nation for consolidation of its administrative buildings, a $280,000 Rural Business Enterprise Grant to the City of Forks for the Forks Industrial Park Project, and a $1,200,000 Water and Wastewater grant and $2,102,600 in loans to the Malaga Water District in Chelan County.

* * * * *

Ecosystem enhancement

* * * * *

The USFS allocated $6,327,000 to 202 Jobs in the Woods contracts. Nearly all the program was through small contracts to local individuals and businesses. Wages ranged from $10.64 to $24.95, with most over $15.43 plus fringe benefits. Projects occurred in the Gifford Pinchot, Okanogan, Olympic, Mount Baker-Snoqaulmie and Wenatchee National Forests. Overall, the USFS employed displaced timber workers on restoration projects.

The USFS entered into a partnership with the Pacific Mountain PIC and the Grays Harbor Reemployment Center. The success of this effort is described below.

PARTNERING FOR SUCCESS

(By Glenda Burch)

The Olympic National Forest (USFS) and the Pacific Mountain Private Industry Council (PIC) entered into a Participating Agreement to complete USFS restoration projects while providing, as well as training and development, to dislocated timber workers who lack adequate skills to compete for public or private sector jobs in the field of ecosystem restoration.

The Agreement was reached after numerous discussion with the Governor's Timber Team, the USFS, and later the PIC and members of the WA-CERT. As the USFS has the responsibility for administration of lands in the National Forest, and the PIC has a large population of dislocated timber workers, it seemed that each entity could possibly benefit the other. They realized the advantages of forming a partnership to accomplish individual goals.

The USFS agreed to provide technical oversight of specific projects and to reimburse the PIC for expenses incurred on a time and materials basis (versus putting jobs out for bid). The PIC agreed to recruit, train, employ and supervise local dislocated timber workers to complete USFS restoration projects.

As a result of this Agreement, ten local dislocated workers are employed at family wage jobs. In addition, participants receive coverage through the Washington State Basic Health Plan, standard unemployment insurance coverage, and Workmen's Compensation Coverage. The workers demonstrated the ability to quickly learn the complex and specialized tasks involved in watershed and timber restoration and receiving college credit for their training.

This Agreement allows the USFS to: a) participate in the restoration of the resource bases and the economies and lives that have long depended on that base, and b) meet the goals set for it by the Administration of using currently appropriate funds to the benefit of dislocated timber workers and their communities.

This project demonstrates the value of forming partnerships which create win-win situations for all: the dislocated timber workers, timber impacted communities, local and federal agencies, and the natural resources base.

It shows what can be done when people are willing to work together.

JOBS IN THE WOODS, FISCAL YEAR 1994—U.S. FOREST SERVICE IN WASHINGTON STATE—WATERSHED RESTORATION CONTRACT ACTIVITY SUMMARY ESTIMATED FOR SEPT. 30, 1994

	GIP	OKA	OLY	MBS	WEN	Totals
Number contracts	35	14	66	47	40	202
Number people					76	
Hourly wages		$10.64 to $24.95—most over $15.43 plus fringe benefits				
Pieces equipment					76	
Days worked					800	
Dollar awards to date	$300,000	$64,000	$513,000	$1,300,000	$800,000	$2,977,000
To be awarded	500,000	450,000	1,200,000	700,000	500,000	3,350,000
Total dollars	800,000	514,000	1,713,000	2,000,000	1,300,000	[1]6,327,000

[1] Please note that this is direct dollar amount to contractors. Total appropriation for the Forests in the State was $8,300,000 which includes project planning and contract administration.

Note.—Nearly all the program was through small contracts to local individuals and businesses. There were a few agreements with "Private Industry Councils", "WA Conservation Corps" and others (less than 5 percent) who hire woods workers direct. The attached report from the Wenatchee National Forest provides an example of the magnitude of the program and how successful it was at targeting jobs in the impact countries. "Competition territory procedures" on the attachment were used.

WENATCHEE NATIONAL FOREST FISCAL YEAR 1994 JOBS IN THE WOODS

Contract no.	Contractor county	County of award	Award amount	Wage from	Wage to	No. employees	No. equipment	Work days
1	Yak	Chel	$6,400	14.09		1	1	Incomp
2	Yak	Chel	12,600	14.09		1	1	Incomp
3	King	Kit	12,000	16.43		1	1	Incomp
4	Kit	Yak	127,000	16.18		3	2	Incomp
5	Kit	Kit	10,700	16.18	22.00	1	1	Incomp
6	Yak	Yak	7,400	22.05		1	1	Incomp
7	Yak	Yak	14,900	22.05		1	1	Incomp
8	King	Kit	25,000	15.43	21.25	2	2	21 days
9	Chel	Chel	59,000	13.71	22.31	10	10	Incomp
10	Chel	Chel	116,000	17.86	25.80	2	2	Incomp

WENATCHEE NATIONAL FOREST FISCAL YEAR 1994 JOBS IN THE WOODS—Continued

	Contract no.	Contractor county	County of award	Award amount	Wage from	Wage to	No. employees	No. equipment	Work days
11		Chel	Chel	65,000	17.86	25.80	2	2	Incomp
12		Chel	Chel	7,000	19.58		1	1	Incomp
13		Chel	Chel	80,000	19.58		9	9	Incomp
14		Chel	Chel	29,000	17.86	25.80	2	2	Incomp
15		Chel	Chel	73,000	13.71		1	1	Incomp
16		Pierce	Kit	21,800	16.18	22.00	1	1	Incomp
17		Oka	Chel	80,000	17.86	25.80	7	7	Incomp
18		Yak	Yak	4,000	10.64		3		36 day
19		Chel	Chel	12,000	18.45		1	1	14 day
20		Chel	Chel	12,000	18.45		1	1	11 day
21		Chel	Chel	4,400	18.45		1		9 day
22		Yak	Yak	13,000	24.95		1	1	14 day
23		Yak	Yak	8,000	24.95		1	1	21 day
24		Yak	Yak	8,000	24.95		1	1	21 day
25		Chel	Chel	20,000	18.45		1	1	14 day
26		Snoh	Kiti	16,000	16.88	22.00	1	1	Incomp
27		Yak	Yak	17,000	18.00	22.00	1	1	Incomp
28		King	Yak	6,000	18.00	22.00	1	1	Incomp
29		Yak	Yak	6,000	18.00	22.00	1	2	Incomp
30		Kiti	Kiti	7,000	22.00		1	2	Incomp
31		Yak	Yak	46,000	18.00	22.00	1	2	Incomp
32			Nach	20,000	18.00		1	1	Incomp
33			Nach	15,000	16.88		2	1	Incomp
34			Nach	5,000	16.88		1	1	Incomp
35			Nach	15,000	22.00		1	2	Incomp
36			Chel	130,000	16.88	22.00	4	4	Incomp
37			Chel	9,000	18.00		1	1	Incomp
38			Cle	10,000	16.88		1	1	Incomp
39			Cle	9,000	18.00		1	1	Incomp
40			Cle	48,000	16.88	18.00	1	2	Incomp
	Actual award total			925,000					
	Estimated 9/30 total			1,300,000			56	51	

Note.—The awarded amounts are probably higher by now due to modifications.

K. 15 CERTIFICATION OF LOCATION WITHIN "COMPETITION TERRITORY"

Definition. The term, "Competition Territory," as used in this solicitation, means the geographical area within which the offeror must have an existing and ongoing place of business, so as to qualify the offeror as being eligible to be considered for contract award.

Competition is limited to individuals and businesses within the following counties:

Washington: Okanogan, Douglas, Chelan, Kittitas, Yakima, Klickitat, Skamania, Clark, Cowlitz, Wahkiakum, Pacific, Lewis, Pierce, Thurston, Grays Harbor, Mason, Jefferson, Clallam, Kitsap, Island, San Juan, King, Snohomish, Skagit, and Whatcom;

Oregon: Wasco, Jefferson, Deschutes, Lake, Klamath, Jackson, Josephine, Curry, Coos, Douglas, Lane, Linn, Benton, Lincoln, Marion, Yamhill, Polk, Clackamas, Multnomah, Hood River, Tillamook, Washington, Columbia, and Clatsop;

California: Siskiyou, Shasta, Tehama, Glenn, Lake, Trinity, Humboldt, Del Norte, and Mendocino.

Certification. The offeror certifies that it [] IS [] IS NOT located in the competition territory counties as listed above.

Penalty for False Certification. Any contract awarded as a result of a false certification will be subject to termination and reprocurement. Any offeror who falsely certifies will be subject to criminal penalties and all reasonable costs associated with termination and reprocurement.

CLALLAM COUNTY
COMMISSIONERS' OFFICE,
Port Angeles, WA, August 9, 1994.

Hon. SIDNEY R. YATES,
Washington, DC.

DEAR SENATOR YATES: Re: HR 4602. We County Commissioners are on the front lines in our community and have an intimate knowledge of the impacts of the decisions that have created the current need for Northwest Economic Adjustment Initiative (NWEAI) We are aware of the WA-CERT process as we have representatives and observers in attendance at the meetings. You have used the Department of Interior and the United States Forest Service of the Department of Agriculture appropriation's bill in the past to fund the Initiative. We are concerned about funding levels and funding issues in for fiscal 1995 (H.R. 4602) as the United States Forest Service and the Department of the Interior are the two main sources of the funds for the economic initiative. We believe that the very life of our communities depends on the continuance of the Initiative's funding as promised by the Administration

We believe that the process that has been developed by the WA-CERT to disperse the funds is working. As with any new approach to a problem it has taken time for the system to get in place. We believe that many of the barriers and impediments that have slowed the train of funding to the communities have been changed, identified or are in the works to be changed to make the process work. All the agencies that are at the table are working out conflicts in time-tables, accepting responsibility to be lead agency and finding appropriate shortcuts for the applicants to speed-up the process. In some cases, using each other's applications is helping cut down the mountains of paper. We find this very refreshing as opposed to each agency working in isolation. That is not to say that there are not levels of the agencies that seem to still think in old ways.

The exciting thing that is happening on the home front is that all the entities such as the Cities, County, Tribes, Non-profits, groups and individuals with an idea are talking together and no longer working in isolation. The Initiative has caused applicants within a number of county to sit down together and, again, together set priorities for funding requests. This process has helped develop a comprehensive picture of their needs and barriers. As they talk together they are discovering how projects fit together and which should come first in the scheme of things. The priority criterion in the prioritization process is job development. We are delivering projects to the CERT for their consideration that will produce jobs, improve our economy and give our community's stability.

Alaska

We are thankful for the additional $4 million USFS funds for Community Assistance and Old Growth Diversification that the Senate Budget proposed. We suggest that the Conference Committee send funds for Alaska through the Forest Service. Alaska can then develop their own program.

We do not believe that including Alaska's funding in with the three States that have been impacted by the President's Forest Plan is appropriate. Including Alaska could slow the process for the States now under the plan while Alaska works to get on line. We have concerns that their inclusion in the budget for the NWEAI would cause problems for the Alaska People due to the complex process involving local, state and federal people currently in place. We support the aid to the Alaska Communities that have been devastated by mill closures and other forest related problems. We believe they should be funded in a separate line item and based on our experience, as soon as possible.

FUNDS FOR EASTERN WASHINGTON

We urge the Conference Committee to recognize the immediacy of East Side problems and increase the appropriation within the President's Northwest Economic Adjustment Initiative for those areas.

The devastating fires that are still burning have really highlighted the concern many of us have had over the last number of years. That part of the state had already started to feel the impact of changing Federal forest policies and now the fires have created incredible urgency for assistance to that part of the state.

JOBS IN THE WOODS UNDER THE DEPARTMENT OF THE INTERIOR

We urge the Conference Committee to seriously consider funding the full $30 million as requested by the Administration. We understood that the President's Northwest Economic Adjustment Initiative is based on a Memorandum of Understanding with the three states for an annual appropriation of $30 million. This program is vital to the recovery of many timber families. There are plans in the process that will bring together

planners at the federal, state and local levels to develop plans for watershed restoration from the sea to the mountain top. Watershed Restoration is vital to our forest—we must have the funding to accomplish this task. Many of our counties are also impacted by the salmon issue. The Jobs in the Woods program is also beneficial to the fish in the streams that will be enhanced.

USFS STEWARDSHIP PROGRAM

We believe that watershed restoration is the base of the President's Forest Plan and that the Stewardship program assists in the inclusion of the state and private lands in the process. The Stewardship program should be funded at the Administrations requested level of $4 million. Watershed restoration work across the landscape is a vital portion of The Forest Plan. National Forest System Funds can not be used for work on state and private lands. We need the flexibility of Stewardship Funds as we work to accomplish the work of improving the health of our streams and meeting the needs of the various species that use those areas. Again, there will also be jobs available to the workers. Due to the lower elevations of many of these lands, this could stretch the number of months available for working in woods.

OLD GROWTH DIVERSIFICATION FUNDING

We urge the Conference Committee to fund the Old Growth Diversification program at the FY 94 level of $6,410,000. As we work to assist our timber dependent communities, the people that have worked on WA CERT and at home have found that this program has been the most useful one in the NWEAI due to its' flexibility. We believe the amount appropriated by both houses is not sufficient. We understand the need to have a balanced budget. This item is so important we would support the above level even if it was necessary to consider reducing other Initiative programs.

We can give you real-life examples of what we are doing in our county with the help of the NWEAI.

Our families and the County Governments that serve them are struggling with the economic impacts and the social consequences of the Federal decisions that have changed our lives. We are constantly trying to manage with the tighter budgets as are you. We feel the pain of our people as we see them every day. We need the help as indicated above. We thank you for your time as you consider our request and sincerely hope you will provide the economic assistance requested.

LAWRENCE GAYDESKE,
Chair.

TIMBER COUNTY COMMISSIONERS

Asotin County Commissioner Harley Williams.

Columbia County Commissioner George Wood.

Garfield County Commissioner Steve Ledgerwood.

Chelan County Commissioner Tom Green.

Clallam County Commissioner Lawrence Gaydeski.

Clark County Commissioner John Magnano.

Cowlitz County Commissioner Van Youngquist.

Ferry County Commissioner Gary Kohler.

Grays Harbor County Commissioner Dick Dixon.

Island County Commissioner Mike Shelton.

Jefferson County Commissioner Robert Hinton.

King County Councilmember Ken Pullen.

King County Executive Gary Locke.

Kintsap County Commissioner Win Granlund.

Kittitas County Commissioner Don Sorenson.

Klickitat County Commissioner Ron Ihrig.

Lewis County Commissioner Richard Graham.

Mason County Commissioner Marv Faughender.

Okanogan County Commissioner Ed Thiele.

Pacific County Commissioner Pat Hamilton.

Pend Oreille County Commissioner Mike Hanson.

Pierce County Councilmember Dennis Flannigan.

Pierce County Executive Doug Sutherland.

San Juan County Commissioner Tom Starr.

Skagit County Commissioner Harvey Wolden.

Skamania County Commissioner Dean Evans.

Snohomish County Councilmember Karen Miller.

Snohomish County Executive Bob Drewel.

Stevens County Commissioner Fran Bessermin.

Thurston County Commissioner Dick Nichols.

Wahkiakum County Commissioner Red Almer.

Watcom County Councilmember Bob Imhof.

Whatcom County Executive Shirley Van Zanten.

Yakima County Commissioner Chuck Klarich.

OKANOGAN COUNTY
COMMISSIONERS' OFFICE,
Okanogan, WA, August 23, 1994.

To: Members of the Interior Appropriations Conference Committee.

From: Timber County Commissioners in Washington State.

Re: HR 4602.

We County Commissioners are on the front lines in our community and have an intimate knowledge of the impacts of the decisions that have created the current need for Northwest Economic Adjustment Initiative. (NWEAI) We are aware of the WA-Cert process as we have representatives and observers in attendance at the meetings. You have used the Department of Interior and the United States Forest Service of the Department of Agriculture appropriation's bill in the past to fund the Initiative. We are concerned about funding levels and funding issues in for fiscal 1995 (H.R. 4602) as the United States Forest Service and the Interior are the two main sources of the funds for the economic initiative. We believe that the very life of our communities depends on the continuance of the Initiative's funding as promised by the Administration.

We believe that the processes that have been developed by the WA-CERT to disperse the funds are working. As with any new approach to a problem it has taken time for the system to get in place. We believe that many of the barriers and impediments that have slowed the train of funding to the communities have been changed, identified or are in the works to be changed to make the process work. All the agencies that are at the table are working out conflicts in timetables, accepting responsibility to be lead agency and finding appropriate shortcuts for the applicants to speed-up the process. In some cases, using each other's applications is helping cut down the mountains of paper. We find this very refreshing as opposed to each agency working in isolation. That is not to say that there are not levels of the agencies that seem to still think in old ways.

The exciting thing that is happening on the home front is that all the entities such as the Cities, County, Tribes, Non-profits, groups and individuals with an idea are talking together and no longer working in isolation. The Initiative has caused the applicants within each county to sit down together, and again, together set priorities for funding requests. This process has helped develop a comprehensive picture of their needs and barriers. As they talk together they are discovering how projects fit together and which should come first in the scheme of things. The priority criterion in the prioritization process is job development. We are delivering projects to the CERT for their consideration that will produce jobs, improve our economy and give our community's stability.

FUNDS FOR EASTERN WASHINGTON

We urge the Conference Committee to recognize the immediacy of East Side problems and increase the appropriation within the President's Northwest Economic Adjustment Initiative for those areas. The devastating fires that are still burning have really highlighted the concern many of us have had over the last number of years. That part of the state had already started to feel the impact of changing Federal forest policies and now the fires have created incredible urgency for assistance to that part of the state.

JOBS IN THE WOODS UNDER THE DEPARTMENT OF INTERIOR

We urge the Conference Committee to seriously consider funding the full $30 million as requested by the Administration. We understood that President's Northwest Economic Adjustment Initiative is based on a Memorandum of Understanding with the three states for annual appropriation of $30 million. This program is vital to the recovery of many timber families. There are plans in the process that will bring together planners at the federal, state and local levels to develop plans for watershed restoration from the sea to the mountain top. Watershed Restoration is vital to our forest. We must have the funding to accomplish this task. Many of our counties are also impacted by the salmon issue. The jobs in the Woods program is also beneficial to the fish in the streams that will be enhanced.

USFS STEWARDSHIP

We believe that watershed restoration is the base of the President's Forest Plan and that the Stewardship program assists in the inclusion of the state and private lands in the process. The Stewardship program should be funded at the Administrations requested level of $4 million. Watershed restoration work across the landscape is vital portion of The Forest Plan. USFS funds can not be used for work on state and private lands. We need the flexibility of these funds as we work to accomplish the work of improving the health of our streams and the meeting the needs of the various species that use those areas. Again, there will also be jobs available to the workers. Due to the lower elevation of many of these lands, this could stretch the number of months available for working in the woods.

For the impacts and future benefits please see the letter from Ron Nielsen, Executive Director of Olanogan County Council for Economic Development.

EDWIN E. THIELE,
Chairman.
RONALD V. WEEKS,
Member.
DAVE SCHULZ,
Member.

OKANOGAN COUNTY COUNCIL
FOR ECONOMIC DEVELOPMENT,
August 19, 1994.

Commissioner ED THIELE,
Okanogan, WA.

In response to Harriette Buchmann's letter dated August 1994.

DEAR COMMISSIONER THIELE: Regarding the President's Federal Economic Adjustment Initiative (NWEAI), we are still very early in the program to give you detailed analysis of benefits. However, here's what I can provide as of this moment.

There were 16 Okanogan County applications submitted in February of 1994, of which two applications have been awarded. The two applications are:

The City of Oroville's request for funding associated with their industrial park. The city was awarded $790,000 from the Economic Development Association from the US Department of Commerce and a $150,000 grant from the US Forest Service Department of Agriculture.

The other award was made to our office in the amount of $60,000 to develop and implement a business investment plan for the communities of Oroville and Twisp Industrial Parks. OCCED will also serve as the focal point of coordination in Okanogan County for the Federal Economic Adjustment Initiative.

Anticipated benefits from this program would be as follows:

In the City of Oroville the Federal funding filled the financial gap to complete the construction of the Industrial Park, which should begin the later part of this year or the beginning of 95 (weather permitting) with the park expected to be the turn key in the later part of 95 or the early part of 96. The Federal investment of $940,000 was a significant portion of the overall $1.6 million to build the park without that there would be no Oroville Industrial Park. Regarding OCED's work in the recruitment of industrial tenants, we anticipate that we will have two anchor tenants creating approximately 60 new jobs with an estimated annual payroll of $1.5 million which will be directly infused into the area economy. Using the economic multiplier of 2.1, the estimated economic value realized by Okanogan County would be $3,150,000, and its anticipated that the employment in the park the second year could conservatively double.

In closing please remember we are still very early in the program and will be glad to give you a more detailed analysis at a later date. If you have any questions please feel free to contact me.

Regards,

RON NIELSEN,
Executive Director, OCCED.

PEND OREILLE COUNTY,
BOARD OF COMMISSIONERS,
Newport, WA, August 15, 1994.

To: PATTY MURRAY.

We, Pend Oreille County Commissioners, are on the front lines in our community and have an intimate knowledge of the impacts of the decisions that have created the current need for Northwest Economic Adjustment Initiative (NWEAI). We are aware of the WA-CERT process as we have representatives and observers in attendance at the meetings. You have used the Department of the Interior and the United States Forest Service of the Department of Agriculture appropriations bill in the past to fund the Initiative. We are concerned about funding levels and funding issues in fiscal 1995 (H.R. 4602) as the United States Forest Service and the Interior are the two main sources of the funds for the economic initiative. We believe that the very life of our communities depends on the continuance of the Initiative's funding as promised by the Administration.

We believe that the processes that have been developed by the WA-CERT to disperse the funds are working. As with any new approach to a problem it has taken time for the system to get in place. We believe that many of the barriers and impediments that have slowed the train of funding to the communities have been changed, identified or are in the works to be changed to make the process work. All the agencies that are at the table are working out conflicts in timetables, accepting responsibility to be lead agency and finding appropriate shortcuts for the applicants to speed up the process. In some cases, using each other's applications is helping cut down the mountains of paper. We find this very refreshing as opposed to each agency working in isolation. That is not to say that there are not levels of the agencies that seem to still think in old ways.

The exciting thing that is happening on the home front is that all the entities such as the Cities, County, Tribes, Non-profits, groups and individuals with an idea are talking together and no longer working in isolation. The initiative has caused the applicants within each county to sit down together and again, together, set priorities for funding requests. This process has helped develop a comprehensive picture of their needs and barrier. As they talk together they are discovering how projects fit together and which should come first in the scheme of things. The priority criterion in the prioritization process is job development. We are delivering projects to the CERT for their consideration that will produce jobs, improve our economy and give our communities stability.

Alaska

We are thankful for the additional $4 million USFS funds for Community Assistance and Old Growth Diversification that the Senate Budget proposed. We ask that you accept their recommendation and divide the amount equally among the four states. We encourage you to earmark the funds for the three states impacted by the President's Forest plan through the NWEAI and send funds for Alaska through the Forest Service. Alaska can develop their own program.

We do not believe that including Alaska's funding in with the three states that have been impacted by the President's Forest Plan is appropriate. Including Alaska could slow the process for the States now under the plan while Alaska works to get on line. We have concerns that their inclusion in the budget for the NWEAI would cause problems for the Alaska people due to the complex process involving local, state and federal people currently in place. We support the aid to the Alaska communities that have been devastated by mill closures and other forest related problems. We believe they should be funded in a separate line item and based on our experience, as soon as possible.

FUNDS FOR EASTERN WASHINGTON

We urge the Conference Committee to recognize the immediacy of East Side problems and increase the appropriation within the President's Northwest Economic Adjustment Initiative for these areas. The devastating fires that are still burning have really highlighted the concern many of us have had over the last number of years. That part of the state had already started to feel the impact of changing Federal forest policies and now the fires have created incredible urgency for assistance to that part of the state.

JOBS IN THE WOODS UNDER THE DEPARTMENT OF THE INTERIOR

We urge the Conference Committee to seriously consider funding the full $30 million as requested by the Administration. We understood that the President's Northwest Economic Adjustment Initiative is based on a Memorandum of Understanding with the three states for an annual appropriation of $30 million. This program is vital to the recovery of many timber families. There are plans in the process that will bring together planners at the federal, state and local levels to develop plans for watershed restoration from the sea to the mountain top. Watershed Restoration is vital to our forest. We must have the funding to accomplish this task. Many of our counties are also impacted by the salmon issue. The Jobs in the Woods program is also beneficial to the fish in the streams that will be enhanced.

USFS STEWARDSHIP

We believe that watershed restoration is the base of the President's Forest Plan and that the Stewardship program assists in the inclusion of the state and private lands in the process. The Stewardship program should be funded at the Administrations request level of $4 million. Watershed restoration work across the landscape is a vital portion of the Forest Plan. USFS funds cannot be used for work on state and private lands. We need the flexibility of these funds as we work to accomplish the work of improving the health of our streams and meeting the needs of the various species that use those areas. Again, there will also be jobs available to the workers. Due to the lower elevations of many of these lands, this could stretch the number of months available for working in woods.

OLD GROWTH DIVERSIFICATION FUNDING

We urge the Conference Committee to fund the Old Growth Diversification program at the FY 94 level of $6,410,000. As we work to assist our timber dependent communities, the people that have worked on WA-CERT and at home have found that this program has been the most useful one in the NWEAI due to its flexibility. We believe the amount appropriated by both houses is not sufficient. We understand the need to have a balanced budget. This item is so important we would support the above level even if it was necessary to consider reducing other initiative programs.

We can give you real-life examples of what we are doing in our county with the help of NWEAI.

Our families and the County Governments that serve them are struggling with the economic impacts and the social consequences of the Federal decisions that have changed our lives. We are constantly trying to manage with the tighter budgets as are you. We feel the pain of our people as we see them every day. We need the help as indicated above. We thank you for your time as you consider our request and sincerely hope you will provide the economic assistance requested.

Sincerely,

MIKE HANSON,
Chairman.

MICAHEL D. KEOGH,
Member.
KARL D. MCKENZIE,
Member.

TRIBUTE TO MAJORITY LEADER GEORGE MITCHELL

Mr. SASSER. Mr. President, like many of my colleagues, I was surprised and saddened when I learned that my good friend, majority leader GEORGE MITCHELL, decided not to seek reelection.

I say this with a sense of personal regret, because Senator MITCHELL is indeed my good friend. I will miss his counsel and his good company. But he and I will remain friends as he pursues other interests and opportunities.

We Senators lose a colleague. For the Senate and the Nation, the loss is far greater. GEORGE MITCHELL is probably the finest, most dedicated public servant I have known. As majority leader, he has brought together a subtle understanding of the law with a profound human sympathy and compassion. As a man, he combines an acute intelligence, a ready wit, and an absolute devotion to principle.

During his brilliant career in the Senate, GEORGE MITCHELL has established an enviable record of legislative accomplishment. That record was highlighted, I believe, by his leadership of the historic 103d Congress.

GEORGE MITCHELL led the effort for reauthorization of both the Clean Air Act and the Clean Water Act. He worked to strengthen the laws against discrimination in employment and for the passage of the landmark Americans with Disabilities Act.

During his time as leader the Congress has enacted a higher education bill that expands college opportunities for millions of Americans and a major transportation bill that is helping create jobs and rebuild our crumbling infrastructure. In this Congress alone, he has helped pass into law the Motor Voter bill, Family and Medical Leave, and the largest deficit reduction bill in history. In part because of his leadership, our economy is experiencing a sustained recovery that has resulted in 2 million new jobs.

Mr. President, Senator MITCHELL has been guided in this important work by one principle: to extend the American dream to all of our citizens.

GEORGE MITCHELL knows just what the American dream is—he has lived it. His mother came to this country from Lebanon. His father was the son of Irish immigrants. Both worked hard to provide increased opportunities for their son.

He attended Maine public schools and Bowdoin College. After service as an officer in the U.S. Army Counter-Intelligence Corps, he attended Georgetown University law School, receiving his degree in 1960. He later became executive assistant to our former colleague, Ed Muskie.

GEORGE MITCHELL later returned to Maine, eventually becoming a U.S. attorney. In 1971, he was appointed U.S. district court judge. In 1980, he was appointed to the Senate when Ed Muskie was appointed Secretary of State. A short 8 years later, he was chosen by his colleagues to be majority leader.

Through it all, he has served with quiet dignity, with good humor, and with brilliance. Both we and the country owe him a tremendous debt of gratitude. It may seem early to say so, but I think history will record that Congress has lost one of its great statesmen.

So, Mr. President, I wish him well, and I trust that the country will continue to benefit from his leadership and good judgment in the future.

UNITED NATIONS INTERNATIONAL CONFERENCE ON POPULATION AND DEVELOPMENT

Mr. KERRY. Mr. President, last month over 160 countries debated and signed a powerful and far-reaching document that will direct global efforts to curtail population growth and overconsumption problems for the next 20 years. This document was the outgrowth of the International Conference on Population and Development [ICPD] which I believe was one of the most successful U.N. conferences in recent history.

As the chairman of the Senate delegation, I was pleased to join Senator ALAN SIMPSON and other Members of Congress and the U.S. delegation—which included administration officials and a wide array of nongovernment organization representatives—in attending the Cairo conference. I would like to take a few minutes to share my thoughts on this important and historic gathering that I believe will make a significant contribution toward addressing the critical population and development issues into the 21st century.

First, let me say that the United States was very well represented by its delegation led by Vice President AL GORE. I particularly want to thank Under Secretary of State Tim Wirth, who did an outstanding job of consensus-building and helping to deliver a final product that I believe will prove enormously valuable as time progresses. I worked closely with Under Secretary Wirth during the time I was in Cairo and I know that he and his staff and the United States delegation members worked extremely long hours, often under trying circumstances, to maneuver through the labyrinth of diverse interests, and to bring the vast majority of parties to agreement. In addition, I want to commend President Mubarak and the Egyptian people for their warm hospitality that was evident everywhere and for the great effort that they invested to host such a successful conference.

Today, the world's population is over 5.5 billion people. In just 1 year's time, that number will grow by over 90 million people—the equivalent of adding the populations of California, New York, New Jersey, Texas, and Florida combined. Reliable projections estimate that the world's population will double by the middle of the next century. While these figures are staggering in and of themselves, they are even more sobering when one takes into account that this growth is occurring after a two-decade effort to promote family planning worldwide.

Most of the increase in population will occur in less-developed countries in Africa, the Indian subcontinent, the Middle East and Latin America—those areas which are least prepared to accommodate such growth and whose governments currently have trouble meeting the basic needs of their citizens today. In many of these areas population problems are exacerbated by institutional and cultural factors that inhibit the equality of women. For instance, in some countries it is illegal for men to have vasectomies and women need the written permission of their husbands to have medical procedures producing sterilization. Another area of grave concern is the proliferation of the traditional practice of female genital mutilation which poses enormous psychological and public health dangers. There are more than 100 million women and girls alive today who have been affected by this harmful medical procedure, the vast majority in Africa. Without increased education and awareness, an additional 2 million girls will be subjected to this inhumane custom each year. In addition, deaths of women from pregnancy complications and from unsafe abortions now total hundreds of thousands per year.

Of equally significant concern are the U.N. projections that, while the global population is increasing, the world's natural resources base is on a steady decline. The U.N. food and agriculture organization predicts that by the year 2010 the world will be subjected to a double digit net loss per capita—ranging from 10 to 30 percent—in renewable resources, including fish catch, irrigated land, cropland, rangelands and pastures, and forests. In addition, 26 countries currently have insufficient renewable water supplies within their own territories to meet the needs of a moderately developed society at their current population size, much less after further growth.

Unchecked human-induced environmental degradation will lead to environmental decline which will bring about additional widespread flooding and erosion caused by deforestation and overgrazing; worsened drought and crop losses from desertification; as well

as pervasive marine pollution and fisheries losses from wetlands destruction and overfishing. Ultimately these disasters will lead to massive problems of famine, disease and other human hardships.

With these looming global crises, the United Nations in 1991 called for a conference to address the critical problems of overconsumption and overpopulation. For the past 3½ years, delegates from around the world have been meeting to develop an all-encompassing program of action to present to participants at the Cairo meeting. In the interim the United Nations also held a global sustainable development conference—often called the Earth Summit—in Rio de Janeiro in June, 1992. The Rio conference, while focusing on sustainable development, did not specifically address the growing population crisis but acknowledged that population issues were a critical component of sustainability and would be addressed through the global forum in Cairo.

The final preparatory committee meeting, prior to the Cairo conference, was held last April and succeeded in producing a draft document of which 92-percent received unanimous agreement—a major accomplishment given a text of 16 chapters and over 115 pages with issues ranging from migration to environment to adolescent education.

In light of the enormous success of the preparatory meetings, it was indeed regrettable that so little press coverage of the Cairo conference focused on the areas of unanimous agreement and so many stories focused exclusively on one contentious issue—abortion. This is particularly true since the United States position was quite clear: the United States does not view abortion as a component of family planning. It is true that the press did not have to go far to find critics who were willing to air their views, because the conference's message—increasing womens' individual freedoms and economic opportunities—was not welcome in many male-dominated nations and within the hierarchy of the Roman Catholic Church.

Unfortunately, by focusing so exclusively on one narrow aspect of the crosscutting document, I fear the press wasted an important opportunity to enlighten citizens about the global issues or sustainable development, adolescent education of boys and girls, child health and infant mortality, and refugees that impact the population debate. I find it amazing and distressing that in reporting about such a sweeping document with such widespread support through an open, conciliatory process the media would focus so much of their coverage on only one controversial facet.

Ultimately, after much dialogue and debate, a compromise was reached which was supported my many countries with predominantly Muslim and Catholic populations, including Brazil with the world's largest Catholic population and Pakistan, a Muslim country which played a key role in advancing the negotiations. In fact, the Vatican ultimately endorsed major portions of the Cairo document that included sections on, for lack of a more descriptive term, the empowerment of women—the first time the Vatican has ever supported such an international statement on this topic. Empowering women refers to increasing opportunities for women to become better educated and to increase their decision-making and economic opportunities and means. This is critical to reducing population growth since studies have shown a direct correlation between education and lower birth rates.

So, what is in this global consensus document and why is it important for countries to fulfill the commitments made in Cairo?

In my view, the international conference on population and development made enormous strides in focusing the world's attention on the urgency of the population crisis and in establishing a global framework within which to address our world's population problems.

The final document embraces a new approach which couples a continuing emphasis on family planning and other health services with the previously undervalued but important roles of education and empowerment of women—areas that will enable women to take more responsibility for their own lives. This is a major step forward from past population conferences.

At the 1974 population conference in Bucharest, when many countries were wary of any effort to address such issues, the agenda focused primarily on promoting family planning services.

In 1984 the United Nations gathering was held in Mexico City. Under the control of the Reagan-Bush administration, the United States delegation split from the majority of nations which called for global efforts to address population problems and withheld its support for many international family planning initiatives.

However, in 1994, the United States played a key role in advancing the new emphasis of empowering women and winning over many of the more conservative countries that initially had withheld support for some of the key provisions in the document. Among the factors in this outcome was the expertise of the U.S. delegation's nongovernmental organization representatives, whose participation was critical.

The final program of action is an all-encompassing document that goes far beyond previous efforts. In addition to providing universal access to family planning programs, it stresses the need for increased efforts in maternal and child health care. It has been demonstrated many times that when families believe their children will live to adulthood, they will take steps to ensure they will have fewer children.

This conference, following up on the call at the Earth summit in Rio to address the need to link population and consumption issues with environmental concerns, focused on the need for sustainable development. Expanding on the efforts of the Rio summit, the Cairo document states that, to achieve sustainable development and a higher quality of life for all people, countries should reduce and eliminate unsustainable patterns of production and consumption. Also, countries are urged to promote appropriate population-related policies and to work to eradicate poverty as an indispensable requirement for sustainable development.

Several chapters of the Cairo document are focused on the need for universal access to health-care services, including those related to reproductive health care and family planning. Included in this measure is a call to address the issue of unsafe abortion in the 172 countries that allow some form of legal abortions. Much time at the conference was spent grappling with language about unsafe abortions, and the final document acknowledged each country should establish practices for safe abortions that are consistent with its own national laws. Successfully addressing this problem would have a significant impact on the 200,000 women who die each year from unsafe abortion. In addition, there was a call to reduce the demand for abortion by providing universal access to other critical health care and family planning services. This also would help to reduce the 500,000 deaths per year due to complications from pregnancies. The Cairo document recommends making family planning and other reproductive health services more widely available and broadening accessibility to underserved groups such as teenage youth, including young men, and indigenous peoples.

Another important aspect of the document is its assessment of existing resources and specific resource needs for family planning, reproductive health services, sexually-transmitted disease prevention including HIV–AIDS, and biomedical and social science research.

So, the pertinent question, now that this conference has concluded successfully, is where do we go from here? What follow-up steps should the United States be taking to fulfill our Cario commitments? The Federal Government must significantly expand its efforts to work with the private sector as well as to reach out to the bilateral organizations and multilateral institutions such as the World Bank to encourage them to make population a significant consideration in their work. In addition, we must seek ways to enhance the effectiveness of our ongoing

efforts and to improve our coordination with and outreach and technical assistance to southern countries. And we must better educate the American people concerning the importance to all Americans of the U.S. investment in this global effort to meet the goals set forth in the Cairo action plan, which are expected to cost $17 billion per year by the turn of the century.

This is an daunting challenge, but if each country accepts an appropriate share of the responsibility, we can realize enormous benefits for the quality of life of all humankind. I believe the United States can and must continue to provide strong leadership to accomplish these objectives. I hope that the Senate, in the months ahead, will join me in helping us achieve this new world vision.

URBAN INSTITUTE REPORT ON COSTS OF UNDOCUMENTED ALIENS

Mr. GRAHAM. Mr. President, on September 14, the Urban Institute released the second part of its study on the fiscal impact of undocumented aliens in seven States, including my home State of Florida. The Urban Institute study was initiated by and prepared for the Office of Management and Budget [OMB], and its purpose is to develop both reliable estimates of States' costs for services provided to undocumented aliens and a uniform methodology for calculating these costs.

The principle findings include:

An estimated 3.4 million undocumented aliens lived in the United States in October 1992, and the population grew by an estimated 299,000 each year between 1988 and 1992. Florida had 322,000 undocumented aliens, 9.5 percent of the total undocumented population and 2.3 percent of the total State population.

An estimated 21,395 illegal aliens were incarcerated as of March 1994, at an annual cost of $471 million. The report estimated that Florida had 951 incarcerated illegal aliens and that Florida's cost of incarceration was $11.8 million.

An estimated 641,000 undocumented alien children were enrolled in public primary and secondary schools at a total State and local cost of $3.1 billion. Florida had 97,000 undocumented aliens enrolled in public schools, 107 percent higher than the State's estimate of 47,000 students. The estimated cost was $424 million, 135 percent higher than the State's estimate of $180 million.

Although the report revealed that $1.9 billion was collected from undocumented aliens for sales, property, and State income taxes, in Florida, undocumented aliens paid only $277 million in taxes, less than 2 percent of the total taxes collected.

Mr. President, during the 103d Congress, I have worked with my colleagues from the six other States who are primarily impacted by Federal immigration policy in an attempt to force the Federal Government to live up to its responsibility. In many cases, we have had little success, and a major obstacle to our efforts has been the lack of reliable information about the numbers and costs of illegal immigration. I am hopeful that this report will finally put to rest any doubts about the true impact of illegal immigration on our State and local governments.

The report overwhelmingly support Florida's estimates of the costs of providing services to illegal immigrants. In every category, the report found that Florida had either accurately or underestimated its costs. For years, Florida has repeatedly asked the Federal Government for assistance in bearing these costs, without adequate response. In March 1994, as a last resort, the State filed a lawsuit against the Federal Government for the unreimbursed costs of providing education, law enforcement, and health care services to undocumented aliens.

In the past month, Florida narrowly avoided a tidal wave of uncontrolled immigration from Cuba that threatened both the security of Florida communities and the lives of refugee rafters. Although a new agreement between Cuba and the United States promotes a legal, limited, and orderly process of immigration and lessens the threat of dangerous, illegal immigration, this policy represents a potential burden that Florida taxpayers should not be asked to shoulder. The agreement does not change Florida's most important priority: to compel the Federal Government to pay the price for the unfair burden immigration places on the State.

As an article from the September 10 Miami Herald states,

> Cuba and the United States talked for seven days. Now Florida will pay the price. As the state with the highest concentration of Cubans, Florida will attract the majority of the approximately 29,000 refugees who will come from the island over the next year. And the 20,000 every year after that * * *. [Although] legal immigrants are eligible to receive some cash, medical help, and job training from the federal government, the aid runs out after eight months. Then it's up to the state and local governments to step in.

The Clinton administration was the first administration to take partial responsibility for the costs of illegal immigration. However, recent influxes of Cubans and Haitians have intensified the impact of immigration on Florida's communities, and the burden remains overwhelming. Alice Rivlin, the Acting Director of OMB, expressed her hope that this report will contribute to shaping the policy and budgetary decisions of the executive and legislative branches. I share her hope that this information will finally convince the administration and the Congress that our States and localities are facing an emergency situation and can no longer bear the burden alone.

WHEN EPA EXAGGERATES RISKS

Mr. FAIRCLOTH. Mr. President, I would like to bring the attention of my Senate colleagues to an op-ed written by Kent Jeffreys of the Alexis de Tocqueville Institution entitled, "When EPA Exaggerates Risks."

We are now spending close to $150 billion annually in public and private resources to comply with environmental regulation. We need to make sure that this money is being spent to reduce real risks to human health and the environment, not exaggerated risks. Enhanced risk assessments would target scarce resources, thereby strengthening our environmental protection efforts.

In this article, Mr. Jeffreys summarizes the finding of a major study he conducted for the Alexis de Tocqueville Institution entitled "Science, Economics, and Environmental Policy: A Critical Examination." This study critiqued the scientific methods that form the basis of the EPA's risk assessments and cost-benefit test for environmental tobacco smoke, radon, pesticides, and hazardous waste clean-up under the Superfund law. This report found that the EPA's assessment of potential risks in these four areas was based on faulty scientific analysis and selective use of date. Further, in the instances where the EPA did conduct a cost-benefit analysis, the purported benefits were greatly overstated.

Mr. President, as this session of Congress draws to a close, there may be a last ditch effort to consider several pieces of environmental legislation, including the Safe Drinking Water Act reauthorization. In my view, if these environmental bills are to pass the Congress, they should at the very least include sound risk and cost-benefit analysis provision. That only makes common sense. I ask unanimous consent that Mr. Jeffrey's article be printed in the RECORD immediately following my remarks.

I yield the floor.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Journal of Commerce and Commercial, Sept. 15, 1994]

WHEN EPA EXAGGERATES RISKS

(By Kent Jeffreys)

Opinion polls consistently show that Americans are cynical toward government. Too often such cynicism is well-earned. Yet, one policy area that might deserve even more cynicism is environmental regulation. There is substantial evidence that the American people are not getting accurate and complete information from the government when it comes to environmental risks. Remarkably, however, the government is not ignoring large risks but greatly exaggerating tiny ones.

With the Sept. 13 release of the Environmental Protection Agency's new report on

the health risks of exposure to dioxin, the public debate over environmental risks is likely to reach a fever pitch in the coming weeks. Yet, given EPA's track record, this new risk assessment should be viewed with a healthy dose of skepticism.

At the Alexis de Tocqueville Institution, we recently completed a review of the EPA's risk assessments of four specific environmental issues: "environmental" tobacco smoke, indoor radon, pesticide residues on the food supply and hazardous waste cleanup under the federal Superfund law. In each case, the human health risks have been greatly exaggerated and the resulting costs from regulations have vastly exceeded the potential benefits.

As a first example, consider pesticides. Under the so-called Delaney clause of the federal Food, Drug and Cosmetics Act, a zero tolerance is established for any chemical linked to cancer in laboratory animals, regardless of the dose actually tested in the experiment. Yet when the Delaney clause was adopted as law, scientists could only detect chemicals at fairly high levels. Thus, the regulation provided the desired margin of safety with little impact on food production and processing.

Today, much smaller quantities are routinely analyzed, often detecting a few molecules per quadrillion. In other words, "zero" has gotten much smaller and therefore much harder to achieve. Indeed, under the Delaney clause, many useful agricultural chemicals must be banned lest they somehow be detected in processed foods. No health consequences can be shown for such small amounts; they can only be assumed.

Even when the potential health risk arises from nature itself, the environmental bureaucracy consistently overstates the risks. Radon, a naturally radioactive gas that is constantly seeping out of most soil and rock formations, can accumulate in the lower level of man-made structures. Potentially a health risk can arise, since high doses of radioactive gases in the air can increase the risk of developing lung cancer.

Yet the EPA and its environmental allies insist that a single molecule of radon can cause lung cancer. In other words, there is no "safe" exposure level. Although EPA concedes the reality that no one could achieve radon-free indoor air—after all; the outdoor air has measurable quantities of radon—it still insists that all homes and schools should be tested. Even if the tests show low to moderate readings of radon, EPA "recommends" that expensive remediation work be performed, especially if the home is to be sold on the open market.

This is unnecessary for several reasons. First, the EPA's recommended action level was based on an assumption of 70 years of constant exposure. Few people are so homebound. Even worse, the EPA's research data came from studies of underground mining operations with extremely high exposure levels. It should become apparent that the average home does not closely resemble a mine shaft. The needless expenditures by worried homeowners have run into the hundreds of millions, even billions, of dollars.

Perhaps no less more perfectly displays the problem of exaggerating health risks than the fight over smoking in public. The latest weapon in the war on tobacco seems to be an unfortunate willingness to distort the truth.

Almost everyone now admits that heavy smoking is detrimental to the health of millions of Americans. Thus, the facts about smoking should be sufficient to make the point: If you smoke, you should probably stop. There is a widespread effort under way, however, to prohibit smoking universally, regardless of the willingness of the smoker to assume the risks.

The EPA and its partners in the anti-tobacco war have seriously exaggerated what is known about secondhand smoke. For example, standard procedures for estimating the possibility of radon error were altered by the EPA so that it could assert its findings on secondhand smoke were "statistically significant." Yet, even if one uncritically accepts the EPA's conclusions, the resulting increase in risk is about the same as the lifetime risk of being killed while riding a bicycle.

If the EPA were trying to prove that secondhand smoke can be an annoyance to many people, then it would be on solid ground. But the EPA is attempting to prove that serious medical risks are created by even casual exposure to secondhand smoke. In its effort to do so, the EPA has manipulated selected portions of the existing literature until it produced the desired result. Whatever the motivations of the EPA officials in this matter, it is unacceptable to distort the science for the sake of a policy goal. The EPA's stance on secondhand smoke has an Alice in Wonderland quality of "sentence first—verdict afterwards."

Even among those of us who don't smoke, there is reason to be concerned with the direction of the debate over tobacco. This issue is much bigger than tobacco itself because if science is distorted in an effort to "do good," society ultimately may be left much worse off. Skeptics should consider that whenever a tobacco company makes a statement about smoking and health, it is generally discounted because of the "special interest" it holds in the issue. This is no less applicable to the "special interests" of the EPA. The bureaucrats are strongly interested in justifying their budgets and generating favorable publicity. Yet that does not excuse flagrant disregard for the scientific method.

EPA officials have a duty to conduct the best science possible and report the results fully and honestly. One would hope they would avoid unnecessarily alarming the American public over issues of health. That has not been the case with most low-level environmental risks. Sadly, the EPA itself is becoming a health risk by distracting Americans from the true hazards.

REGULATION OF INTRASTATE MOTOR CARRIER SYSTEMS

Mrs. MURRAY. In the weeks since Congress passed the Federal Aviation Administration Authorization Act of 1994. H.R. 2739, I have had concerns raised by constituents in Washington State regarding whether this law preempts State and local regulatory authority of the transportation of garbage and refuse, and the transportation for collection of recyclable materials that are part of a residential curbside recycling program.

Mr. FORD. I can assure the Senator it was not the intent of Congress to preempt State and local regulation of the activities that the Senator just mentioned. As a matter of fact, the Senate recently passed an amendment in the nature of a substitute to H.R. 5123, which I did not feel was necessary, but made it abundantly clear to everyone the transportation of garbage and refuse was not affected by H.R. 2739.

Mr. GORTON. Senator FORD, as you know, it was my intent to offer an amendment to clarify the recycling issue during the last Commerce Committee markup, but I was assured by DOT and ICC that such an amendment was not necessary. Is that the Senator's recollection as well?

Mr. FORD. Yes, and I would like to add that the Interstate Commerce Commission [ICC] has issued a legal opinion that title VI of the Federal Aviation Act of 1994 does not preempt a State or municipality from regulating curbside collection for recyclable. According to the ICC, "recyclable segregated from trash for curbside collection should not be deemed to be property under the ICC precedent and as such would not come within the purview of title VI of the FAA Act."

Mrs. MURRAY. I want to thank the Senator for making it clear that it is not the congressional intent of section VI of the FAA Act to preempt State and local regulation in the areas we just mentioned.

RESPOND ACTIVELY TO THE FACTS AS THEY ARE: A PRAGMATIC APPROACH TO CREATING JOBS AND OPPORTUNITY IN PENNSYLVANIA

Mr. WOFFORD. Mr. President, as Congress prepares to adjourn, it is important to take stock of what we have accomplished and what more must be done to continue to build our economy and create jobs.

We have had significant successes. To paraphrase Vice President GORE, what should be up and what should be down is down."

But we cannot be satisfied with the progress we have made. Too many businesses are struggling, too many workers are underskilled, underemployed, or undereducated. Much work remains to be done.

What worries people, what angers people most today is not just crime, or health care, or even jobs. It is the fact that Government seems incapable or unwilling to solve these problems. Petty, partisan bickering gets in the way.

The crime bill was a welcome exception. It took 6 years, but Congress finally came up with a tough, smart law that reasonable people on both sides of the aisle could support, whatever their personal qualms about particular details. I was pleased to join moderate Republicans like Pennsylvania's senior Senator, ARLEN SPECTER, to finally win passage of this bill, which will make a difference in every community.

Now, it is time to apply that same bipartisanship and pragmatic action to America's economic needs. It is time to stop bickering, and start building.

Before I got this job, I worked for 4½ years as Pennsylvania's Secretary of

Labor and Industry. When Governor Casey first approached me about that job, I had my doubts. Pennsylvania had a reputation for poor labor-management relations. And the labor and industry job itself had long reflected the division.

But Governor Casey made an offer I could not refuse. He told me that Republican Governors choose their Labor and Industry Secretaries from the House of Business and Democratic Governors choose theirs from the House of Labor. He wanted someone who was part of neither and could bring them together.

It was the same point President Kennedy made when I had worked for him. Instead of being a liberal or a conservative, he said, be responsible in the sense of responding actively to the facts as they are.

That is what I tried to do as Secretary of Labor and Industry. And that is what I have been doing since I came the Senate.

We have made progress in the last 3 years. Business investment and job creation are up. The deficit and interest rates are down.

But we cannot be satisfied. When leading Pennsylvania employers like Boeing and Scott Paper continue to announce major layoffs, there is a lot more we need to do. Not enough Pennsylvanians are seeing their own quality of life improve.

Our challenge today is to position our economy where the jobs and opportunities are going to be in the future so that we can sustain our recent economic gains and expand them to more Pennsylvania companies and families.

How do we do that?

By investing in the fundamentals of our economy. By making sure businesses have the capital they need to grow and create good jobs. By investing in new technologies and in training and education so that people can use them. And by reaching out to tap emerging new markets around the globe.

Government cannot achieve those goals by itself. But Government has a responsibility to be a good partner. It should help individuals and companies acquire the tools and the opportunities to succeed. It should invest in the basic building blocks of a strong, competitive economy. It should pursue trade policies that give American companies and workers the chance to compete fairly. And then, it should get out of the way.

In other words, it should respond actively to the facts as they are.

I. WHAT WE HAVE DONE

Expanding access to capital—the record:

What does responding actively to the facts mean?

For one thing, it means acknowledging that it takes more than hard work to turn a good idea into a business. It takes capital.

In 1991, when I came to the Senate, however, it was often impossible for businesses to get the money they needed to grow, no matter how creditworthy they were. Years of increasingly unbalanced Federal budgets had quadrupled our national debt, forcing the Government to borrow heavily and eating up too much of the available capital.

To free up capital for investment, I voted last year for the largest deficit reduction plan in our Nation's history. The plan is projected to reduce the deficit by $700 billion over 5 years. It will cut 272,000 Government jobs, paring the Federal bureaucracy to its lowest levels since the Kennedy administration. And it makes cuts in 300 different programs, including every major entitlement program.

The plan is working. Already, the deficit is $85 billion less than it would have been if we had done nothing. Unemployment is down nationally and in Pennsylvania. Corporate profits and investment in new plants and equipment are up. Interest rates—both short- and long-term—are the lowest they've been since the 1970's. And the Federal deficit is decreasing. If we stay on track—and indications are we will—next year will mark the first time since Harry Truman was in the White House that the deficit has gone down 3 years in a row. By 1999, the projected deficit will be cut in half.

We are putting less money into the bureaucracy and more money into the hands of the people who create jobs.

We are also working to target capital where it is often most needed, and where it will create the greatest number of jobs: small business.

I voted to create a new 50-percent capital gains tax cut for people who make long-term investments in small businesses.

I also worked closely with the administration to ease the credit crunch by eliminating unnecessary regulations that prevented banks from making loans to small businesses.

And, as a member of the Senate Small Business Committee, I am fighting to make sure that Pennsylvania's small businesses get their fair share of Small Business Administration loans.

After hearing from one after another Pennsylvania business owner who had been turned down for an SBA loan, I discovered that, despite ranking fifth nationally in the number of small businesses, Pennsylvania ranked only 14th in the number of SBA loans. And the percentage of Pennsylvania businesses approved for SBA loans had been less than half the national average.

Now, with the help of a new SBA loan program called Low Doc, for low documents, I hope that will change. The program provides loans of up to $100,000 to creditworthy small businesses. Just as important, it replaces the endless loan application forms businesses used to fill out with one simple form, so that employers in Pennsylvania and across the country can spend less time filling out forms—and more time creating good jobs.

Investing in competitiveness—the record:

Responding actively to the facts also means acknowledging that we can't keep our economy moving if our roads, rails and waterways are falling apart.

In 1991 Congress passed the Intermodal Surface Transportation Efficiency Act—ISTEA in Washingtonspeak, to rebuild America's crumbling roads and bridges—the backbone of our economy—and to improve our railways and ports.

This Marshall plan for American transportation will pump billions of dollars into Pennsylvania over 6 years for highway and mass transit projects. Among the benefits: upgrading and maintaining all 5,388 miles of interstate highway in our State.

I have worked to expand the Federal investment in Pennsylvania's basic infrastructure in a number of other key areas as well, including: dredging the Delaware River channel to keep Philadelphia's ports competitive; modernizing locks and dams along the Monongehela River outside Pittsburgh; and building a new Pittsburgh Airport Busway, just to name a few.

We are also investing in America's technological infrastructure. Japan and Western Europe have already demonstrated the benefits of linking public and private resources to develop new technologies and target them to the marketplace.

The National Competitiveness Act, which I worked to pass in the Senate, is designed to level the playing field and restore U.S. leadership in manufacturing and technology. Modeled after the Industrial Resource Centers, the Ben Franklin Partnership, and other market-driven, public-private partnerships we created in Pennsylvania, the act helps manufacturers develop and market new technologies and cut costs.

Another way to make Pennsylvania companies competitive is by making Pennsylvania communities competitive.

That is why I voted to establish 9 empowerment zones and 95 enterprise communities to attract new jobs where they are most needed by combining tax benefits, social service grants and improved program coordination.

Training a skilled work force—the record:

Responding actively to the facts means overhauling our education and training systems so that workers and companies can remain competitive in a rapidly changing economy.

A top executive at Bell of Pennsylvania once told me his company had to interview thousands of applicants just to find a few hundred entry-level workers with the most basic reading, math,

and social skills. And they are not alone.

As Secretary of Labor and Industry, I worked with Bell and other leading Pennsylvania employers and unions to make sure that workers had the skills to get good jobs, and keep them, in today's work place.

In the Senate, I used that experience to fight for the Nation's new School-to-Work Opportunities Act. Modeled largely after the Youth Apprenticeship Program we started in Pennsylvania, the School-to-Work Opportunities Act helps States develop apprenticeship programs and tech-prep programs for the more than 50 percent of young people who do not go on to college. By linking high schools with local employers and combining classroom study with hands-on learning-by-doing, the school-to-work bill will help give employers the skilled workers they need, and give many more young Americans the chance to succeed in the world of work.

At the same time, we helped make college more affordable for middle-class families by changing the rules governing financial aid and reforming the Direct Student Loan Program. The result is a major savings to taxpayers and lower cost loans for students.

And I am proud to have played a leading role in enabling students to pay for college with their own "sweat equity," by serving their communities for a year or more in demanding, well-organized youth corps. AmeriCorps brings the spirit of the Peace Corps home to deal with problems facing American communities. It is a goal I have fought for over 30 years, since I helped Sargent Shriver found the original Peace Corps during the Kennedy administration. Now it is a reality.

Reaching new markets—the record:

Responding actively to the facts means answering the challenges—and seizing the opportunities—in today's rapidly changing global marketplace. That means first, ensuring that other nations do not employ unfair trading practices, and second, helping U.S. firms identify and reach new export markets.

As chairman of the Senate Small Business Subcommittee on Export Expansion, I'm committed to opening more foreign markets to American products—through negotiation if possible, through our own trade laws if necessary.

Last year, Rhom & Haas, the Philadelphia chemical giant, ran into a major problem when the Government of Honduras wrongly blocked the company from shipping products into that country and collecting payment on a timely basis. I went to work with our Ambassador and the U.S. trade representative, and we quickly put an end to the illegal obstructionism.

Right now, trade with Chile—mostly fruit shipped through Philadelphia ports—pumps $100 million a year into southeastern Pennsylvania's economy and is responsible for about 1,000 jobs.

I coauthored a bill with Representative GEPHART to boost those numbers by authorizing the President to negotiate a free-trade agreement with Chile. Because expanding trade on a level playing field with other countries can benefit all of us.

But where the playing field is not level, where there has been unfair foreign competition, I have been fighting for Pennsylvania's workers and industries. The steel industry is just one example. I have worked closely with USX, Bethlehem Steel, and other domestic manufacturers to stop illegal foreign dumping, open new markets, and enforce our trade laws. Given the chance, American steelmakers can not only survive, but thrive in a global economy.

In addition, I cowrote the new law requiring the Department of Commerce to step up its efforts to increase the sales of American-made auto parts to Japanese car manufacturers—a measure that is especially important to the 17,000 Pennsylvania workers who are employed in auto-related manufacturing.

II. NEXT STEPS

Most importantly, responding actively to the facts as they are means accepting that our work is never finished. In a time when new technologies can become obsolete in a year and new markets are appearing around the globe, rebuilding Pennsylvania's economy must be an ongoing business.

Again, Government's role is limited—but important. Here are some steps I believe Government must now take to sustain the progress we've made and expand the benefits of the current recovery to more people.

Expanding access to capital—next steps:

Congress was right in 1993 to extend the Federal research and development tax credit. Now we need to go further and make the tax credit permanent.

We should also pass a balanced budget amendment to the Constitution. Congress ought to have the fiscal discipline to balance its books without, in effect, holding a gun to its head. But experience has shown that it does not. A balanced budget amendment may force Washington to develop the habit of discipline. At the very least, it will force Government to live within its means and prevent it from borrowing heavily and driving up interest rates.

Most importantly, we need to stop the ruinous inflation of health care costs. A report by the National Governor's Association makes the case starkly: Unless Washington and the States bring Medicaid costs under control, everything else we do to control the deficit will fail.

Health care reform ought to make it possible for other Americans to have the same kind of affordable coverage and choice of private health plan that Members of Congress have arranged for themselves. Indeed, the Federal Employees Health Benefits plan—which covers some 9 million people—provides a good model for our efforts. It is a private, employer-based, consumer-choice system that uses its bargaining power to actually bring costs down.

While bitter partisanship inside Congress and powerful special interests outside have so far succeeded in blocking health care reform, there are a number of commonsense steps Congress can take now toward bipartisan health reform. These steps include opening up the Federal employees plan to small businesses and individuals, as well as children; reforming the insurance market to end unfair and discriminatory insurance practices such as exclusions for preexisting conditions; 100 percent deductibility of insurance premiums for the self-employed and other sole proprietors; administrative simplification that uses the private sector—rather than a Government bureaucracy—to computerize and streamline today's mass of health care paperwork. These are steps we can and should take sooner rather than later. The cost of doing nothing is too high for families and companies alike.

Investing in competitiveness—next steps:

ISTEA is the road map America needs to create the best transportation network in the world—better than Germany, better than Japan, better than anyone. A critical piece of the plan is the proposed National Highway System linking economically important highways coast-to-coast.

A map of the proposed system has already been drawn up. Congress should sign off on that map now. If it does not do so by October, 1995, Pennsylvania will lose $211 million a year in Federal highway funds, and the Nation will lose a total of $6.5 billion a year.

The 1995 farm bill provides a different—but equally important—map, a map that will guide agriculture and rural development into the next century. The farm bill will provide farmers with access to the latest in agricultural research and technology, and help in marketing their goods.

In Pennsylvania, where agriculture is the No. 1 industry and agriculture processing is No. 2, that kind of planning and assistance is essential to a healthy economy. I want to see the farm bill on the top of the Senate's agenda next year.

Sometimes the most effective thing Government can do to encourage competition is just to get out of the way.

Congress should pass the National Cooperative Production Act. That act builds on the 1984 National Cooperative Research Act, which relaxed antitrust regulations and encouraged United States and foreign companies to cooperate on research and development

projects. Together, the two acts will increase U.S. competitiveness by allowing American companies to share the risks and costs of developing new products and bringing them to market.

I want to see Congress pass the Superfund reform bill I helped draft as a member of the Senate Environment and Public Works Committee. The bill includes a responsible brownfields propose that encourages the reuse of old industrial sites by protecting new owners from liability for contamination by past owners and setting new clean-up standards that are predictable, flexible, and tailored to the intended new use of the property.

Beyond that, we need to expand the Industrial Development Bond Program to help communities finance critical building and infrastructure projects, and encourage flexibility and innovation in Federal economic development programs. One-size-fits-all approaches aren't nearly as effective as solutions that are tailored to fit communities' specific needs.

Training a skilled work force—next steps:

As Secretary of Labor and Industry I helped turn Pennsylvania's unemployment offices into one-stop job centers. In 1992, the job centers were hailed as one of the 75 top innovations in State and local government by the Ford Foundation and Harvard's Kennedy School of Government.

It's time to apply that same kind of common sense to the way the Federal Government supports worker training. We can fill gaps, eliminate costly duplication of services, and develop accurate new ways to measure results by coordinating the current patchwork of 154 Federal employment and training programs. The programs are now spread out over 14 departments and independent agencies, with a combined budget of $25 billion. As it was in Pennsylvania, cutting out this overlapping bureaucracy and improving the effectiveness of these programs will be among my high priorities in the next Congress.

Reaching new markets—next steps:

The benefits of the recovery are coming perhaps most slowly to those connected to exporting. The United States racked up the second-worst merchandise trade deficit in history in July, 1994.

As chairman of the Senate Small Business Subcommittee on Export Expansion, I have seen how Government can get in the way and prevent business from seizing opportunities in the new global marketplace. I want to change that.

We need to modernize and simplify our whole system of controls over the export of technology. The current system is a cold war relic that's often irrelevant and counterproductive.

The United States also needs to be more vigilant about monitoring foreign countries' compliance with trade agreements and, if violations are found, imposing penalties on the offending nation's exports to the United States.

III. CHANGING WITH THE TIMES

We live in a time of unprecedented change. At the same time political forces are redrawing the world's map, technological and economic changes are dramatically reshaping the world marketplace.

I believe Pennsylvanians can not only compete in this new world economy, but lead it—if we respond actively to the facts as they are. I am pleased that Washington has begun to apply so many of the commonsense lessons we pioneered in job training and other fields in Pennsylvania.

But what's more important than what we are giving to Washington is what Pennsylvanians are finally starting to get from Washington—a fair return on our investment of tax dollars.

I want to continue to work with business leaders to invest in the fundamentals of Pennsylvania's economy and respond actively to the facts as they are. Because the goals of business and Government are the same; creating good jobs for our people and new opportunities for our companies, now and in the future. Let us pursue those goals by turning away from the partisanship and division that has characterized far too much of our public discussion, and build on the common ground of commonsense action on the challenges facing our Commonwealth and our country.

LOBBYING DISCLOSURE ACT

Mr. LEVIN. Mr. President, earlier today the Senate failed in a second attempt to invoke cloture on the Lobbying Disclosure Act of 1994. This occurred despite a good faith offer to meet the stated concerns of the opponents with respect to the provisions on grassroots lobbying. We were unable to obtain the necessary unanimous concurrent resolution to strike the provisions they said they were concerned about in the conference report.

The outcome of this legislative battle is, of course, deeply disappointing. Senator COHEN and I and other members of the Governmental Affairs Committee, in particular Chairman GLENN and Ranking Republican ROTH, have worked long and hard on this legislation. The bill was first introduced in early 1992, following a series of hearings we held on the problems with lobbying registration laws. We held a hearing on that bill, S. 2279, that same year. As a result of that hearing, we introduced a revised bill, S. 2766, which was approved unanimously by the Oversight Subcommittee on June 16, 1992 and by voice vote of the Governmental Affairs Committee on June 25, 1992. The 102d Congress adjourned without final action on that bill. Senator COHEN and I then reintroduced the Lobbying Disclosure Act early in 1993 with Senators GLENN, ROTH, BOREN, CAMPBELL, MCCAIN, STEVENS, and DECONCINI. S. 349 was reported by the Governmental Affairs Committee by voice vote on February 25, 1993, and passed the Senate on May 6, 1993, after three days of consideration by a vote of 95–2.

This bill was the product of lengthy and thoughtful deliberations which reflected just what the legislative process should be. It was only in the final days that the process went terribly awry when largely the same bill that had passed the Senate by a vote of 95–2 was sacrificed for political purposes.

This setback, however, is only temporary, and we will be back early in the next Congress.

I want to take this opportunity to express my appreciation and admiration for my colleagues and their staffs who contributed so much to getting us this far. First, I want to thank my principal sponsor, Senator COHEN, for his leadership, commitment, and steady support. He never wavered in his support of this legislation and in his willingness to work to advance it. His advice was always helpful, and his good judgment always welcome.

Second, I want to thank Congressman JOHN BRYANT who labored so diligently for this bill in the House. He is one of the finest Members of Congress with whom I have worked. I value his commitment, his common sense, and the ease with which he navigated the challenges we faced.

I also want to thank Senator GLENN, the Chairman of our Committee, and Senator ROTH, the Ranking Republican. They provided the leadership and support we needed to get this legislation through the Committee and onto the Senate floor.

My appreciation also goes to the Senators who served on the Conference Committee—Senators AKAKA and STEVENS. All five Senators on the Conference Committee signed the Conference Report. We had some differences of opinion on some of the provisions, but we were able to work those differences out with sometimes lively, but largely successful, debates.

Mr. President, the leadership and support of Majority Leader MITCHELL is also greatly appreciated. He was extraordinarily effective in getting this legislation to the floor.

Of course, Mr. President, the staff representatives of all of these Members were key to the progress we did make. My thanks goes to Paul Brubaker and Dave Wilby of Senator COHEN's staff; Len Weiss and Brian Dettelbach of Senator GLENN's staff; Frank Polk and J.C. Boggs of Senator ROTH's staff; Paul Drolet and David Naimon of Congressman BRYANT's staff; Nancy Langley of Senator AKAKA's staff; Christine Piccone and Pat Raymond of Senator

STEVENS' staff; and Jim Weber of Senator MITCHELL's office.

Finally, Mr. President, I want to thank Peter Levine and Linda Gustitus of my subcommittee staff. They brought this issue to my attention back in 1989 when we were looking into the contracting and lobbying practices of the Wedtech Corporation. When we learned that persons who are paid to lobby executive branch agencies aren't required under current law to register, we decided to try to change the lobbying laws. The more we looked into these laws, the worse the picture became. We finally decided that an overall reform was necessary. We started with that reform back in 1990, and Peter and Linda pursued this matter from beginning to end. They have worked long and hard on this legislation, and I sincerely appreciate their effort. We all look forward to success next year.

Their effort has been inspiring. Night after night, week after week, Linda devoted precious hours she would have loved to have been spending with her husband Bob, and her children R.J. and Sandra, instead to the cause of lobbying and gift reform, and Peter, whose wife Mary Ellen is expecting a child in but a few months, took untold hours he would have loved to be spending with her, and gave them to this cause instead.

We owe it to our country, first and foremost, to reform lobbying disclosure laws and gift laws; we owe it next to this institution and to ourselves. But we finally also owe it to our staff and their families.

TRIBUTE TO HOWARD METZENBAUM

Mr. DECONCINI. Mr. President, as the 103rd Congress draws to a close, I want to pay tribute to one of my colleagues on the Judiciary Committee who will be retiring at the end of the session, Senator HOWARD METZENBAUM.

Howard was elected to his first full term in the Senate, as I was, in 1976. We were both appointed to the Senate Judiciary Committee where we have served for 18 years. While we have been on opposite sides of issues from time to time, HOWARD and I came to know and respect one another and to better understand the constituencies we represented.

I do not think there is a Member of the Senate who would not prefer to have HOWARD as an ally rather than an adversary. We all know HOWARD as a fighter. He was tireless and tenacious. A formidable foe, we know HOWARD will go to the mat fighting for the things in which he believes so deeply. If you're in the ring with HOWARD, you know it will be a 10-round bout. HOWARD is persistent, sometimes pugnacious, sometimes pesky, but always a man of principle.

From his seat on the Judiciary, HOWARD can boast a long list of legislative accomplishments. But among the achievements of which I know he is most proud are his successful efforts to reduce crime in our neighborhoods by eliminating guns on our streets. He was a fierce opponent of the gun lobby. After years of effort to pass legislation requiring a waiting period for the purchase of guns, HOWARD succeeded in enacting the Brady bill, a landmark piece of legislation which he authored and I supported. Battling great odds, HOWARD, Senator FEINSTEIN and I worked together in a successful effort to ban the sale of certain military style, semiautomatic assault weapons. That bill was also enacted into law as part of the 1994 Crime Bill. And HOWARD was successful as well in banning cop killer bullets which earned him numerous rewards from major law enforcement organizations. HOWARD will leave knowing he made an enormous contribution to the Senate with an impressive legacy to safe streets.

A man of considerable wealth, HOWARD chose not to become the protector of the privileged, but chose instead to be the protector of the less fortunate in our society. He chose to be the defender of the defenseless, the voice of the voiceless, the hands of the helpless. During his tenure in the Senate, HOWARD earned a reputation as the champion of the poor, the sick, the disadvantaged, the disabled, the disenfranchised, the consumer, the worker and women and children. Time precludes me from a recitation of HOWARD's legislative successes in helping these groups. Suffice it to say that HOWARD's name or his fingerprints were on every significant piece of legislation to enhance the quality of life for the less fortunate in our society. From civil rights to worker rights; from consumer protection to protection of the environment; from health security to pension security; from child labor laws to women's health, HOWARD was in the vanguard.

One of reasons that HOWARD has decided to leave the Senate is to spend more time with his family. His love for children is legendary. I would like to share with you a personal experience in this regard. In 1988, I had a fundraiser here in Washington hosted by a number of my colleagues to which one of my staff brought his 7-year-old son. It didn't take HOWARD long to greet me and my guests, and then gravitate to the child with whom he spent the rest of the evening, entertaining him with pictures and stories of his own children and grandchildren.

Trying to define Senator METZENBAUM is no easy task. He has earned many nicknames—the Conscience of the Senate, the Tiger of the Senate, Senator No, Senator Can-Do, among others. My staff affectionately referred to him as the Senate Ombudsman. That title grew from HOWARD's long and lonely vigil at the end of each session of Congress, checking every bill and every amendment under a microscope to ensure that no special interest legislation was snuck through the legislative process in the final hectic days and hours of a congressional session. As Senator BYRD has said of HOWARD, "I have often felt that if we did not have a HOWARD METZENBAUM in the Senate we ought to somehow make one."

HOWARD METZENBAUM's retirement from the Senate will leave a void in this Chamber that will not soon be filled. He will be sorely missed, but he leaves behind a legacy of impressive legislative accomplishments as well as many friends and admirers, including this Senator. As we walk out the door together, I want to wish HOWARD and his devoted wife Shirley every success and happiness. Enjoy your grandchildren and smell the roses!

TRIBUTE TO SENATOR HARLAN MATHEWS

Mr. DECONCINI. Mr. President, the poet Oliver Wendell Holmes once described the importance of acting on a commitment or an ideal: "I find the great thing in this world is not so much where we stand, as in what direction we are moving. We must sail sometimes with the wind and sometimes against it—but we must sail, and not drift, nor lie at anchor." When HARLAN MATHEWS was appointed 2 years ago to fill the unexpired term of Vice President GORE, he came to the Senate with a determination to act on his convictions. At the beginning of his tenure, he stated three primary goals he wished to pursue during his term in office: reduce the deficit, address the Nation's health care crisis, and look after the needs of his fellow Tennesseans. He has followed that course with distinction.

HARLAN came to the Senate with an outstanding background in economic policy. He served his State of Tennessee as Commissioner of Finance for 10 years, a position he held longer than any commissioner of that department to date. He was subsequently elected state treasurer. His 13 years in that position made him the longest holder of that office in Tennessee history. In his home state he made his mark as a sound fiscal conservative and continued his commitment to fiscal responsibility when he came to the U.S. Senate.

HARLAN MATHEWS has been a strong voice for economic accountability, cosponsoring a balanced budget amendment and calling on this nation to square its accounts. From his seat on the Foreign Relations Committee, Senator MATHEWS has fought to improve America's economy by improving our trade performance. He sponsored a Senate Resolution emphasizing the importance of trade relations between the

United States and the Asia Pacific countries, a critical ingredient for the U.S. to remain competitive in the 21st century. As a member of the Energy and Natural Resources Committee, HARLAN MATHEWS championed legislation to promote a working partnership among the Department of Energy, American industry, and our educational institutions, thereby allowing our Nation's research labs to spearhead economic growth and keep us economically strong in the global marketplace.

HARLAN MATHEWS has served his constituents in Tennessee with distinction. He has worked tirelessly on issues of vital concern to his home State, including coal production, research and development at the Oak Ridge National Laboratory, revitalization of the Lower Mississippi Delta region, improvement of our rural health care system, and preservation of the Great Smoky Mountains National Park.

It has been a pleasure to serve with my colleague from Tennessee over the past 2 years. He leaves behind a proud and distinguished record of service. I wish him and his family every happiness and success in the years to come.

TRIBUTE TO THE HONORABLE DAVID L. BOREN

Mr. DeCONCINI. Mr. President, it has been said that every job is a self-portrait of the person who did it. When we look at the career of the distinguished Senator from the State of Oklahoma, Senator BOREN, it is quickly apparent that he has excelled in virtually every effort he has undertaken. Senator BOREN graduated from Yale University in the top one percent of his class. He was a Rhodes Scholar and attended Oxford University in England where he received his master's degree in Government with honors. He subsequently attended the University of Oklahoma College of Law and was named by the faculty as the outstanding graduate of his class.

The State of Oklahoma and the nation are the beneficiaries of Senator BOREN's decision to dedicate the next 30 years of his life to public service. Once again, he excelled in his chosen path. After serving with distinction in the Oklahoma House of Representatives, he became the youngest governor in the Nation. Next there would follow 16 years of service in the U.S. Senate. Oklahoma's overwhelming endorsement of Senator BOREN's Senate job performance is reflected in the fact that he made state election history in both of his re-election campaigns, carrying all but two of the State's 2,354 precincts in his last election.

Senator BOREN and I came to the Senate just a few years apart. Together we worked on many issues to reform our system of government. Senator BOREN was a key player in campaign finance reform as well as legislation to streamline congressional operations; limit lobbyists' gifts and travel subsidies to government workers; and to put a rein on the revolving door between public service and private profit. He has done yeoman's work in making government more efficient and responsive to the American people. He has been in the vanguard of the fight to ensure that Federal employees serve the public interest—not special interests.

I had the privilege of succeeding Senator BOREN as chairman of the Intelligence Committee. His genius in foreign policy is widely acknowledged, and his expertise has been tapped by U.S. Presidents, Republican and Democrat alike. President Reagan chose Senator BOREN to be advisor on U.S. policy during the Philippines' transition to democracy. President Bush chose him as informal advisor on South Africa during the transition from President Botha to President de Klerk. Senator BOREN was one of three Senators who first visited China following the events of Tiananmen, and President-elect Clinton acknowledged his expertise by choosing him as an informal advisor on U.S. policy on China.

Teddy Roosevelt once stated that "real success consists in doing one's duty well in the path where one's life is led." Throughout his life DAVID BOREN not only has performed his duties well, he has excelled in virtually every endeavor he has undertaken. I am certain he will continue his outstanding record of success as he assumes the Presidency of the University of Oklahoma. I wish Senator BOREN and his family every success and happiness in the years ahead.

TRIBUTE TO SENATOR DAVE DURENBERGER

Mr. DeCONCINI. Mr. President, as Senator DAVE DURENBERGER prepares to leave the U.S. Senate, I want to pay tribute to his dedicated service is this body and to wish him well as he moves on to new challenges in an already remarkable career.

Senator DURENBERGER is the first Republican in Minnesota's history ever elected to serve three terms in the U.S. Senate. In a predominantly Democratic state, that is a remarkable achievement. What the voters of Minnesota recognized in DAVE DURENBERGER are the same qualities that have earned DAVE the deep respect of his Senate colleagues: intellectual acumen, thoughtfulness, hard work, creativity, effectiveness, and independence. DAVE's willingness to work in a bipartisan manner has made him the linchpin who was able to fore complicated compromises, thereby clearing the way for enactment of such landmark legislation as the Clean Water Act and the Civil rights Act of 1991. His role as a respected mediator and honest broker led to consensus and passage of other major pieces of legislation such as enactment of the Motor Voter bill and Senate passage of Campaign Finance Reform. While Campaign Finance Reform was not enacted due to a filibuster in the waning days of this session, Dave's role in trying to reach a reasonable middle ground is greatly appreciated by those of us who understand that enactment of this legislation is central to restoring confidence in Congress.

I can speak first-hand of DAVE DURENBERGER's commitment to sound environmental policy. In the mid-1980's, we cochaired the National Water Alliance where we worked with business and grassroots organizations to develop responsible and workable policy initiatives to address water quality and access issues. But this is only one small area of DAVE's work on environmental issues. From his seat on the Environmental and Public Works Committee, one can see DAVE's "fingerprints" on every significant piece of environmental legislation passed in the last decade, including Superfund, the Clean Air Act, the Clean Water Act, and the Safe Drinking Water Act.

But I suspect that Senator DURENBERGER will be best remembered for his passionate and tireless efforts to improve our health care delivery system and ensure access to care for all Americans. Even before he came to the Senate, DAVE became involved in the health care issue in Minnesota—long before it was on the radar screen for most politicians. Together with others in the Twin Cities' business community, he initiated a successful experiment in the use of competition and consumer choice in health care purchasing.

Because of DAVE's interest and involvement in health care in Minnesota, he immediately sought a seat on the Senate Finance Committee upon being elected to the Senate in 1978 so he could continue his work in this area. As ranking member of the Finance Subcommittee on Medicare and Long Term Care, he has played a seminal role in developing health care legislation for more than a decade. The knowledge and expertise he has developed will not easily nor soon be replaced. His advice and counsel on health care issues are sought by Republicans and Democrats alike, and his centrist approach to reform is the only realistic way to find a responsible solution to this very complicated problem. Like many of his colleagues, myself included, I know that DAVE is disappointed that the 103d Congress was unable to pass either comprehensive or incremental reform. But he was persistent to the very end, working day and night with the Mainstream Coalition trying to forge a fair and workable reform package. We all owe DAVE a debt of gratitude for his efforts. I am confident that his untiring efforts on

health care will provide a solid foundation on which the Members of the 104th Congress can build. He has left a legacy in this area of which he can be eminently proud.

Teddy Roosevelt once said that "real success consists in doing one's duty well in the path where one's life is led." By that standard, or any standard, DAVE DURENBERGER's life in the Senate has been one of success and great achievement. As DAVE moves on to new challenges, I want to pay tribute to his dedicated service in the U.S. Senate and to wish him and his family every success and happiness in the years to come. Godspeed, DAVE.

TRIBUTE TO SENATOR MALCOLM WALLOP

Mr. DECONCINI. Mr. President, as the 103d Congress grinds slowly to a close, I would like to pay tribute to one of my colleagues who will be retiring with me at the end of this session, Senator MALCOLM WALLOP.

Senator WALLOP and I were both elected to the Senate in 1976 and have served three terms together. Both being from the West, we had many common interests. Ironically, our first Judiciary subcommittee offices were located directly across the hall from one another on the 6th floor of the Dirksen Senate Office Building. We came to the Senate together and we will be leaving together. Like me, I am certain that Senator WALLOP will depart with a sense of great sadness and great expectations—sad to be leaving an institution we love, but looking forward to other challenges in the next phase of our lives.

With the retirement of Senator WALLOP, the citizens of Wyoming are losing a very articulate spokesman and strong advocate of the West. No Member, past or present, has been a more staunch defender of western traditions than Senator WALLOP. His leadership and expertise on issues ranging from mining law, grazing fees and water rights to energy production and the sound management of our public lands are recognized by all who have had the pleasure to serve with him. He has worked tirelessly during his 18 year tenure in the Senate to strike the proper balance between the need to protect our environment and to maintain a viable economy in the western United States. From his position as the ranking member of the Energy and Natural Resources Committee, he had a powerful forum from which to ensure the protection of the most valuable resources of the West. He did so with great vigor and effectiveness and he will be greatly missed.

Senator WALLOP's love for and deep commitment to the preservation of the western way of life are not surprising given that he represents the third generation of a Wyoming pioneer family. After more than 25 years of public service, I know he is looking forward to returning to his beloved ranch and I wish him and his family every success and happiness in the years ahead. Good luck and godspeed.

DR. CHRISTINE WARNKE

Mr. SASSER. Mr. President, it is my pleasure to commend Dr. Christine Warnke on her confirmation as a member to the Board of the National Institute for Building Sciences. Christine began her career working for the then Senate majority leader, Senator ROBERT BYRD, who imparted to her his vast amounts of knowledge about the legislative process, as well as his serious commitment to the spirit of community and national leadership.

Christine is an accomplished professional and prominent community leader. As a champion of youth, Christine serves as a member of the Board for the National Learning Center and Capital Children's Museum here in Washington. She is also the president of the Romanian Children Leukemia Aid Foundation. Christine devotes her time and effort on a pro bono basis to many organizations, including the International Human Rights Law Group. She is currently a governmental affairs advisor with the law firm of Hogan & Hartson. Working full time in Washington, Dr. Warnke last year earned her doctorate degree from the University of Maryland.

I am confident that Christine will be an invaluable member of the National Institute for Building Sciences.

SAFE DRINKING WATER

Mr. DOLE. The effort to pass the Safe Drinking Water Act has been a bipartisan affair. The Senate passed this legislation in May, and the bill recently passed the House. Unfortunately, there was never a conference between Members of the House or Senate on the Safe Drinking Water Act.

Throughout the negotiations on this legislation, I have made it clear the final package must include the Senate-passed version of a Private Property Rights Act. During Senate consideration of the Safe Drinking Water Act in May, a bipartisan amendment was attached which required the Government to conduct an impact assessment before issuing or promulgating any policy, regulation, proposed legislation, or related agency action which is likely to result in the taking of private property. The Senate adopted this amendment on a voice vote. Mr. President, there were no objections to this language.

The private property amendment was supported overwhelmingly by our colleagues. At this time, I would like to introduce for the RECORD a letter from 74 Members of the House of Representatives urging inclusion of the private property rights amendment in any final compromise on the Safe Drinking Water Act.

Time and again, I have heard from people all across America that Congress must do more to stop the tide of infringement on private property rights. I believe we have all heard this message. This provision was a small first step toward ensuring that Government mandates and Government bureaucrats do not continue to run over individual citizens and individual rights. Unfortunately, the average citizen cannot afford to take the Federal Government to court. That is why they have asked Congress to intervene.

Even though this provision was supported by our colleagues in May, there were doubts about keeping it in the legislation. Mr. President, the Safe Drinking Water Act is an important piece of legislation, and I support its intent. But there is no reason why it should not include language to protect the constitutional rights of Americans to keep their property from being taken without compensation. In the end, Congress failed to pass the Safe Drinking Water Act because of those who refused to protect these rights.

U.S. CONGRESS,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 7, 1994.

Hon. MAX BAUCUS,
Hon. JOHN DINGELL,
Hon. JOHN CHAFEE,
Hon. CARLOS MOORHEAD,
Washington, DC.

DEAR COLLEAGUES: As part of the pending negotiations on the reauthorization of the Safe Drinking Water Act, a major issue continues to be the Dole Amendment to S. 2019 regarding the protection of private property rights.

In numerous votes throughout the 103d Congress, the House and Senate have separately shown a strong desire to protect private property rights as provided by the U.S. Constitution. However, the protections separately approved by the House and Senate are still to be enacted into law. Now is an opportunity to pass and enact strong provisions to re-affirm our earlier votes of the 103d Congress.

We urge the inclusion of the Dole Amendment in any final compromise on the SDWA.

Sincerely,

PAT ROBERTS,
(And 73 others).

PRIOR USER RIGHTS ACT

Mr. DECONCINI. Mr. President, the substitute I am offering today to S. 2272, the Patent Prior User Rights Act makes some significant changes to the bill. In particular, it clarifies that good faith purchasers of products resulting from a prior user would not be liable as an infringer—see section 273(b)(2). In addition, the substitute provides that the defense of prior use does not apply to acts of infringement already litigated or to pending litigation for infringement. In any action for infringement in which the defense of prior user

is found to be valid, the court is provided discretionary authority to award equitable compensation.

In the context of subsection (a), the definition of commercially used, the bill eliminates "design or testing" and limits the definition to "used in the production of commercial products". This does not mean that the use of test equipment or design equipment, with respect to the use of the equipment itself, is precluded from meeting the definition of commercial use. The commercial use of test equipment or design equipment prior to the effective filing date of the application for patent would provide prior user rights as to the continued use of such equipment itself to the extent provided for in the statute.

Furthermore, "use in the production of a commercial product" has different implications in different commercial contexts. For example, in the context of expensive and time consuming commercial operations such as pharmaceuticals or biotechnology, the term means the use of a pharmaceutical/biotechnological product or process in the production of a product used in commerce in a commercial context under applicable Federal law.

As to the definition of effective and serious preparation, language relating to "serious plans" and "substantial investment" have been deleted to narrow the scope of conduct that would qualify as a prior use right. The term "* * * a substantial portion of the total investment" is intended to mean that a majority of the investment necessary in producing a commercial product has been expended. For example, in the pharmaceutical and biotechnology industry this would mean that an average investment of something in excess of $100 million. This is so because according to the Congressional Office of Technology Assessment [OTA] it takes, on average, over $350 million and 10 to 12 years to get a commercial product to market in the pharmaceutical or biotechnology area.

To the extent that the language of the bill before us today differs form the bill reported earlier by the Committee on the Judiciary, the explanations offered here are controlling.

Mr. President, this is an important piece of legislation and I hope that it will be enacted this year.

COMMENDING STATEMENT OF MR. WERNER FORNOS

Mr. KERRY. Mr. President, the International Conference on Population and Development, which was recently held in Cairo, Egypt, was one of the most successful U.N. conferences in recent memory. The Cairo conference, I believe, will make a significant contribution toward addressing the critical global population and development issues for the next 20 years.

The program of action which was finalized at the Cairo conference produced statements addressing a wide range of issues, including, for example, universal access to modern family planning services. The Cairo conference issued the strongest international statement yet crafted for empowering women to make vital decisions in their personal lives and in the development process.

The United States delegation to Cairo, under the skillful leadership of Vice President AL GORE and under Secretary of State Tim Wirth, made significant contributions to the consensus-building process that ultimately produced the notable final document. In addition, the U.S. delegation was assisted by numerous representatives from nongovernmental organizations [NGO] whose experience and dedication proved enormously helpful to the U.S. effort.

I would like to commend to my colleagues the statement of Mr. Werner Fornos, which Mr. Fornos delivered at the Cairo conference. Mr. Fornos, a nongovernmental organization representative to the conference, is president of the Population Institute, a nonprofit, Washington-based organization.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS BY WERNER FORNOS, PRESIDENT OF THE POPULATION INSTITUTE

During these still early hours of the 1994 International Conference on Population and Development, many of us sense that we are participating in more than the third decennial United Nations conference on population.

It is our sense and our vision that the final Cairo document will become a milestone in the annals of humankind.

This very meeting may be the last best chance for the nations of the world to shape the principles and the strategies that will result in an equitable balance between the world's population, its environment and resources.

My own expectation is that we will focus sharply on the issue of universal access to family planning. I firmly believe we can develop at this meeting a definitive strategy to achieve such access within the next 5 to 10 years.

Slowing down the rapid growth of human population must be the first and foremost item on our agenda.

Consider that we live today in a world of some 5.7 billion people that last year increased by 93 million—the equivalent of adding to our planet the populations of the United Kingdom, Denmark, Belgium, the Netherlands and Norway.

But only 5 million of these people were added to the industrialized world, where there might have been some hope that they could be reasonably accommodated.

Some 88 million people, however, were added to the world's very poorest countries—those where mere survival is too often a day-to-day struggle.

It is in these countries where each year reproductive related complications claim the lives of up to 1 million women—the equivalent of a World War II Holocaust every 6 years.

It is high time for an iron-clad global commitment to the proposition that every woman who wants to control her own fertility has both the right and the means to do so.

It is high time for the world to ensure universal access to voluntary family planning.

Within this context, we must always reject coercion and we must keep in mind that there are two sides to the coercion coin.

We must neither condone nor tolerate coercion as a strategy for reducing population growth.

At the same time, we must never condone nor tolerate coercive pregnancies that women are subjected to when they are denied access to the methods and means to control their own fertility.

There are two special matters that this conference must deliberate in a courageous and forthright manner.

First, there is the issue of male responsibility. There is virtual worldwide acceptance of an apparent axiom that both the burden of fertility regulation and the burden of rearing children rest solely with women.

Male attitudes must change if there is to be gender equality and a meaningful improvement in the quality of life for the next generation, and generations yet unborn.

Governments can assist in this endeavor by instituting information, education and communication programs that emphasize the importance of male participation, both in the planning of the family and in family life thereafter.

Though serious concern has been directed toward the breakdown of the family unit, I believe the basic family unit can not only survive but actually thrive, as it never has before.

But only if the status of women can be substantially raised. And only if men throughout the world can be convinced that assuming responsibilities in family planning and in family life enhances rather than threatens their masculinity.

Secondly, it is essential that there be a modification of unsustainable consumption practices.

Developing countries are implored to reduce their population growth to avoid an erosion in development gains.

But these same developing countries have every right to question the wasteful consumption habits of industrialized countries—patterns that contribute to draining resources available to the developing as well as the industrialized world.

There can be neither prevention of environmental degradation nor the realization of sustainable development until there is considerable progress in reducing population growth and in reversing current consumption and production patterns.

Finally, each and every one of us must resolve that the 1994 ICPD Program of Action will have a life beyond Cairo. The stakes are too high for this document to remain mere words on paper.

I implore each of you here today to extend your very best effort toward transforming the words we write in Cairo into deeds: viable programs in the cities, towns and villages across the length and breadth of this planet.

We simply cannot afford the luxury of waiting for someone else to follow through on what we have begun.

If the next billion people join us on this planet in 10 years, measurable improvements through development will not be achieved.

Time lost in the struggle to stabilize world population before it doubles again can never be recovered.

We must address the goals of development and slowing population growth simultaneously.

It is by our ability to convert the Cairo Program of Action from rhetoric into reality the work of this conference will be ultimately judged.

The reward for our success in this endeavor will be a better quality of life for people everywhere. The penalty for failure is unthinkable.

TRIBUTE TO DON RIEGLE

Mr. SASSER. Mr. President, I rise today to compliment my friend and colleague, Senator DON RIEGLE. It was about a year ago this time that Senator RIEGLE first announced his retirement. I have wished many times since that he would change his mind.

There is not enough I can say about Senator RIEGLE. As chairman of the Senate Banking Committee, Senator RIEGLE has an unparallel record of legislative accomplishments.

Under his leadership, Congress passed the toughest financial reform bill in 50 years, the Financial Institutions Recovery, Reform and Enforcement Act.

Also during his tenure, Congress passed the Federal Deposit Insurance Corporation Improvement Act which brought important improvements to the way banks are run and regulated, as well as to preserve the ability of the FDIC to protect depositors. This year alone, we have seen enacted into law the Riegle Community Development and Financial Institutions Act and the Riegle-Neal Interstate Banking and Branching Act.

Senator RIEGLE has always been a champion of the working people of both his home State of Michigan and the Nation. In particular, I remember our fight during the last recession to extend the unemployment insurance to help the many families in desperate need. Side by side, time and time again, we supported one another to ensure that the hard working people across the country were not forgotten. In his next pursuits I know he will continue to be a tireless advocate for the forgotten working men and women of America.

Senator RIEGLE always attacked these sometimes difficult issues in a bipartisan manner. He worked with Senators from both sides of the aisle to garner overwhelming support to pass crucial legislation. He is an excellent model of cooperative leadership—leadership that gets things done. And this is evident by the significant number of bills that are now law because of his vigorous efforts.

The Senate will miss him. DON RIEGLE has been an outstanding leader and public servant to the people of Michigan and to the Nation, as well as a good friend and colleague to me. I know DON will take the same vigor and commitment that he has displayed for over 30 years in the House and the Senate to his next endeavors and most importantly, to his young family. I wish him the very best in the years to come.

79-059 O—97 Vol. 140 (Pt. 21) 7

RETIREMENT OF SENATOR DON RIEGLE

Ms. MOSELEY-BRAUN. Mr. President, I want to take this opportunity to pay tribute to may good friend, Senator DON RIEGLE, the distinguished chairman of the Banking Committee. He has been a leader in the areas of banking, housing, consumer affairs, economic development, health care and child immunization, trade issues, and U.S. competitiveness. He has been a leader for his constituents in Michigan, as well a leader for the entire Nation. He has been a voice for those who are all too often left behind or left out of the process.

While I have not had the pleasure to work with DON RIEGLE as many of my colleagues, I have found him to be a caring and effective legislator. When I came to the U.S. Senate, I had the good fortune of becoming a member of the Banking Committee, and I have learned so much under his outstanding leadership. He has been kind and helpful to me from the start.

As I said on the day he announced his resignation, Senator RIEGLE took me under his wing when I came to the Senate. When people asked how I was received here, I often reflect on my first meeting with him. We discussed the equal opportunity issues we both care so deeply about—how poor people are treated in the financial system and the limited access that women and minority business owners have to capital. He said, "We're going to work together. I'd love to have you on my committee."

Since that meeting, I am proud to say that he has been true to his word in every way. He has been effective in assign legislation, and in addressing issues that protect consumers, that help to ensure fairness, that, in effect, help the "little guy".

When I approached Chairman RIEGLE with the idea of establishing a National Commission on Financial Services, he was a champion. He helped to shepard this bill through the committee as part of the interstate banking bill. This commission would assess the strengths and weaknesses of our financial system, and the public policies that affect that system. Importantly, the Commission's review would be from the perspective of the users of our financial system, and our economy generally, rather than from the perspective of only the current providers of financial services.

I also want to commend his leadership on the Community Development Banking and Financial Institutions Act. This legislation created the Community Development Financial Institutions fund to promote the formation and expansion of community development funds. As we have seen with the South Shore Bank in Chicago, effective revitalization of our urban neighborhoods will only happen when community partnerships are formed among banks, States, local governments and community organizations.

Mr. President, I could continue to list his accomplishments in the areas of banking, securities, consumer protection, affordable housing and trade issues. It is clear that the Senate is losing a powerful voice on these issues.

Because of his dedication to these matters, I know his decision not to seek reelection was not an easy one. His decision to put his family first—to spend more time with his wife and two young daughters is one that I greatly admire. As a mother of a teenage son, I know the pain of missing important events in our loved ones lives.

I am happy for his family; I am sad for his constituents in Michigan, this body and the entire country. He will be missed.

RETIREMENT OF SENATOR DAVID BOREN

Ms. MOSELEY-BRAUN. Mr. President, I rise today to honor my friend and colleague, Senator DAVID BOREN, who will be leaving the U.S. Senate at the end of this session to become the next president of the University of Oklahoma.

Mr. President, the distinguished Senator from Oklahoma began is career in public service in the Oklahoma House of Representatives, where he served with distinction from 1966 through 1974. During his four terms in the Oklahoma legislature, Senator BOREN not only served his constituents in Seminole County in elected office, but also as chairman of the department of government at Oklahoma Baptist University in Shawnee.

Senator BOREN was elected Governor of Oklahoma in 1974, and served in that office until 1979. As the youngest sitting Governor in the Nation, Senator BOREN enacted many progressive government reform laws, which strengthened conflict-of-interest statutes, expanded campaign financing disclosure requirements, and increased the number of contracts open to competitive bidding.

First elected to the U.S. Senate in 1979, Senator BOREN brought his commitment to reform to Washington, where he has led numerous efforts to make Government work better for all Americans. As the chair of the Joint Economic Committee on the Organization of Congress, Senator BOREN conducted a comprehensive review of congressional operations in order to make the institution more efficient and responsive.

In 1991, he introduced legislation to limit congressional campaign spending,

discourage negative campaigning, and abolish PACs. Senator BOREN also introduced legislation to discourage administration and congressional staff from benefiting from Government service by becoming lobbyists.

A leading member of the Senate Agriculture Committee, Senator BOREN authored the Farm Credit Act of 1987, which stabilized the farm credit system and saved thousands of its borrowers from bankruptcy.

Senator BOREN has also worked tirelessly in the Senate Finance Committee to reform our Nation's Federal tax and energy policies and enhance our Nation's competitiveness in the emerging global economy.

As the longest-serving chairman in the history of the Senate Select Committee on Intelligence, Senator BOREN has stressed bipartisan cooperation in U.S. foreign policy. In fact, Senator BOREN helped negotiate the final terms of the Intermediate Nuclear Forces [INF] Treaty, the Conventional Forces in Europe [CFE] Treaty, and the Start Arms Control Treaty.

Mr. President, after 28 years of distinguished public service, Senator BOREN has decided, once again, to help meet the educational needs of our Nation's young people by becoming the next president of the University of Oklahoma.

Although all of us here in the Senate will miss Senator BOREN, we understand and admire his commitment to the education of our Nation's citizens.

Mr. President, I would like to conclude my remarks today by thanking my colleague, Senator DAVID BOREN, for all of his hard work on behalf of the citizens of the United States, and by wishing him and his family all the best.

THE RETIREMENT OF SENATOR DENNIS DECONCINI

Ms. MOSELEY-BRAUN. Mr. President, I rise today to express my sadness that, when the 104th Congress convenes in January, it will be doing so without one of the Senate's most valuable Members, Senator DENNIS DECONCINI of Arizona. Since my election to the Senate in 1992, I have had the pleasure of working with Senator DECONCINI. I know his presence will be sorely missed, not only by those of us in Congress, but by his constituents in Arizona as well, who knew that Senator DECONCINI was always looking out for their interests.

Senator DECONCINI has a long and distinguished career in public service, beginning with his successful campaign to become the Pima County, Arizona, attorney in 1972. It was while serving as Pima County's chief prosecutor that Senator DECONCINI began his efforts to strengthen drug enforcement and consumer protections, efforts that he has continued on a national level to this day. His Pima County office was named the model office of its size in the Nation by the national district attorneys association, and he was named county attorney of the year in 1975.

In 1976, Senator DECONCINI was elected to the U.S. Senate, the first of his three terms. He was not a timid freshman legislator, passing more bills than any other Senator and being named by the Wall Street Journal as the freshman most likely to succeed. Although I don't often find myself in agreement with the Wall Street Journal, as anyone looking back over Senator DECONCINI's long and distinguished career knows—on this occasion at least—they weren't wrong.

Currently the chairman of the Senate Select Committee on Intelligence, Senator DECONCINI has to be one of the busiest Members of this body. In addition to his intelligence duties, he chairs the Judiciary Committee's Subcommittee on Patents, Copyrights and Trademarks, chairs the Appropriations Committee's Subcommittee on Treasury, Postal Service and General Government, while also serving on the Committee on Veterans' Affairs, the Committee on Rules and Administration, and the Select Committee on Indian Affairs. In addition, he heads the Commission on Security and Cooperation in Europe, and cochairs the Drug Enforcement Caucus.

It is particularly fitting that he chairs the Drug Enforcement Caucus, as keeping illegal drugs off the streets—and putting those who distribute them behind bars—has been one of Senator DECONCINI's main priorities during his 18 years in this body. He was the principal author of the Anti-Drug Abuse Act of 1988, including its tough drug interdiction provisions. He has sponsored legislation to ensure Federal funding for State and local law enforcement efforts to fight drugs, and helped divert excess military aircraft to protect U.S. borders from drug smugglers.

Mr. President, since passage of the crime bill, much has been said about the bill's prohibition on the manufacture of 19 deadly semiautomatic assault weapons. That is certainly one of the more popular provisions in the bill, with polls showing that well over 70 percent of the public support a ban on these instruments of mass destruction. I think it is worth noting that Senator DECONCINI was working to ban semiautomatic assault weapons long before it was politically popular. Beginning in the late 1980's, Senator DECONCINI crafted legislation to take these weapons off our streets. His early support of this legislation is a testament to his political courage, and a prime example of why he will be so sorely missed.

Senator DECONCINI has also been a leader on issues affecting our most vulnerable populations, children and senior citizens. His work to help establish the national center for missing and exploited children was but one of the reasons he received a national award for legislative leadership in child abuse prevention. He has repeatedly supported increased funding for education programs, including financial aid to deserving student, vocational, and adult education, and bilingual education. He has opposed efforts to delay cost-of-living increases for Social Security recipients, and is the sponsor of legislation to equalize Social Security benefits for those senior citizens known as notch babies. In addition, he has sponsored legislation, now law, to create the first nationally coordinated program for the prevention, identification, and treatment of abuse against the elderly.

In a time of skyrocketing Federal deficits, Senator DECONCINI has actively searched for ways to reduce Government expenditures. He helped write legislation enabling the Federal Government to employ more aggressive debt-collection methods, and cosponsored legislation establishing an inspector general in the Department of Defense, to uncover fraud and waste. While on the Appropriations Committee, he has helped reduce the amount of money that the Federal Government can spend on consultant services, public relations, printing, and motor vehicles.

But Senator DECONCINI's efforts have not been limited to the problems within the United States. He authored legislation to promote democracy and human rights in the Philippines, South Korea, and Chile. He was the sponsor of a successful resolution to remove Soviet and Cuban troops in Angola, and to encourage a peaceful settlement of that country's civil war. He sponsored legislation, now law, to keep sophisticated U.S. antiaircraft missiles out of the hands of terrorists and to direct U.S. loans to the poorest of the poor in Third World nations, so they can work toward self-sufficiency. So it is not just Arizona's citizens, but citizens in all parts of the world, who are better off due to Senator DECONCINI's service in the Senate.

Those in Arizona who know Senator DECONCINI's family are not surprised by this dedication to public service. Indeed, some might say that his family is an Arizona political dynasty. His father, Evo, enjoyed a long and distinguished legal career, serving as a Pima County Superior Court judge, as attorney general for the State of Arizona, and as an Arizona Supreme Court Justice. His mother, Ora, was the State's Democratic National Committee woman from 1972 to 1980. We certainly owe his mother and father a debt of gratitude for instilling Senator DECONCINI with the will and desire to serve.

Mr. President, the downside of paying tribute to someone with a career as long and distinguished as Senator DECONCINI's is that you will inevitably

leave out many important accomplishments. But my purpose in speaking today is not to recap everything the Senator from Arizona has ever done. Rather, I want to give everyone a sense of why I, personally, will miss him so much. When asked how he wanted to be remembered, Senator DECONCINI replied that he wanted to be remembered as someone who put his constituents first. Whether they were rich and powerful or poor and humble, I was fighting against the Government or with the Government to get what was right.

Mr. President, I would submit that Senator DECONCINI will be remembered as all that and more. I wish him well in all his future endeavors, and hope that he will not hesitate to continue to weigh in on legislation. That way, we can continue to benefit from his insight and wisdom.

THANKING MAJORITY LEADER GEORGE MITCHELL

Ms. MOSELEY-BRAUN. Mr. President, I would like to take a moment to commend our truly distinguished illustrious leader, Majority Leader Senator GEORGE MITCHELL, and tell him how sorry I am that he will no longer be here to lead us when the Senate returns to Washington early next year. I know that I cannot possibly pay tribute to all of Senator MITCHELL's accomplishments in a manageable time. However, I would like to take a moment to comment on at least a few of his many accomplishments.

Senator MITCHELL can rightly claim credit for the passage of the budget bill, the Clean Air Act, NAFTA legislation, and the crime bill. Although these bills were authored by other Senators, none would have passed without the strong leadership of Majority Leader MITCHELL. Indeed, his legacy will extend well into the future.

I very much regret that we were unable to vote on a health care reform bill, but when we act in the next Congress, there is no question that we will be building on the work the majority leader has done and I am convinced that the groundwork he laid will lead to a new health care system that is better for every American and better for our Nation.

GEORGE MITCHELL came to the Senate in 1980 through a special election, and then campaigned and won again in 1982. Early in his Senate career he demonstrated in his strength as a legislator, an ability to bring differing ideas and points of view together, and a judicial bearing that is a consequence of the years he spent as a U.S. attorney and a district court judge.

His previous services as the Maine Democratic Party chairman, and in Senator Ed Muskie's Presidential campaign steeled him for duty as the head of the Democratic senatorial campaign committee, where he engineered the highly successful Democratic senatorial election in 1986. He showed an ability in elective politics that was every bit as strong as his ability as a legislator.

Senator MITCHELL was awarded the title of deputy president pro tempore for the 100th Congress. Two years later he was elected leader, by creating a broad-based, unbeatable coalition.

Since his election to majority leader, GEORGE MITCHELL has been successful in negotiating with and between Members on both sides of the aisle, on and off the Senate floor. He has been simultaneously patient and stubborn, making sure that every Senator's rights are protected, but never allowing his aims in legislation to be sidetracked. Senator MITCHELL has shown versatility in representing concerns ranging from the interests of his constituents in Maine to those of the President. He is indeed a great legislator and a wonderful politician.

In the 2 years since I was elected to the Senate in 1992, I have learned a great deal and one of my greatest teachers has been Senator MITCHELL. He has taught me that there is always more than one way to approach legislation and that it is important to remember that if one is able to maintain a patient and listening attitude, often opposition which seems implacable can be transformed into agreement. It is clear that we are all going to miss GEORGE MITCHELL a great deal. I want to thank him personally for the spectacular job he has done. He has been a superb public servant. Our Nation is a better place today because GEORGE MITCHELL served in the Senate.

DIETARY SUPPLEMENT HEALTH AND EDUCATION ACT

Mr. HARKIN. Mr. President, I am very pleased that today the Senate gave final approval to the Dietary Supplement Health and Education Act. This is an important moment for American consumers and for preventive health care. And it has been a long time coming. My colleague from Utah, Senator HATCH, and I have been working for months to bring about this bipartisan compromise which promotes consumer protection and education and freedom of choice.

The compromise before us is the result of many months of discussions and alterations. It guarantees the American people access to supplements to their diets that promote improved health and well-being. It also takes steps to assure that consumers will receive truth and nonmisleading information about these products without excessive, biased regulation by the Federal government.

Mr. President, there is an overwhelming irony in a government that subsidizes to the tune of a billion dollars a year the advertising and promotion of tobacco, which kills over 450,000 Americans a year, while running roughshod over the promotion of products that aim to promote health and save lives.

Taxpayers are being asked to subsidize activities that are designed to hook our kids on a habit that we know robs health. At the same time the FDA seems to want to deny people access to information they can use to take charge of their own health. Something's out of whack here. And the legislation before us changes that.

As with any compromise, no one is going to be 100 percent pleased with every detail of our efforts. Certainly, if I were able to draft the bill by myself, it would have been different. But given our system, the bill before us is as good as it could be. It responds to the concerns of millions of Americans who want to see our health care system opened up and consumers armed with better information.

I have been a long-time advocate of preventive health care. And this proposal is an important part of that. We don't have a health care system in this Nation. We have a sick care system. We spend billions patching and mending. But we flunk when it comes to helping people stay healthy in the first place. If all we do is change how we pay the bills, we're just rearranging the deck chairs on the *Titanic*. We're going down. The only way we'll really get costs under control is to emphasize prevention and giving people the wherewithal to stay healthy.

Mr. President, I want to commend my colleague from Utah, Senator HATCH, for his tireless and skillful efforts on this legislation. As the author of S. 784, he successfully fought a tough, uphill battle and should be proud of his success in moving the bill forward. I also want to commend my House colleagues for the critical role they played in making passage of this legislation possible. Congressman BILL RICHARDSON authored the original bill in the House and was vital to this successful effort. In addition, this legislation clearly would not have been possible without the cooperation and work of Congressman HENRY WAXMAN and the distinguished Chairman of the House Energy and Commerce Committee, Congressman JOHN DINGELL. These two individuals have been in the middle of virtually every important piece of health legislation over the past two decades.

Again, Mr. President, I am very pleased that the Senate is taking final action on the Dietary Supplement Health and Education Act. This bill is an important step forward in health care policy. I hope the President signs it and makes it the law of the land promptly as possible.

TRIBUTE TO THE MITCHELL FIELD STAFF

Mr. MITCHELL. Mr. President, as I reflect upon my time in the Senate and all of those who have helped me here, I find myself wondering where I would have been without my field staff. Perhaps the more important question is where would the people of Maine have been without them. I have called them my eyes and ears in my home State and indeed they are. They ensure that people of Maine have access to their Federal Government.

I have 8 offices throughout the State, each staffed by extremely dedicated and competent people. My central Maine offices are headed by Tom Bertocci. Tom is well-known for his excellent outreach skills, and he represents me well in many communities throughout his area. In Augusta, Sue Gurney holds down the fort. Her knowledge of immigration procedures is outstanding, and many local families have relied on her assistance to bring their loved ones from foreign countries to Maine.

In Rockland, Jeanne Hollingsworth is renowned for her perseverance and dedication. She fights hard to make sure that Mainers get what they deserve from their government. Elaine Huber-Neville is also in Rockland. Elaine brings a terrific "can-do" attitude to her job, and has been an outstanding caseworker.

My Waterville office is staffed by Janet Dennis. She has been with me since the beginning, and has always attended to the needs of the people of the Waterville area.

My senior field representative, Clyde MacDonald, works out of the Bangor office. His institutional memory is invaluable, as is his willingness to dig into the nitty-gritty of an issue. Clyde is assisted by Margaret Samways, one of the truly nicest people I have ever met. She is also a terrific caseworker, and the people of the Bangor area have benefited greatly from her efforts.

In Biddeford, Judy Cadorette is my field representative. She has worked hard on numerous local economic development issues and has been an excellent representative. She is joined in the office by Ann Paquette. Ann takes great care of my Biddeford-area constituents, and I appreciate it.

Jeff Porter is my field representative in Lewiston. He also serves as my driver while I am in Maine, advancing my trips and working valiantly to keep me on schedule. I am going to miss spending 20 hours in the car with him every weekend. Also in the Lewiston office is Joan Pedersen, a resourceful, efficient, and persistent caseworker.

My Portland office is headed by Margaret Kneeland. She and Sharon Sudbay have been with me forever it seems. They have become trusted employees, working both in the field office and taking time off to work on my reelection campaigns. Margaret and Sharon are hard workers with excellent political judgment whose efforts I very much have appreciated. Also in the Portland office are Joan Beard and John McLaughlin. Joan and John each handle a tremendous caseload, and yet remain cheerful and efficient. They go out of their ways to provide as much help as possible to every person who calls or stops by the Portland office.

All the way at the northern end of the State, Mary Leblanc is my field representative in Presque Isle. She has put too many hours to count into the effort first to save Loring Air Force Base from closure, and then to redevelop the base. I believe that every person in Aroostook County knows Mary and is greateful to her for her outstanding work. She is joined in the Presque Isle office by Marcia Gartley. Marcia is a true professional, who handles a demanding caseload with ease.

Each member of my field staff has made tremendous efforts on behalf of the people of Maine. Each has many stories to tell of successful cases, large and small. I thank them all for their commitment, their dedication and their many years of service.

TRIBUTE TO THE MITCHELL STAFF

Mr. MITCHELL. Mr. President, one of the great pleasures of serving as majority leader of the U.S. Senate is working with the talented and dedicated group of men and women who make this institution run. These outstanding Americans are here every day the Senate is in session, and many days that the Senate is not. They often arrive here early in the morning and stay here late into the night to ensure that we can do our work effectively and successfully.

Many of these individuals could be earning more money in the private sector. All of them could be working normal jobs, living normal lives; instead, they are here serving their country and their government.

They have certainly made my years in the Senate much easier. Therefore, in the closing hours of the 103d Congress, and in my closing hours as majority leader, I want to take a few minutes to thank them for all their help and cooperation.

I begin by thanking my chief of staff, John Hilley. Every Member of this chamber is indebted to John. His political acumen, his keen judgment, his grasp of Senate procedure, and his ability to work with 100 occasionally testy lawmakers made him a logical choice for this demanding position. My faith was not misplaced. I will always remember and appreciate his outstanding service both to me and to the Senate.

Lisa Nolan has the remarkable ability to take the complexities of the budget and make them understandable. Her analytical skills and her grace under pressure have made her an invaluable part of my office. John and I both thank her.

My executive assistant, Pat Sarcone, is the miracle worker every office needs. She has the rare but wonderful ability to simplify the complex, to ease the difficult, and to make routine the extraordinary. She keeps the office, and indeed my life, running smoothly. To work with her is a pleasure—to know her is a delight. I thank her.

John is assisted by Alice Aughtry, whose work and loyalty alone make her indispensable. The positive, pleasant attitude she brings to her job makes her even more indispensable. John appreciates it. I appreciate it.

The staff assistants in the leader's office perform many of the routine but critical tasks. Beth Gentile, Jamillia Ferris, and Elizabeth Harrington all put in long hours and perform their jobs superbly. I appreciate all that they do.

I would like to thank a very special collection of people—my state office staff—for all their help during my years in this chamber. I cannot imagine my being here or remaining here without them. They are highly skilled and dedicated men and women, and they have served both me and the people of Maine tirelessly.

My administrative assistant, Mary McAleney, is a counselor as well as a supervisor, a conciliator as well as a troubleshooter, a puller as well as a pusher, a servant as well as a boss; foremost, she is a blessing.

My legislative staff has been outstanding. Both professionally and personally they are the best there is, and as I leave the Senate, I do so realizing I will leave behind some of the best colleagues I will ever know.

Bobby Rozen has an expert knowledge of everything. I have relied on him mostly for tax, banking, and health care issues. I could have asked him to do anything. I depend on him. I trust him. He has never let me down, and I appreciate it.

Anita Jensen's superb writing abilities and her outstanding work on Judiciary Committee issues has made her an invaluable part of my staff. She has been with me since the beginning, and I thank her for sticking with me, through the bad as well as the good. She has forgotten more about most things than any of us will ever know to begin with. I have counted on her political judgment, her wisdom and her ability to find the right words for any situation. I owe her much, and I thank her.

Anita is assisted by Ashley Abbott, who my staff now likes to call "Anita Junior"—a nickname that is a wonderful tribute to both individuals. Her writing is simply excellent, and her ability to jump in and handle a variety

of diverse issues has been greatly appreciated by everyone, especially Anita and myself.

Grace Reef does it all. Social issues, labor issues, bridges and roads, LIHEAP, welfare reform, unemployment compensation—I could go on and on. She is thorough, conscientious, and incredibly dedicated. The State of Maine and I have been very fortunate to have her. I have said before and will say it again that she truly is "Amazing Grace."

Chris Williams knows more about the need to reform the American health care system than anybody. She was tireless and tenacious during our fight to reform our flawed and failing system. She will never know how much I appreciated her efforts and her strengths during those trying and tiring days.

Chris has been assisted by several bright, capable and effective Fellows. Parashar Patel, Dr. Oliver Fein, and Judy Whang all made invaluable contributions to our efforts, and I thank them for their work.

Sandy Brown handles everything from the arts and humanities to economic development. She works very closely with my field staff on projects of tremendous importance to the State of Maine. She is the person most responsible for the resumption of train service from Boston to Portland. I thank her and look forward to riding the first train with her in the very near future.

Sandy is assisted by Patrick Maxcy. He works on Maine-related economic development issues, as well as covering agriculture and aviation. Patrick has done an outstanding job in fighting for Maine's interests, and I know many people who are grateful to him. I am certainly one of them.

Seth Brewster has done excellent work on trade issues. Between the NAFTA and GATT, this Congress has certainly put his skills to the test. Seth has met every challenge, and I thank him.

Peggy Dorothy is splendid in her work on labor issues and with the fishing industry. These are difficult areas, with their common denominator being the large number of competing interests with which to deal. I thank her for her efforts.

On foreign policy matters, how can I ever express my thanks to Ed King. I have constantly depended on his experience and expertise. His foreign policy, military, and academic experiences have given him both a practical and scholarly background that is heavily utilized on Capitol Hill. During the past year, our ever-changing world has presented constant challenges. Bosnia, Haiti, Cuba, and Korea spring immediately to mind. Ed has responded to each of these challenges like the champ he is. He has been ably assisted by Carol Grigsby and Leah Titerence. I thank them all.

Heidi Bonner has worked on defense and veterans issues for me this year. She has filled the shoes of not just 1 but 2 people, and she became a mother for the first time. She has balanced and juggled, and she has done a remarkable job.

Few people are as concerned with protecting and preserving our precious natural resources as are Jeff Peterson and Ann Tartre. As my environmental issues team, they have handled so many issues that are important to so many people, and so dear to me, that I could not name them all. Jeff and Ann's efforts have helped to make our water and air cleaner, to keep our solid and nuclear waste from overtaking us, and to prevent our Earth's species from vanishing. Many thanks to both of you.

Jeff and Ann have been assisted this year by Ted Lillestolen. He has concentrated on the complexities of Superfund, as well as pitching in wherever else help was needed. He has been a terrific addition to the office, and I appreciate his help.

I have been fortunate to have the services of Jim Weber this year. Jim came to me from the Parlimentarian's office, where I know that he is still missed. He has handled some of this session's most contentious issues, ranging from lobbying reform to the Whitewater investigation. He has done a superb job, and I am grateful to him.

Lauren Griffen returned to my staff this year and is now covering education issues for me. Her work has been excellent and I thank her.

I also express my appreciation for those who perform the essential day to day operations that keeps a Senate office functioning. The diligence and attention to detail required in these jobs would tax not only the patience as well but the sanity of most mortals. They have done them, patiently and successfully.

My office manager, Donna Beck, takes care of the financial matters and the day to day affairs that are instrumental to the smooth operations of an office. She manages to keep all of us in line, and knows the Senate's ethics rules inside and out. As I leave office, Donna will be the last one out the door. I thank her for her past efforts and for the work she will continue to do.

In closing the office, Donna will be assisted by Sally Ehrenfried, who recently returned to my staff. In the past, Sally has served as my page and intern coordinator and has helped Donna in managing the office. Kristi Mashon, my new archivist and a very new mother, will also be critical in retiring my office. I appreciate Sally and Kristi's work.

David Webber is Mary McAleney's assistant. He serves as her gatekeeper, helping to prioritize and handle the overwhelming flow of paperwork and telephone calls into and out of her office. He has a great attitude, and is always willing to pitch in where needed. I thank him.

My correspondence staff is outstanding. Since becoming majority leader, it has been my policy to respond to every piece of mail that I receive. This has often been many hundreds of letters every day, and I could not have done it without the assistance of many dedicated staffers.

Alice Steward oversees the mail operation. The piles of mail on her desk have often seemed insurmountable, but she has worked countless hours making sure that every American received a timely response from me.

My legislative correspondents have performed above and beyond the call of duty. They work long hours for relatively low pay and almost no recognition. My legislative assistants, the American people and I owe them a debt of gratitude.

Josh McIntyre responds to constituents about budget, human resources, housing and urban development, Social Security and public works issues. Jeff Sanders addresses health, labor, science and technology and small business concerns. Joan Sutton is responsible for communications, energy, environment, judiciary and tax mail. Josh, Jeff and Joan each do an outstanding job, and I appreciate their work.

Faye Johnson is the last critical link in the mail operation. She runs the CCMS system, making sure that every constituent receives the appropriate response. She has been with me for many years, and she has been a true pleasure to have in the office. Faye has also volunteered as the Coordinated Federal Campaign coordinator for our office, and I know that many people and charitable organizations in the Greater Washington area greatly appreciate her efforts.

Janie O'Connor is by far the best tour guide on the Hill. She is also my liaison with various school and tour groups, as well as the visitors who happens through my office in quest of seeing their tax dollars at work. Janie has been with me for nearly 14 years—I will miss her.

Diane Smith is the wonder worker who keeps my Maine schedule balanced with the requests and needs placed on me as Majority Leader. It has been a most difficult and demanding job, and she has handled it splendidly. I have said before that I thought she is the one person who could schedule 11 hours of work and travel into a 10-hour day and still leave time for a quick lunch. Now I know that assessment to be wrong. She can schedule 12 hours into a 10-hour day and leave time for a leisurely lunch. I thank her for her many talents and her patience.

My Maine press secretary, David Bradon, and his assistant, John Dougherty, have done excellent work in keeping the people of the state of Maine

aware of our legislative efforts. They have the ability to make the driest piece of legislation interesting, and to communicate that to the people of Maine. It is not an easy task, and I commend them for their efforts.

Jeff Hecker works long and hard to keep our office computer systems functioning. This is work that requires expert knowledge and long hours, usually into the evenings and on weekends when no one else is in the office. Thank you, Jeff.

The staff assistants in my personal office are terrific. Andrew Haggard and Kim Crichton answer the phones which never seem to stop ringing. Charlie Strout and Clay Boothby open the mail which never seems to stop arriving. All 4 have the patience of saints. They give each constituent—and each constituent's letter—the time and respect that they deserve. I thank them for all of their work.

I also want to mention a number of people who have left my staff in the last 6 months since I announced my retirement. Each has gone on to pursue new and existing challenges, and I wish them well in their pursuits. However, I want them to know that I appreciated very much their hard work, professionalism, and dedication during the time they served on my staff. My sincere thanks to Rich Arneberg, Kim Wallace, Bob Carolla, Brett O'Brien, Steve Hart, Paul Carliner, Deb Cotter, Trey Kelleter, Jill Ward and Elizabeth Sutherland.

My driver in Washington, Willie Allen, has made sure that I meet my demanding schedule, and he has done so cheerfully and pleasantly. He tolerates my back seat driving, and I appreciate his long hours.

I should also thank the numerous interns who have volunteered their time here in Washington. Although I cannot possibly name them all, I do hope that they know how much I appreciate the work they have done for me.

My communications office is under the direction of the very capable and tenacious Diane Dewhirst. During my tenure as majority leader, Diane has helped keep the press and the public informed on the workings of this chamber and its achievements, and has effectively promoted the Democratic agenda in the media. In a free society such as ours, the press can be very demanding, and it requires a dedicated professional to meet those demands. Diane has been outstanding, and so has her staff, deputy press secretary Mary Ann Hill, and their capable assistants Mary Helen Fuller, Julie Goldberg, and Jonathan Hale.

Diane and Mary Ann each became mothers this year, and I appreciate the special effort each has made to balance their new responsibilities with their old ones.

Also vital to keeping the public informed about key Democratic initiatives during my tenure has been the work of the Democratic Policy Committee. Under the direction of Vice Chairman Senator TOM DASCHLE, DPC has become an important forum and vehicle for developing and promoting Democratic policies on education, environment, health care, the economy, and other issues. DPC's director of outreach, Debra Silimeo, has brought an energetic devotion to her task. DPC's director of services, Greg Billings, has brought a dedication to his administrative responsibilities.

Debra and Greg are ably assisted by the DPC's policy staff Ken Rynne, Paul Brown, Lauren Griffin, Rindy O'Brien, Jennefer Smith, Tony Morgan, Leah Titerence, Rob Graham, Tricia Moreis, Heather Mayes, and David Corbin. They are assisted by Joy Leach and Joe Stensland.

Working hard to ensure that DPC's publication are developed, produced, printed, and distributed is the publications office. It is headed by Marguerite Beck Rex, who is assisted by Lynn Terpstra, Tim Metrovich, Karen Hutchinson, Bill McCabe, and Chris Bois.

DPC–TV is operated by Michael Mozden and Kirstan Jennings.

Assisting Senators with television communications is DPC broadcast services. This office is headed by the experienced and very capable Kevin McNanus. He is assisted by Christine Deckle, Clare Flood, Kevin Kelleher, and Mark Marchions.

Vote information records are maintained by Marian Bertram, Doug Connolly, Colleen Stephenson, Von Brown, and Rob Sweeney.

Mr. President, for me, representing the people of Maine in the Senate has been the greatest honor of my life. I could not have accomplished all that I have without the help of each of these individuals.

Most of them will never get the attention and recognition that they deserve, nor will they be mentioned in history books. But they are people who help make history every day that they are here. They are the people who make the Senate work.

Each has my most profound and sincere appreciation for the work they do for this body. I commend them for their service to their country and their contributions to the U.S. Senate.

FAREWELL TO SENATOR DAVID BOREN

Mr. MITCHELL. Mr. President, in January, when the 104th Congress is sworn in, Senator DAVID BOREN will instead be sworn in as president of the University of Oklahoma. I certainly wish him well in this new endeavor, but at the same time I know that his presence in the Senate will be sorely missed.

DAVID BOREN has earned a reputation as a "bridge builder." He is known for putting together working groups of Members with different perspectives on an issue. These groups are often able to find common ground and advance their legislative goals by building strong, bipartisan consensus.

Bringing people together is a skill which is all too rare. Assembling a balanced group and helping its members to put aside their differences and focus on commonalities is a test of anyone's leadership abilities. DAVID BOREN has consistently met this test, and his leadership is unquestioned.

To me, it seems clear that Senator BOREN's greatest legacy will be his tremendous efforts to reform the way our campaign finance laws are structured. Nobody understands more clearly than DAVID BOREN the problems inherent in our current system. He has fought hard to remove the overriding influence of money on our system, to take elections out of the hands of political action committees and return them to the hands of the people.

I admire Senator BOREN's willingness to take on this difficult and contentious issue. He has been a tireless campaigner on this issue, and he has brought us to the very brink of success. I regret that it was not possible to complete action on this important measure this year, but I commend Senator Boren for his heroic efforts.

DAVID BOREN has a sharp mind and a keen intellect. I am sure that he will be a strong leader at the University of Oklahoma and a role model to the University's students. I wish him every success in this endeavor.

FAREWELL TO SENATOR JOHN DANFORTH

Mr. MITCHELL. Mr. President, When the 104th Congress convenes in January, the Senate will be without the sound voice of experience of JOHN DANFORTH.

I will be the first to admit that I have not always agreed with the policy positions of my good friend, Senator DANFORTH. He and I have served on opposite sides of the aisle and have disagreed on more than one occasion.

But there have also been many times when we have agreed. And there have been few Members who have been as instrumental in seeking common ground during my tenure as majority leader as has Senator DANFORTH.

I think back to the Civil Rights Act of 1991. JACK DANFORTH worked tirelessly to mediate the differences of those on the left and the right, working between the range of civil rights organizations and those who thought that the very words "civil rights" in fact meant "quota." Although it was a difficult position for him to be in at the time, Senator DANFORTH led the effort to find an acceptable compromise. Without his efforts, there might not have been a Civil Rights Act in 1991.

Senator DANFORTH has also worked to expand the market for American products. His efforts as ranking member of the Finance Committee's trade subcommittee have helped to open the global market to American goods and services. As we all know, a larger market leads to greater demand. His work in this area has been instrumental to many American businesses, and I know that they are grateful to him.

Senator DANFORTH, the only ordained minister now serving in the Senate, has brought a unique perspective to his duties as a legislator. He has represented the people of Missouri both honorably and effectively.

JACK DANFORTH has been a commanding presence in the Senate for more than two decades. I know that he will be sorely missed and I wish him well as he leaves this institution.

FAREWELL TO SENATOR DENNIS DECONCINI

Mr. MITCHELL. Mr. President, the close of the 103d Congress will see the departure of many of our colleagues. Among them will be Senator DENNIS DECONCINI.

For nearly 20 years, the people of Arizona have had a tireless advocate in DENNIS DECONCINI. He has worked hard to make sure his State was not forgotten in matters of public policy of special concern to them.

As chairman of the Treasury, Postal, and General Government appropriations subcommittee, DENNIS has demonstrated his outstanding ability to balance numerous competing demands, including those of Federal personnel, the needs of law enforcement, the modernization of the Internal Revenue Service, and others. He has worked to find adequate funding to meet the needs of the agencies under his subcommittee's domain, while at the same time recognizing the need to reduce expenditures during these difficult budgetary times.

DENNIS has also served as chairman of the Select Committee on Intelligence, advocating for changes in our intelligence operations to meet the shifting demands of our post-cold-war world. His efforts are notable for their focus both on reducing costs and improving effectiveness.

I will always have fond memories of my first foreign trip as a Senator. DENNIS DECONCINI and I, with a number of other Members, went to the Soviet Union in 1984 to meet with Mikael Gorbachev. The conditions were difficult, and the situation was tense in those cold war days. But we had a good and productive trip.

More importantly, I had the opportunity to get to know DENNIS better. Although we didn't have the opportunity to play in the Soviet Union, we discovered a mutual love for the game of tennis. I have enjoyed our many games, and hope that after our retirements we will both have more time to play.

Over the last 14 years, DENNIS has been a good friend. I have enjoyed serving in the Senate with him, and I thank him for his excellent work.

FAREWELL TO SENATOR DURENBERGER

Mr. MITCHELL. Mr. President, when the 104th Congress convenes next January, the senior Senator from Minnesota will no longer be DAVID DURENBERGER. As he retires from the Senate, I want to express my gratitude to him for his efforts on many issues of interest to both of us.

Senator DURENBERGER has been a leader in this Congress on issues of vital importance to all Americans. For many years, he has been committed to reforming our Nation's broken health care system to improve patient choice, to contain costs, and extend care to those who need it but cannot afford it.

In this session, Senator DURENBERGER was instrumental in our efforts to break the gridlock and reach agreement on much needed reforms. He came to the negotiating table with an open mind and with a true understanding of the magnitude of the problem facing our Nation.

He worked tirelessly, investing countless hours in our effort to develop a bill which could attract the 60 necessary votes to overcome the promised filibuster. And I know that he was as frustrated as I was by our inability to complete action on any health care reform proposal.

Senator DURENBERGER rose above party politics and put the good of the American people first. He sought not political advantage, but compromise and action. I cannot fully express how much I appreciated his support and his work during the difficult and trying negotiations.

The people of Minnesota are losing a good friend, and the senior citizens of America are losing a strong voice. Senator DURENBERGER has long been concerned with our Nation's elderly, advocating for long-term care, catastrophic health care coverage, and other programs of benefit to America's fastest growing group of citizens: those over 65.

Senator DURENBERGER has also worked to make higher education available to more American youth by reforming student loan programs. He recognizes that our Nation's future is tied to the ability of young people to get the education they need to be competitive and employable in the 21st century. His efforts have made a significant difference in this area.

In short, Senator DURENBERGER has worked hard to make life better for all Americans. I have very much enjoyed working with him, and I wish him the very best as he returns to private life.

FAREWELL TO SENATOR HOWARD METZENBAUM

Mr. MITCHELL. Mr. President, the end of the 103d Congress will see the retirement of one of the Senate's most visible members, HOWARD METZENBAUM. After nearly 50 years in public service, he certainly has earned his return to private life. However, the Senate without him will be a much different place.

Senator METZENBAUM has been an effective voice for many who might otherwise have been silent in the Senate's deliberations. He has spoken out on behalf of the poor, the elderly, women, and minorities.

I respect his deep commitment to his principles, and I appreciate him for being the kind, compassionate, and caring man that he truly is. These traits have benefited the constituents he has represented for the past 16 years. They have also benefited the Senate as an institution.

HOWARD METZENBAUM has a well developed sense of right and wrong. He loudly cheers those things which are right, and works tirelessly to correct those which are wrong.

Senator METZENBAUM has worked tirelessly to make our Nation a safer place. His outstanding work on behalf of the Brady bill—now the Brady law—was critical in ensuring its passage. He understood all too clearly the need to develop an effective system to keep guns out of the hands of people who were already precluded by law from having guns. He also worked hard to pass the assault weapons ban, recognizing that the guns affected by this legislation were the most deadly on the market.

HOWARD METZENBAUM has been a champion of the American worker. He has led many fights to defend and protect the rights of organized labor. His efforts were essential in passage of the plant-closing notice legislation. He has had far too many other successes to list.

Senator METZENBAUM has been a dynamic Member of the Senate, and his contributions to this institution and to our Nation will not soon be forgotten. He has been an active Member of this body from the first days here in 1976 until the closing days of his final session.

I wish Senator METZENBAUM well in his retirement, and thank him for his dedicated service to his country.

FAREWELL TO SENATOR DONALD RIEGLE

Mr. MITCHELL. Mr. President, with the close of the 103d Congress comes also the close of DON RIEGLE'S career in the Senate. The people of Michigan are losing a strong and effective voice, and the Senate is losing a dear friend and colleague.

It was 28 years ago that Senator RIEGLE, then just 28 himself, was first

elected to Congress. As a Republican. Things have certainly changed.

I like to say that in 1973, DON RIEGLE saw the light and switched to the Democratic party. Since then, we have been pleased to have such a forceful and dedicated legislator in our midst.

Senator RIEGLE's leadership on the Banking Committee has been excellent. He is regarded as intense and hard-working, and deserves much credit for the recently passed interstate banking bill. He enjoys a challenge, and perseveres rather than giving up in the face of adversity.

His constituents have always been foremost in Senator RIEGLE'S mind. He has worked to ensure that American jobs are protected and that the American worker is not exploited. He is fair and level-headed.

DON RIEGLE has brought vision and initiative to the Senate that I know will be missed. I wish him well and thank him for his many contributions to this institution and our nation.

FAREWELL TO SENATOR MALCOLM WALLOP

Mr. MITCHELL. Mr. President, I am sure that the people of Wyoming were saddened to learn that Senator MALCOLM WALLOP would be retiring at the end of the 103d Congress. Since 1976, he has been a strong voice for the interests of the people of Wyoming, and for the interests of the West in general.

I have viewed Senator WALLOP as a member of the loyal opposition since I entered the Senate in 1980. From my perspective, he has been a little bit too effective in this role, working to stop or change legislation which I supported.

But although we often disagree on policy matters, I certainly respect Senator WALLOP's courage of his convictions. He came to the Senate with certain views and beliefs, and he has held fast to them. Senator WALLOP has been a strong voice in foreign policy issues, advocating changes in policy even when they were not popular. He has never catered to public opinion polls, but rather has stuck to his guns and done what he believed to be right.

I admire his tenacity and his perseverance. It has been a pleasure to serve in the Senate with him, and I wish him well in whatever new challenges he may choose to pursue in the future.

TRIBUTE TO THE SERGEANT AT ARMS AND RELATED OFFICES

Mr. MITCHELL. Mr. President, the Sergeant at Arms has a number of diverse offices under his purview. Each of these offices is essential to the smooth running of the Senate, and I want to take a moment to express my appreciation to those who perform these vital functions.

For 14 years I depended on Larry Benoit as my chief field representative in Maine and as my campaign manager. Few people know the State of Maine as well as Larry. He is insightful, thoughtful and persuasive.

He was so effective and tireless in those demanding but often thankless positions that when the opportunity arose, I appointed him to serve as the Senate's Sergeant at Arms. Larry has held this position for only a short period of time, but he has already proven himself an outstanding public servant. I thank him for taking the position and for the professional work he is doing.

I also commend his superior staff, Deputy Sergeant at Arms Robert Bean and their able and energetic assistants, Patty McNally, Loretta Fuller Symms, Patrick Hynes, Alvin Spriggs, Pete Beatty, Laura Parker, Jennifer Carter, Colin Raymond, Rita Harris, and Ted Jones. Thanks also to Director of Human Resources, Patty Fitzgibbons.

I take this opportunity to express my appreciation for the work of Gayle Cory. Gayle is now postmaster of the Senate, but I have known her for so long and worked with her in so many ways that I still like to consider her as personal staff. We worked together on Senator Muskie's staff, and she served as my executive assistant after I was appointed to the Senate. She has always been there, as an ally, as my right hand and as a friend. I thank her for her work and her long and loyal friendship, and I wish her well. I also appreciate the work of the post office staff who sort and deliver many thousands of letters every day.

Russell Jackson and the entire service department staff make sure that Senate publications are ready the next day. Their hours can be long. Their jobs can be difficult and tedious. But their work always is important and they are extraordinary in performing it. I give them a special thank you for their efforts to ensure that the publications of the Democratic policy committee, including the DPC daily reports, legislative bulletins, special reports, and issue alerts are always prompt and timely. I am aware that the policy committee has occasionally made nearly impossible demands, but the service department always comes through.

The director of the computer center, Michael Bartell, and the director of telecommunications, Robert McCormick, and their staffs, do outstanding work in very demanding jobs. A special thanks goes to the telephone operators who answer thousands of calls daily.

I also want to commend those who keep this historic building so clean and well maintained, including Karen Ellis, Phyllis Timms, and Ross Thomas.

Special acknowledgement also goes to the financial management team of Chris Dey, Ray Payne, Richard Zelkowitz, Amy Blanchard, and Alan Block. They may not always get the recognition they deserve for their outstanding work in their very demanding jobs, but all of them are appreciated.

One of the most demanding and difficult jobs on Capitol Hill belongs to the Capitol security forces. Chief Abrecht and Assistant Chief Langley and all the U.S. Capitol Police deal with the public and their right of free speech, their right to observe their law makers in action, and their right to petition their government. At the same time, during these dangerous times, they must provide for the safety of the men and women who work here, and for the security and integrity of this magnificent building. Theirs is a most difficult task. They handle it courageously and superbly. They have my respect and my thanks.

Senate doorkeepers are with us each hour we are in session. Their long hours are noted, and their work is always appreciated. I express my sincerest thanks to Supervisor Arthur Curran and his assistant Donn Larson.

The Capitol Guide service, headed by Frances Rademaekers, helps thousands of visitors more fully appreciate the Capitol building and its historic contents.

Debbie Jans and her outstanding staff provide special services for staff and visitors with disabilities. Debbie and her team have made great strides in improving the accessibility of the Capitol.

Don Gardner is the foreman of the cabinet shop, Vince Proctor is the garage foreman, and Pete O'Brien manages the parking office. These individuals and all of their employees, do an outstanding job and are a great help to the Senate.

I also commend the outstanding work of the Senate photographers. The quality of their finished products usually far outshines the crudeness of the raw materials with which they have to work. I congratulate as well as praise them for the quality of their work.

Crucial in enabling Americans to follow Senate proceedings are the Senate press galleries. Bob Peterson, press gallery; Jim Talbert, periodical press gallery; Maurice Johnson, press photographers gallery; Larry Janezich, radio, television gallery, and their deputies perform a valuable service in assisting members of the media in following the activities of this chamber.

As everyone is aware, the American people can now follow the deliberations of the U.S. Senate in their own homes, thus enabling them to become even better participants in their Federal Government. Jim Grahne, director, and the staffs for the recording studio's broadcast control and the TV control offices are in the forefront of this effort, and they do a splendid job.

I also call attention to services of the people who manage the Senate reception room, Shirley Herath, "Irish" McLain, and Ruby Paone. Their friendliness and cooperation are well known, as is the excellent and dedicated work they do.

Mr. President, I am grateful to each of these individuals for their tremendous efforts on behalf of the Senate. Without them, it would be practically impossible for the Senate to transact business, and I commend them for their work.

TRIBUTE TO THE SECRETARY FOR THE MAJORITY AND THE FLOOR STAFF 103D CONGRESS, SECOND SESSION

Mr. MITCHELL. Mr. President, there are a number of individuals who serve here on the Senate floor who are critical in controlling the flow of legislation. They work directly with me in developing the Senate's schedule, negotiating unanimous-consent agreements, and monitoring the debate. Without them, the majority leader would be unable to effectively function. They have my sincere thanks and my admiration.

Secretary for the majority, Abby Saffold, has a demanding job that requires a high degree of competence and professionalism. Fortunately, Abby has ample quantities of both. Indeed, her professionalism and competence are exceeded only by her pleasantness. Her assistants, Jerri Davis, Maura Farley, and Sue Spatz, are also dedicated professionals whose work we all appreciate.

I cannot imagine myself—or anyone, for that matter—serving as majority leader without the assistance of Marty Paone, assistant secretary for the majority. He and the Democratic floor staff, Lula Davis, Art Cameron, and Kelly Riordan, are true professionals.

Their courteousness, their meticulous attention to detail, their willingness to work long into the night, and their many other invaluable skills and talents have made them a vital part of the 103d Congress. I salute them, and I thank them for their dedicated and tireless work. My thanks also to Nancy Iacomini and Brad Austin who have provided valuable assistance to the floor operations.

Every Democratic Senator knows and appreciates the staff of the Democratic Cloakroom, Lenny Oursler, Gary Myrick, Paul Cloutier, and Cristina Krasow. They do excellent work, helping to make life easier and more pleasant for myself and my colleagues on this side of the aisle.

Mr. President, I want to take this opportunity to express my appreciation to the Republican counterparts to the Democratic staff I have just mentioned. Their work and their cooperation has been appreciated, and it has certainly contributed to the successes of the 103d Congress. At times I have found myself wishing that the staff of the loyal opposition was not quite as good and as effective as they are, but I always have appreciated their friendliness and their contributions to the Senate as an institution.

I begin by recognizing Sheila Burke, chief of staff to the Republican leader. I also recognize the secretary for the minority, Howard O. Greene, and his assistant, John L. Doney, and Elizabeth Greene of the Republican floor staff, and the staff of the Republican Cloakroom, Brad Holsclaw, Dave Schiappa, and Sarah Whitaker. Each of them is a formidable part of the loyal opposition, but their tireless efforts and cooperation are nonetheless appreciated.

I also want to thank the distinguished Republican leader, Senator DOLE. Although we serve on different sides of the aisle, and although we often disagree on policy matters, we have worked well together. We are good friends and we trust each other. Without this trust, it would be nearly impossible for the Senate to conduct its business. Senator DOLE is a man of his word and I have enjoyed working with him.

No one who works in this building is more deserving of special attention and special thanks than the Senate pages. These young Americans are here learning how their Federal Government operates, while performing needed, important work for the institution and for us as individuals. They are a valuable part of the Senate. I thank them for their energy and their enthusiasm. I wish each of them the best in whatever endeavors they choose to pursue.

Attending to our spiritual needs is Rev. Dr. Richard Halverson, the Senate Chaplain. He is always there to offer comfort to Members and their families in times of need and he is here on the Senate floor at the beginning of each Senate day to offer the daily blessing. Our inability to perform the miracles for which he prays each morning is our failure, not his nor the powers to whom he prays. But I do appreciate the sincerity of the request and thank him for making it.

Although they are not a direct part of the Senate's floor operation, congressional agencies like the General Accounting Office and Government Printing Office deserve a thank you for a job well done. In this time of difficult budget constraints, the work of the Congressional Budget Office has become increasingly important. CBO's thorough but prompt analysis of the costs of pending legislation and their analysis of historical and programmatic trends are an important part of the legislative process. I thank the staffs of GAO, GPO, and CBO for their long hours and hard work.

Mr. President, I very much appreciate the work of the people whom I have just mentioned. Their outstanding performance has made my job as majority leader much easier, and for that I am truly grateful. I have enjoyed working with them and I commend them for their efforts on behalf of the Senate and our Nation.

TRIBUTE TO THE SECRETARY OF THE SENATE AND RELATED OFFICES, 103D CONGRESS, SECOND SESSION

Mr. MITCHELL. Mr. President, many of the offices that are crucial to the day-to-day functioning of the Senate as a legislative body are under the direction of the Secretary of the Senate. I want to pay tribute to the many individuals who work in these offices for the outstanding work they do in keeping the Senate functioning.

First, I must express my deep appreciation for the services and support of my longtime friend and staffer, Martha Pope. Martha has served me for so many years in so many ways: as my legislative assistant, my legislative director, my Administrative Assistant, my Chief of Staff, and as the Senate Sergeant of Arms. She is now Secretary of the Senate and she is a good one.

I was concerned when Joe Stewart left this position several months ago because I knew his shoes would be difficult to fill. I also knew that if anyone could fill them, it would be Martha, and she has done so very well. As Secretary of the Senate, she is ably assisted by Assistant Secretary of the Senate Jeri Thomson, Michelle Haynes, Ann Anderson, Dot Svendson, Barbara Muller, and Ray Strong, and his staff.

Knowing the Senate's complex rules and being able to interpret them is essential to the effective workings of the U.S. Senate. Parliamentarian Alan Frumin and his assistants, Kevin Kayes, Beth Smerko, and Richard Buckley, and Parliamentary Assistant Sally Goffinet provide competent and courteous service to all. We are fortunate to have them.

The Official Reporters of Debates prepare Senators' remarks for publication in the CONGRESSIONAL RECORD. Chief Reporter Chick Reynolds, his deputy Scott Sanborn, Morning Business editor Ken Dean and his assistant Elizabeth MacDonough, and the Official Reporters Frank Smonskey, Ron Kavulick, Jerry Linnell, Raleigh Milton, Joel Breitner, Mary Jane McCarthy, and Paul Nelson, and the transcribers all have my gratitude for jobs well done.

Thom Pellikaan and his staff, Linda Sebold and Kimberly Longsworthy, ably prepare the RECORD's Daily Digest.

A special thank you goes to Katie-Jane Teel and her staff who enable the hearing impaired to follow Senate floor action by providing closed captioning of Senate proceedings. They continue to set the standards of competence and accuracy in their field.

Taking recorded votes, preparing the Senate Calendar and managing the official papers is the purview of Scott Bates, the Legislative Clerk, and his assistant David Tinsley; Bill Clerk Kathie Alvarez Tritak and her assistants Mary Anne Moore and Christopher

Mann; Executive Clerk Brian Hallen and his assistant Tom Lundregun. The Senate Journal is prepared as required by the Constitution by Journal Clerk William Lackey and his assistants Mark Lacovara and Patrick Keating. All have my thanks for their tireless dedication to the Senate.

The other departments under the direction of the Secretary of the Senate perform the vital duties that keep this institution operating every day. These departmental directors should know that their service is noticed and appreciated not only by me, but by all Senators and staff.

Not to be overlooked are Kathryn Weeden, principal of the Senate Page School, and her faculty who see to the education of our Senate Pages. Their special dedication, and most notably their flexibility in scheduling, are to be commended.

The Senate Research facilities are simply superb, and their staffs are even better. No matter how difficult, how trivial, how absurd the question, they can always find the answer. For this, we thank the Senate Library, staffed by Librarian Roger Haley, Ann Womeldorf, Greg Harness, Donnee Gray, and others.

The capabilities of the Senate Library and the Congressional Research Service, headed by David Molhollan, to provide reliable information so quickly make them a fundamental part of the effective workings of the U.S. Senate.

In the same vein, I call attention to and express my appreciation for the work of Senate historian, Dr. Richard Baker, and the Senate Curator, James R. Ketchum. With the help of their talented staffs, they perform the invaluable service of documenting and preserving the history of this great institution and this historic building.

I also want to thank the Attending Physician, Dr. Robert Krasner, and his fine medical staff for helping to preserve the health of Members, staff, and visitors to the Capitol. Dr. Krasner is retiring this year, and I know he will be deeply missed by the congressional community.

Mr. President, in some way each of the individuals I have just named is an integral part of the daily operations of the U.S. Senate. I appreciate their willingness to serve their government and wish each of them the very best in the future.

AWARD A CONGRESSIONAL GOLD MEDAL TO LUBAVITCHER GRAND REBBE MENACHEM SCHNEERSON

Mr. D'AMATO. Mr. President, I rise today to comment on the passage of my bill to award a Congressional Gold Medal to Lubavitcher Grand Rebbe Menachem Schneerson.

The Grand Rebbe for over forty years, made generous and lasting contributions to the cause of peace and understanding in the United States and in the world, through his selfless acts of kindness and education. His dedication to enriching the lives of our youth is an enduring part of his legacy.

His generosity, his kindness, and his care for his fellow human beings was what made him such a revered leader. As such, the awarding of a Congressional Gold Medal, would be a just honor to the memory of his good deeds and his good works. I can think of no other man more deserving of such an award. I am pleased that Congress has bestowed this high honor upon a man so dedicated to peace and justice. It is a just tribute to his memory.

Thank you Mr. President.

WASTE LEGISLATION

Mr. SPECTER. Mr. President, I am pleased to support this vital legislation concerning municipal solid waste. It includes two components which control interstate shipments of waste and allow the control of waste within a local jurisdiction. Rather than reiterate my thoughts on the importance of legislation empowering States to restrict cross-border shipments of garbage, I would refer my colleagues to my remarks on September 30, 1994, in which I expressed my support for S. 2345, the Interstate Transportation of Municipal Solid Waste Act of 1994, which passed the Senate by unanimous consent.

During this session of Congress, we have encountered a new issue with respect to municipal solid waste—the issue of waste flow control. As a result, today we are also considering legislation which would restore local authority to control the flow of municipal solid waste.

On May 16, 1994, the Supreme Court held (6–3) in Carbone v. Clarkstown that a flow control ordinance, which requires all solid waste to be processed at a designated waste management facility, violates the Commerce Clause of the United States Constitution. In striking down the Clarkstown ordinance, the Court stated that the ordinance discriminated against interstate commerce by allowing only the favored operator to process waste that is within the town's limits.

As a result of the Court's decision, flow control ordinances in Pennsylvania and other States are considered unconstitutional. Therefore, it is necessary for Congress to enact legislation providing clear authorization for local governments to utilize waste flow control.

This issue is of vital importance to the local governments in Pennsylvania, as evidenced by the numerous phone calls and letters I have received from individual Pennsylvania counties and municipal solid waste authorities that support waste flow control legislation. The County Commissioners Association of Pennsylvania has pointed out that since 1988, flow control has been the primary tool used by 65 of the 67 Pennsylvania counties to enforce solid waste plans and meet waste reduction/recycling goals or mandates. Many Pennsylvania jurisdictions have spent a considerable amount of public funds on disposal facilities, including upgraded sanitary landfills, state-of-the-art resource recovery facilities, and co-composing facilities. In the absence of flow control authority, many of these worthwhile projects could be jeopardized.

I am pleased that the parties in interest on this legislation have been able to agree on a compromise that protects the ability of municipalities to plan effectively for the management of their municipal solid waste while also guaranteeing that market forces will still provide opportunities for enterprising companies in the waste management industry.

In conclusion, this legislation makes sense because in the absence of Federal legislation to empower States to restrict cross-border flows of waste, Pennsylvania and other States inevitably become dumping grounds for States that haven't bit the bullet and enacted realistic long-term waste management plans. Further, by restoring flow control authority, this legislation protects Pennsylvania and its component local jurisdictions, which have promulgated comprehensive solid waste management plans and established state-of-the-art facilities to handle waste generated within the Commonwealth.

I urge my colleagues to support this critical legislation.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER (Ms. MOSELEY-BRAUN). The Senator from California.

Mrs. BOXER. I thank the Chair. I just will say to the Senate, as soon as the majority leader is ready to speak, or the distinguished Republican leader, I will yield the floor at that time.

RETIREMENT OF SENATORS

Mrs. BOXER. Madam President, I should like to at least begin a few remarks about our retiring Senators as we wind down this 103d Congress. To DAVID BOREN, JOHN DANFORTH, DENNIS DECONCINI, DAVID DURENBERGER, HARLAN MATHEWS, GEORGE MITCHELL, HOWARD METZENBAUM, DON RIEGLE, and MALCOLM WALLOP, I want to send my warmest wishes for their personal happiness. Each of these men has ably represented the people of their State, and I am confident that each will know great success in the future.

Madam President, I wish to pay special tribute to three Senators with whom I have had the great privilege to work closely the past 2 years. Each has served as a shining example of what it

means to be a leader and a true public servant.

How can one say enough about HOWARD METZENBAUM? The man is a fighter for those who do not have a voice—for consumers, for those who cannot afford to pay high-priced lobbyists. You do not need a PAC or a high-powered lobbyist to get on HOWARD METZENBAUM's agenda. All you need is a belief in justice, and the good Senator will rally to your side.

Frankly, he has stood up for the little guy, for the ordinary person, and I hope that many of us will be able to work doubly hard so that we can continue his work.

When I was appointed to the Banking Committee, Madam President, with you, I did not fully realize how fortunate I was to be serving under the able leadership of DON RIEGLE. Senator RIEGLE is a highly professional man and a productive leader. He was successful in moving very important legislation. But really, when I think about what makes DON RIEGLE such a special legislator, it is not just his list of accomplishments; it is his heart, the way he feels about helping America's working family. And that, too, will be missed.

Just a few words about Senator MITCHELL, before he gets up to lead us through this very long and complicated end of the session.

In my opinion, Senator MITCHELL will go down in history as one of the greatest majority leaders of the Senate. With the Senator's record on the environment and his belief in people, he leaves a legacy as a champion for the ordinary people of this country.

In closing, I just want to add that the thing about Senator MITCHELL that is extraordinary is he never forgets his roots, and he never forgets his family and the sacrifices they made to give him the chance to become a great leader in this country. I think all too often some of us forget that, and we have to remember it. I think that his greatest legacy will be that message to all of us.

So I want to say to Senator MITCHELL how much I will miss him, how much all of us will miss him on both sides of the aisle. And to all of our colleagues who will not be returning for the 104th Congress, you will be missed, but your collective experience and wisdom has enriched this body. Your participation has made the Senate stronger than when you entered it.

Thank you very, very much, Madam President, and I yield the floor at this time.

The PRESIDING OFFICER. The majority leader, the Senator from Maine.

ORDERS FOR SATURDAY, OCTOBER 8, 1994

Mr. MITCHELL. I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. tomorrow; that the time for the two leaders be waived and that immediately upon the completion of the prayer, the Senate resume consideration of the conference report on S. 21, the California desert bill; that the time between then and 10 a.m. be equally divided between Senators JOHNSTON and WALLOP or their designees, and that at 10 a.m., without any intervening action or debate, the Senate vote on the motion to invoke cloture on the conference report, with the mandatory live quorum being waived; that if cloture is invoked, the Senate, without any intervening action or debate, vote on passage of the conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Madam President, I thank my colleagues for their cooperation. I thank the Senator from Wyoming.

The Senate will vote at 10 a.m. on the motion to invoke cloture on the conference report on the California Desert Protection Act. At 10 a.m. tomorrow, that vote will occur.

Madam President, we will then complete action on the nominations that have been pending. So I want to make that clear. We are going to complete action on the nominations.

Mr. LOTT. Madam President, may I inquire of the distinguished majority leader, if he will yield, what the schedule will be for the balance of the night?

Mr. MITCHELL. Madam President, I am hoping to have an announcement on that shortly. I am waiting for clearance from the distinguished Republican leader on one other matter which we must do at this time. As soon as I receive that, I expect shortly I will make an announcement with respect to this evening.

I thank my colleagues.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Madam President, is it in order for me to give remarks on the Glosson nomination at this time?

The PRESIDING OFFICER. Yes. The Chair, however, would like to make some announcements first.

APPOINTMENT BY THE REPUBLICAN LEADER

THE PRESIDING OFFICER. The Chair announces, on behalf of the Republican leader, pursuant to Public Law 96–114, as amended, the appointment of the following individuals to the Congressional Award Board: W. Russell King of Virginia; and Michael L. Lunceford of Texas.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

THE PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to P.L. 103–227, appoints the following individuals to the National Skill Standards Board:

Upon the recommendation of the majority leader: E. William Crotty of Florida, representing business; Katherine Schrier of New York, representing organized labor; Michael P. Riccards of West Virginia, representing human resource professionals.

And upon the recommendation of the Republican leader: Bruce Carswell of New York, representing business; Stephen L. Sayler of Kansas, representing human resource professionals.

APPOINTMENT BY THE VICE PRESIDENT

THE PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 86–380, appoints the Senator from Florida [Mr. GRAHAM] to the Advisory Commission on Intergovernmental Relations.

PROVIDING FOR AN ADJOURNMENT OF THE HOUSE AND THE SENATE

Mr. MITCHELL. Madam President, I ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 315, the adjournment resolution, that the resolution be agreed to, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 315) was considered and agreed to; as follows:

H. CON. RES. 315

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Friday, October 7, 1994 pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand adjourned until noon on Tuesday, November 29, 1994, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first; and that when the Senate adjourns or recesses at the close of business on any day from Friday, October 7, 1994 through Friday, October 14, 1994, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand recessed or adjourned until 9 a.m., on Wednesday, November 30, 1994, or such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first.

Sec. 2. When the House adjourns on the legislative day of Tuesday, November 29, 1994, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand adjourned sine die, or until noon on the second

day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution; and that when the Senate adjourns at the close of business on Thursday, December 1, 1994, it stand adjourned sine die, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution.

Sec. 3. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Madam President, further, as if in executive session, I ask unanimous consent that immediately following disposition of S. 21, the Senate proceed to executive session to consider the nomination of Lieutenant General Buster Glosson, that is Executive Calendar 1280; that there be 25 minutes for debate divided as follows: 15 minutes under the control of Senator GRASSLEY, 5 minutes under the control of Senator NUNN, and 5 minutes under the control of Senator THURMOND; that following the using or yielding back of time, the Senate vote, without any intervening action, on the nomination; that if confirmed, the motion to reconsider be tabled and the President be notified of the Senate's action and, further, that the cloture motion filed on this nomination be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF LT. GEN. BUSTER C. GLOSSON

Mr. LEVIN. Madam President, seven members of the Armed Services Committee voted against the confirmation of General Glosson to retire as a three-star. I was one of the seven that voted against that nomination. I will vote against it if it comes to the floor because I believe that to vote for General Glosson to retire as a three-star would reward a high-ranking military officer who recently violated a very important principle of military ethical conduct.

Approval of that nomination, I believe, will send the wrong message about the seriousness of that misconduct. On the central question of whether Lieutenant General Glosson improperly attempted to interfere with the promotion process, there is agreement among the Department of Defense and the Air Force inspectors general and the special panel of factfinders appointed by the Secretary of Defense. They agreed that General Glosson attempted to interfere with that board. That fact alone, I believe, is so serious that it is sufficient to deny him Senate confirmation of retirement as a three-star general.

The special panel of factfinders appointed by the Secretary of Defense, at the suggestion of the Senate Armed Services Committee, agreed and emphasized this finding in its report. I want to read from the factfinders' unanimous report:

We must conclude that LTG Glosson was improperly attempting to influence the promotion.

And in another part of their report:

The board selected by the Department of Defense in a finding accepted by the Department of Defense—

And I believe accepted by even the majority of the Armed Services Committee.

said that we believe that LTG Glosson was attempting to influence the promotion.

Those are chilling words. It was his sworn duty not to try to influence a promotion board. It is serious business when you attempt to influence a promotion board in the military. I repeat this because this is the heart of the matter. Did he lie or did he not lie? And I will get to that in a moment.

But the heart of the findings of this independent panel is that Lieutenant General Glosson improperly attempted to influence the promotion—not that he should have known, not that he might have been construed to, not that he inadvertently did something, not that it might appear that he did something. The finding is that he attempted improperly to influence a promotion. The DOD inspector general, Derek Vander Schaaf, reached the same conclusion, that Lieutenant General Glosson's communications were highly improper.

Retiring in grade above two stars, with an additional pension, requires Senate confirmation because it is a reward for exemplary service. It should not be a right. It should not be automatic.

General Glosson's actions to influence the promotion board through improper communication violated regulations and basic principles of honorable conduct to which he, as a high-ranking officer, was especially responsible to adhere to.

Officer promotion boards are near sacred. The committee has witnessed problems with these boards in the past, with the Air Force, Navy, and Marine Corps; and has done extensive work over the past several years to try to maintain the integrity of the military services' promotion system and to prevent unauthorized interference with promotion boards.

The committee was so concerned that it instructed the Department of Defense to look at the selection process in all of the services. And in 1991, the committee passed legislation specifically relating to promotion board procedures.

In 1992, the committee completed a report on the conduct of proceedings for the selection of officers for promotion in the United States Air Force. In that report, the committee found, "there were serious, significant deficiencies in Air Force promotion practices," and warned the following:

The fair and impartial conduct of the selection process is a matter of great concern to the committee. The integrity of the selection process is essential to the integrity of the officer corps. Adherence to established laws and regulations is necessary to ensure that the best qualified officers are selected for promotion and that the officer corps has confidence in the integrity of the selection process.

If we approve this nomination when we know—indeed, I believe it is conceded in the majority report, as was found by the independent panel—that General Glosson improperly attempted to interfere with the promotion board, I believe it will undermine our efforts to promote integrity in the military services promotion system.

Early on in the Senate Armed Services Committee proceedings in this matter, the main issue was whether or not Lieutenant Glosson lied about his actions. The November 1993 inspector general's report concluded that, "Lieutenant General Glosson improperly communicated with the complainants"—that is the three generals who blew the whistle on him, that had enough guts and courage to blow the whistle on a fellow officer. The finding is that he improperly communicated with those three generals and did so with the intent to influence—"with the intent to influence their consideration"—of the officer being considered for promotion during that selection board. The inspector general also found that Lieutenant General Glosson lied under oath "during our interview in describing the nature and circumstances of his communications to the complainants"—that is to the three generals who blew the whistle—"and Lieutenant General Glosson lied in his comments to those three generals." The special fact finders that reviewed the inspector general's report and the related materials agreed with the inspector general that the three generals that Glosson improperly contacted were telling the truth about those contacts. And this is what the fact finders said, this independent panel.

In sum, we believe that the preponderance of evidence shows that the three conversations happened substantially as Lieutenant General Nowack, Ryan, and Myers recall. [Those are the three generals.] And that Lieutenant General Glosson improperly attempted to influence the promotions.

This is what the panel went on to say:

We wish to be absolutely clear that in our view Generals Nowack, Ryan, and Myers were truthful to the inspector general's investigators and to us.

Indeed, the three fact finders praised those three generals for their actions after the improper contact, noting that all three generals contacted by General Glosson, "were truthful, acted with integrity in reporting what they considered to be inappropriate attempts to

influence a promotion board, and then asking to be excused from service on the board."

They had to ask to be excused from service because of the improper contacts.

And the independent panel then went on to say that their actions in this regard were proper and helped maintain the integrity of the Air Force promotion system. Then the independent panel found that General Glosson remembered the events incorrectly, as distinguished from intentionally lying. He just remembered wrong. And the independent panel said Lieutenant General Glosson thinks his version is accurate, and that it represents fairly what at this point he recalls. In short, the panel found, we believe that he is not deliberately lying, but is simply mistaken.

Now, the line that the fact finders attempted to draw in my book is too fine to be seen by me. But, frankly, that is not the problem. The problem is that even though the truthfulness issue might be finessable, what is not finessable is the finding of the fact finders—those same fact finders—that General Glosson attempted improperly to influence a promotion board. That is the stark finding of the fact finders. And of the Department of Defense inspector general.

That is serious business. Just how seriously we take it will be determined, I believe, tomorrow. And just what type of signal we send out—we, the Senate, send out about this attempt to improperly influence, will be determined by this vote tomorrow.

Now, this is not easy for me to say because I happen to know that General Glosson has had an extremely distinguished career. And it is never easy to reach this kind of conclusion. But I believe that that finding of that panel, which we asked to be created and which apparently is accepted, leaves us no alternative if we are going to be serious about our own statements of just how important these promotion boards are.

So, that is what we are faced with—no fun. But that is what we are faced with. And we may want to try to say he has been punished enough because he might have gotten a fourth star had he continued and he retired early because of this problem. We can all speculate as to whether he would have been promoted further or would have achieved even greater success. That is speculation. That is not our decision, or our vote.

We have to vote, we have to make a decision, we have to send a signal as to whether or not we are going to, in effect, I believe, reward, to give him a privilege that he is not entitled to or it would not be in front of us for confirmation. It is in front of us for confirmation because it is not automatic. It is in front of us for confirmation because we must reach a judgment. And when confronted with a finding as stark as the finding of an independent panel that he attempted to improperly influence the promotion board, I believe that no matter how difficult it is for us, that we must say that this nomination cannot be confirmed if we are serious about the integrity of the promotion boards in the Air Force.

Madam President, in closing, I want to commend the chairman of the Armed Services Committee, because I think that, in the approach he has taken, he has laid out the facts before us for our judgment.

It was a difficult committee decision. It was a 14-to-7 vote, with Members on both side of the aisle voting both ways. Minority findings were filed by myself and Senators GLENN and KEMPTHORNE.

As difficult as it was, I believe that chairman, in attempting to lay out the facts of this case for us, has done the Senate a real service so that then we can judge whether or not we, as a Senate, want to put, in effect, our approval on a retirement as a three-star for someone who so recently has been found by an independent panel to have violated a very important ethical standard of the Air Force.

I thank the Chair and I yield the floor.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader, the Senator from Maine.

Mr. MITCHELL. Madam President, there will be no further rollcall vote this evening. A rollcall vote will occur at 10 a.m. tomorrow morning. All Senators are requested to be present at that time for that vote.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Madam President, I now ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar Order Nos. 1092, 1289, 1318, 1322, 1334, 1335, 1336, 1337, 1338, 1339, 1340, 1341, 1342, 1343, 1344, 1345, 1346, 1353, 1354, 1355, 1356, 1369, 1370, 1385, 1387, 1388, 1389, 1391, 1392, 1393, 1394, 1395, 1396, 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404, 1405, and 1406.

I further ask unanimous consent that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that upon confirmation, the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF THE TREASURY

Valerie Lau, of California, to be Inspector General, Department of the Treasury.

THE JUDICIARY

David F. Hamilton, of Indiana, to be United States District Judge for the Southern District of Indiana.

DEPARTMENT OF STATE

Thomas E. McNamara, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be an Assistant Secretary of State.

THE JUDICIARY

Vanessa Ruiz, of the District of Columbia, to be an Associate Judge of the District of Columbia Court of Appeals for the term of fifteen years.

Diana E. Murphy, of Minnesota, to be United States Circuit Judge for the Eighth Circuit.

Fred I. Parker, of Vermont, to be United States Circuit Judge for the Second Circuit.

William T. Moore, Jr., of Georgia, to be United States District Judge for the Southern District of Georgia.

David A. Katz, of Ohio, to be United States District Judge for the Northern District of Ohio.

Sean J. McLaughlin, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

Elaine F. Bucklo, of Illinois, to be United States District Judge for the Northern District of Illinois.

Robert W. Gettleman, of Illinois, to be United States District Judge for the Northern District of Illinois.

Helen W. Gillmor, of Hawaii, to be United States District Judge for the District of Hawaii.

Roslyn Moore-Silver, of Arizona, to be United States District Judge for the District of Arizona.

Alvin W. Thompson, of Connecticut, to be United States District Judge for the District of Connecticut.

William H. Walls, of New Jersey, to be United States District Judge for the District of New Jersey.

Sven E. Holmes, of Oklahoma, to be United States District Judge for the Northern District of Oklahoma.

Vicki Miles-LaGrange, of Oklahoma, to be United States District Judge for the Western District of Oklahoma.

DEPARTMENT OF JUSTICE

Sheldon C. Bilchik, of Maryland, to be Administrator of the Office of Juvenile Justice and Delinquency Prevention.

STATE JUSTICE INSTITUTE

Joseph Francis Baca, of New Mexico, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1995.

Robert Nelson Baldwin, of Virginia, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1995.

Florence K. Murray, of Rhode Island, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1995.

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

Alan J. Dixon, of Illinois, to be a Member of the Defense Base Closure and Realignment Commission for a term expiring at the end of the first session of the 104th Congress.

Alan J. Dixon, of Illinois, to be a Chairman of the Defense Base Closure and Realignment Commission.

ENVIRONMENTAL PROTECTION AGENCY

Frederic James Hansen, of Oregon, to be Deputy Administrator of the Environmental Protection Agency.

DEPARTMENT OF EDUCATION

G. Mario Moreno, of Texas, to be Assistant Secretary for Intergovernmental and Interagency Affairs, Department of Education.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Joel David Valdez, of Arizona, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 1998.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Jorge M. Perez, of Florida, to be a Member of the National Council on the Arts for a term expiring September 3, 1998.

THE JUDICIARY

James A. Beaty, Jr., of North Carolina, to be United States District Judge for the Middle District of North Carolina.

David Briones, of Texas, to be United States District Judge for the Western District of Texas.

Okla Jones III, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

G. Thomas Porteous, Jr., of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

James Robertson, of Maryland, to be United States District Judge for the District of Columbia.

Thomas B. Russell, of Kentucky, to be United States District Judge for the Western District of Kentucky.

Kathleen M. O'Malley, of Ohio, to be United States District Judge for the Northern District of Ohio.

DEPARTMENT OF JUSTICE

Charles R. Wilson, of Florida, to be United States Attorney for the Middle District of Florida for the term of four years.

Steven Scott Alm, of Hawaii, to be United States Attorney for the District of Hawaii for the term of four years.

Eisenhower Durr, of Mississippi, to be United States Marshal for the Southern District of Mississippi for the term of four years.

Michael R. Ramon, of California, to be United States Marshal for the Central District of California.

Michael D. Carrington, of Indiana, to be United States Marshal for the Northern District of Indiana for the term of four years.

Robert Bradford English, of Missouri, to be United States Marshal for the Western District of Missouri for the term of four years.

John R. Murphy, of Alaska, to be United States Marshal for the District of Alaska for the term of four years.

Herbert M. Rutherford III, of the District of Columbia, to be United States Marshal for the District of Columbia for the term of four years.

Robert Moore, of Illinois, to be United States Marshal for the Central District of Illinois for the term of four years.

STATEMENT ON THE NOMINATION OF FRED I. PARKER

Mr. LEAHY. Mr. President, when I recommended Judge Parker to the President in June, I noted that there then existed three vacancies among the 13-member Court of Appeals for the Second Circuit. I am delighted that with the confirmation of Judge Parker, the President will have nominated and the Senate will have confirmed three outstanding appointments to fill the vacancies on this important court with jurisdiction over Vermont, Connecticut, and New York with nominees from each of its component States.

When the Senate considers judicial nominees, we often speak about the special qualities a lawyer needs to fill a seat on the Federal bench. We speak of legal acumen, we speak of experience in the law, we speak of judicial temperament. These are qualities only a select few lawyers possess.

From my knowing Judge Parker for more than 30 years—first as a fellow law student at Georgetown and then after we returned to Vermont—I know well that he has all of the attributes needed to be an outstanding judge, in the great tradition of the Vermont bar and the second circuit. I believe that the President has selected a worthy successor to our respected James Oakes, former chief judge of this historic court.

Judge Parker has served with distinction since his confirmation to the district court in 1990. Before his appointment to the Federal bench, Judge Parker was recognized as among the Vermont bar's finest attorneys. His legal career and life experiences have been broad and he brings that knowledge and good sense with him to the bench.

Public service in the Vermont Attorney General's Office, a diverse civil and criminal practice in Vermont State and Federal courts, an outstanding record at Georgetown Law School, have all helped prepare Judge Parker. It came as no surprise to me that the Vermont bipartisan nominating commission returned Judge Parker's name as best qualified to fill this important post.

In addition to his qualifications and background, Judge Parker possesses the quality essential to outstanding judges, the ability to be fair. No matter what the cause or whom the litigant, I have every confidence that Judge Parker will provide a fair and impartial hearing. Whether a petitioner is rich or poor, or a cause popular or not, Judge Parker will listen with an open mind and apply the law fairly in a manner that accords with the best traditions of Vermont common sense and justice.

If you look at the range of his opinions, you will see this to be true. For that reason above others, I am pleased that President Clinton made this nomination. Judge Parker is a man of integrity and independence—a judge who calls them as he sees them.

Fred Parker is a good friend, husband, father, and Vermonter. More importantly my friend Fred Parker will be an exceptional judge.

When I was considering my recommendation to President Clinton, I reached across party lines to Judge Parker. I am proud that the President saw fit to accept my recommendation. When the President made his selection, he demonstrated that he chooses nominees for lifetime judicial appointments based on the qualities and qualifications of the person rather than on political party or any litmus test.

Finally, I wish to acknowledge the associate counsel to the President Victoria Radd for her professionalism and attention to this nomination and to thank my colleagues on the Judiciary Committee for approving this nomination in short order. I greatly appreciate the help of our chairman, Senator BIDEN, and our ranking Republican, Senator HATCH.

Madam President, I should note that I see the distinguished Senator from Vermont, Mr. JEFFORDS, on the floor. I know he will speak later on this.

I note my sense of pride and I am sure Senator JEFFORDS' sense of pride upon the confirmation of Fred Parker. This is a judge whose career has actually touched both of us.

Fred Parker was a schoolmate of mine at Georgetown Law School. We have known each other for over 30 years. When he came to Vermont, he came as the deputy attorney to then Attorney General JAMES JEFFORDS and served in that function in an exemplary fashion.

It was Senator JEFFORDS who recommended him to be a district judge, with my strong support. He has served the State of Vermont in a fantastic fashion in that regard.

And, even though Senators normally do not get their choices automatically for circuit court of appeals judges, I went to President Clinton and recommended him, saying that even though we were of different parties, we both felt that Vermonters deserve the best.

I join my friend, JIM JEFFORDS, in congratulating Fred Parker on his confirmation at this witching hour of the night.

STATEMENT ON THE NOMINATION OF ROSEMARY BARKETT

Mr. BIDEN. Mr. President, during the April 14, 1994, floor debate on the nomination of Rosemary Barkett, some editorial material was placed in the RECORD suggesting that information about the nominee was leaked to journalists by a member of the Republican Judiciary Committee staff. To my knowledge, Republican staff mailed copies of Justice Barkett's opinions and their own summaries thereof. That type of information is not considered confidential information by the committee.

STATEMENT ON THE NOMINATION OF SENATOR ALAN J. DIXON

Mr. NUNN. Mr. President, I am pleased to support the nomination of our former colleague Senator Alan Dixon to be the chairman of the Base Closure and Realignment Commission. This Commission has a very important function to perform next year, and I think President Clinton has made an excellent selection in nominating Senator Dixon to the chairman.

The Defense Base Closure and Realignment Act of 1990 set up a process to close and realign military bases in the United States that is fair, objective, nonpartisan, and open to the public. The Defense Department is currently implementing the base closures from the 1988, 1991, and 1993 Base Closure Commissions.

Overall, DOD is closing 70 major bases and realigning 38 others in the United States, as well as implementing over 200 smaller closures and realignments. Once all of these closures and realignments are implemented by the end of this decade, the annual savings to the Defense budget will be approximately $4 billion per year. That is a good record of achievement, but there is much more to be done.

By fiscal year 1999, the Defense budget will decline by more than 40 percent in real terms from the mid 1980's, and the size of the military services will drop by almost 30 percent from 1990 levels. At the same time, our domestic base structure has been reduced by only 15 percent in the first three rounds of base closings.

If we are going to maintain the readiness of our Forces, provide for needed modernization, preserve the Bottom-Up Review force levels, and improve the quality of life for our military members and their families under the current budget levels, we are going to have to make further reductions in our base infrastructure.

Back in January of this year, Secretary Perry gave the military departments and overall goal of 15 percent reduction in plant replacement value as the minimum goal for the 1995 base closure and realignment process. If DOD meets this goal, the 1995 base closures and realignments will be much more extensive than any of the three previous rounds—making the job of the next Base Closure and Realignment Commission even more challenging than in the past.

Few people have more experience with all aspects of the base closure process than our former colleague Alan Dixon. As a legislator, Senator Dixon played a key role in the Armed Services Committee in drafting the legislation that set up the current base closure process. As a subcommittee chairman on the Armed Services Committee, he took the lead in the committee's oversight of the 1988 and 1991 base closure rounds. As a Senator from Illinois, he saw first-hand the economic consequences of the base closure process when he worked closely with communities in his State that experienced the closure of a military base.

All of us who worked closely with Senator Dixon on the Armed Services Committee during his tenure in the Senate know that he is a person of great integrity with the leadership ability to deal with difficult issues in an open, even-handed manner. As chairman of the Subcommittee on Military Readiness, Sustainability and Support, Senator Dixon earned the respect of every member of the Armed Services Committee for his expertise on military support and infrastructure issues.

Although this nomination was not received in the Senate until Tuesday of this week, the Armed Services Committee carefully followed all our standard procedures in considering this nomination. Senator Dixon responded in writing to prehearing policy questions on some of the major issues in the area of base closings. These written questions, along with his completed committee questionnaire, will be made a part of the committee's published record of this nomination. The committee has also received and reviewed the standard material from the executive branch required of all nominees for service on the Commission.

On Wednesday afternoon, the committee held a confirmation hearing with the nominee. At that hearing, Mr. President, Senator Dixon stated his strong commitment to carry out both the letter and the spirit of the base closure statute to conduct the business of the Commission in an open, fair, and objective manner.

As we consider the nomination of the next chairman of the Base Closure and Realignment Commission, I want to recognize the service of the previous chairman. Congressman Jim Courter chaired both the 1991 and the 1993 Base Closure and Realignment Commissions, and he did an excellent job. His leadership of the Commission and his strong commitment to the integrity of the process established by the Base Closure and Realignment Act of 1990, resulted in the complete endorsement of the 1991 and 1993 Commission recommendations by both the President and the Congress.

Mr. President, the base closure process is a painful but necessary process, and serving as chairman of the Base Closure and Realignment Commission is a thankless but very important job. I appreciate Senator Dixon's willingness to take on a very difficult assignment.

Once confirmed, Senator Dixon will assume the office of chairman of the Base Closure and Realignment Commission and serve through the end of 1995, the statutory termination of the Commission. In order for the Commission to carry out it responsibilities next year, it is important for the chairman to be appointed promptly so that staff can be hired and all of the other necessary preparations can be made.

Mr. President, I hope all of my colleagues will join me in supporting Senator Alan Dixon's nomination to be the chairman of the Base Closure and Realignment Commission.

JUDICIAL NOMINATIONS

Mr. BIDEN. Mr. President, I would like to take this opportunity to acknowledge the tremendous effort of the members of my staff who have worked tirelessly to process the nominations of hundreds of judges, U.S. attorneys, U.S. marshals, and other Department of Justice nominees. As of today, the Senate has confirmed district and circuit court nominees this Congress—100 in this year alone. Only once in the last 16 years has the Senate confirmed this number of judges in a single session of Congress. It has been an extraordinary feat.

Reviewing and processing these nominations is one of the most difficult aspects of our work on the committee. It is a job that we all take very seriously and I am proud that my staff approaches the task with diligence and care.

Cathy Poston, chief nominations counsel to the Senate Judiciary Committee, has the unenviable responsibility of ensuring the careful review of every nomination approved by the committee. She has accomplished this task with the utmost professionalism and unfailing good humor. I have relied heavily on her excellent judgment and her knowledge of the law. Mary DeOreo, committee investigator, and the committee's two nominations counsels, Kirra Jarratt and Daniel Cort, have made herculean efforts to process nominees carefully. Each is committed to a fair, but thorough examination of the nominees before the committee. They have been ably assisted in this effort by Sarah DeLeo, who as the chief nominations clerk has the difficult job of keeping track of every single nomination that passes through the committee.

I would also like to acknowledge the tremendous cooperation of Senator HATCH and his excellent staff. Mark Disler, Manus Cooney, Sharon Prost, Ed Whelan, Jim Phillips, Shawn Bentley, and Anna Cabral have carefully reviewed each nominee. While there were a few instances in which there were disagreements on ideology, the investigative portion of our work has always done professionally and on a bipartisan basis.

These staff members have worked hard to help Members of the Senate move their nominees through the Senate. Moreover, they have played an invaluable role in addressing the problems created by the extraordinary number of judicial vacancies. For that,

each of us owes our respect and deep gratitude.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

UNFUNDED MANDATES

Mr. KEMPTHORNE. Will the majority leader yield for a question?

Mr. MITCHELL. Yes; certainly, I yield to the Senator.

Mr. KEMPTHORNE. I would like to ask our distinguished majority leader, it is my understanding that S. 993, the unfunded mandates legislation, is the underlying pending business. Can you give me what the intent will be, when we come in tomorrow and we deal with the other business, how we will deal with S. 993?

Mr. MITCHELL. Well, as the Senator knows, I support S. 993, the unfunded mandates bill, and moved to bring the bill before the Senate. Unfortunately, several amendments were offered to it and there are now, I believe, three amendments pending to the bill.

When we return tomorrow, we will first have to vote on the motion to end the filibuster on the California Desert Protection Act. Then, under an order, when we dispose of that, we will proceed to vote on one of the three nominations, and then two further filibusters will remain in place with respect to two pending nominations.

I do not know now and have no present way of knowing how long those will go on. I hope it will not be days, but it could be. Following disposition of those, I will then consult with the distinguished Republican leader before making any decisions with respect to the schedule further.

I wish we could pass the unfunded mandates bill.

Mr. KEMPTHORNE. I thank the majority leader.

I just note that we do have 67 Senators who are cosponsors of the bill, so two-thirds of the Senate support in joining you in saying we should pass this bill before we adjourn.

Mr. MITCHELL. I sure hope so. I should say to the Senator, we had another bill on our side on which we had 99 Senators for it and we were not able to pass that. So sometimes that happens.

NORTHEAST INTERSTATE DAIRY COMPACT

Mr. LEAHY. Madam President, it is with disappointment that I rise today.

I had hoped to bring before this body a matter of vital interest to my State and to all of New England. What I wanted to bring before this body was a bill to grant congressional consent to the Northeast Interstate Dairy Compact.

Now, Madam President, the distinguished majority leader, GEORGE MITCHELL, has worked so hard on this matter. Senator MITCHELL has joined with both Republicans and Democrats, the Governors of every State in New England, the Senators of every State in New England to try to pass this compact.

It is, however, being filibustered, and I am sorry that the Senator who is filibustering it is not here on the floor, but I understand that he would object to it being here. And because of the gridlock we are facing us it will not go forward. It is unfortunate.

Madam President, I incidentally compliment the Presiding Officer for her support. When this was before the Senate Judiciary Committee I thank her for her willingness to let this come to the floor of Senate, and I realize her own concerns about aspects of it, but to at least allow the Senate to vote on it.

I have no idea how she might have voted had it come to the floor of the Senate, but she was willing to allow it to come to a vote and not filibuster it.

We all understand that interstate compacts are agreements among two or more States. The Constitution allows these interstate compacts. It is a way for States to work together on issues of interest to their citizens.

For 200 years, following our Constitution, Congress has had this history of approving these compacts. In fact, I might say, Madam President, and to my colleagues on the floor at this midnight hour, Congress has a long history of approving these compacts. We approved several in the past few days.

Here we have a compact where all six State legislatures in New England came together and voted for it.

I might say, Madam President, if we think of New England as this kind of unique bicameral unified group of States, it is anything but. If there are a number of States more unique, more individualistic than the States of New England, I know of none. Vermont, New Hampshire, Maine, Massachusetts, Connecticut, Rhode Island, every one of these States are extraordinarily different, but they came together on this one issue.

It passed incidentally overwhelmingly by the legislatures in each State.

Now, it has to be approved by Congress to take effect, but it is an idea that originated in New England. People criticize Washington for being unresponsive to the States. They criticize Washington for being unresponsive to anybody outside the beltway. Here was a time when we could have proven them wrong. We could let the New England States do something on their own.

But unfortunately, the Senator has blocked this in the wee hours, waning hours of this Congress. Using the rules he has the right, but I questioned his reason in doing it.

The compact is simple. It would form a commission made up of representatives from each State in New England. The commission would be made up of both farmers and consumers. It would have the authority to set prices for fluid, or drinking milk, above the minimum prices set by the New England Federal milk marketing order.

The compact's purpose is simple. It brings some fairness and sanity to milk pricing. Dairy farmers in Vermont and New England are receiving less for their milk than it cost to produce it. The people of New England want to take more control over how prices are set. The New England States want to help farmers by giving them a fair return for their work, and consumers want to have some kind of voice in setting stable milk prices.

As I said earlier, the compact was supported overwhelmingly by the State legislatures in New England.

Connecticut is not a major dairy State, but it passed 143 to 4 in the Connecticut House. It passed 38 to 0, as I recall, in the Rhode Island Senate.

(Mr. LEVIN assumed the chair.)

Mr. LEAHY. In fact, Mr. President, I ask unanimous consent that the vote tallies in each State legislature be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NORTHEAST INTERSTATE DAIRY COMPACT COMMITTEE—INTERSTATE COMPACT LEGISLATIVE PROCESS

Connecticut: (P.L. 93–320) House vote = 143–4; Senate vote = 30–6. (Joint Committee on Environment voted bill out 22–21; Joint Committee on Government Administration and Relations voted bill out 15–3; Joint Committee on Judiciary voted bill out 28–0)

Maine: Originally adopted Compact enabling legislation in 1989 (P.L. 89–437) Floor votes and Joint Committee on Agriculture vote not recorded. The law was amended in 1993. (P.L. 93–274) House vote = 114–1; Senate vote = 25–0. (Joint Committee on Agriculture vote not recorded)

Massachusetts: (P.L. 93–370) Approved by unrecorded voice votes.

New Hampshire: (P.L. 93–336) Senate vote = 18–4; House vote = unrecorded voice vote; (Senate Committee on Interstate Cooperation vote = unrecorded voice vote; House Committee on Agriculture voted bill out 17–0.)

Rhode Island: (P.L. 93–336) House vote = 80–7; Senate vote = 38–0. (House Committee on Judiciary voted bill out 11–2; Senate Committee on Judiciary voice vote not recorded.)

Vermont: Originally adopted Compact in 1989. (P.L. 89–95) House vote = unanimous voice vote; Senate vote = 29–1. The law was amended in 1993. (P.L. 93–57) Floor voice votes, and House and Senate Agriculture Committees voice votes, not recorded.

Mr. LEAHY. But it appears we are going to have to wait until next year.

A lot of major initiatives have been derailed by gridlock here in the last few weeks of the session.

I guess in a year of filibusters and gridlock the northeast interstate dairy compact was another victim.

But my distinguished colleague from Vermont, Senator JEFFORDS and I have worked very, very hard on this piece of legislation forming a bipartisan alliance on it. In fact our distinguished colleague in the House, Congressman BERNARD SANDERS, also worked very, very hard on it. If you want to have a nonpartisan alliance, Mr. President, this is one Democrat, one Republican, and one independent making up the whole congressional delegation for Vermont. We all join in this, one Democrat, one Republican, one independent. We all agree.

I will admit that Senators on my side of the aisle have been instrumental until delaying the dairy compact. They were unwilling to set a time agreement despite the fact that the sponsors offered them many compromises including one that made it very, very clear, and Senator JEFFORDS and I pointed out this compact would not affect other regions. The milk processor lobby also fought this bill, and that is a powerful lobby I understand. But when the milk processor lobby fights such a bill it should come as no surprise because they fight every blooming bill that might help a dairy farmer.

The Northeast Dairy Compact matter has been debated nearly 7 years in the States of New England. It is an idea from the grassroots. It is rooted in our deepest tradition of federalism. It is a way for the New England States to solve the problem on their own by taking more control of our milk pricing.

Time is running out for many hard working dairy farmers of New England. The men and women in New England who are dairy farmers are among the hardest working people we will see any place in this country. I have to tell them they have to wait for next year.

Mr. President, I ask unanimous consent to print in the RECORD a letter I received from a farmer in Richford, VT.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Richford, VT, September 13, 1994.

Hon. PATRICK LEAHY,

Attn: CHUCK ROSS VT State Director, Courthouse Plaza, Main Street, Burlington, VT.

DEAR SENATOR LEAHY: Prompt action is needed on the Proposed Northeast Dairy Compact. Our small Vermont farms cannot continue with milk prices falling as they are. We need these farms to preserve our beautiful state and close knit farm families.

It pains me to see my daughter and son-in-law struggle to continue milking cows with no financial reward.

Sincerely,

CLINTON F. HOLMES.

Mr. LEAHY. Mr. President, it is a poignant testimony to this problem. It is a short letter. He is saying he hopes his children will be able to continue farming. It is a short letter. But in many ways it speaks more volumes than all of the hours of hearings and debate that we had on this bill and we have had hours of hearings. We have had hours of debate to get this far.

So I want to thank some people who worked so hard on this measure. I thank Danny Smith and Bob Gray, who have worked tirelessly for this measure. I thank Tom Cosgrove of my own staff of the Senate Agriculture Committee, who has given up evenings and weekends, who has traveled to Vermont, who has worked so hard on this, and I am proud to have him here on the floor of the Senate with me.

I appreciate the work of my good friend and colleague, Senator JEFFORDS. I cannot even think of the number of hours he spent buttonholing other Senators and calling them and proving to them this is a bipartisan effort.

I thank the outstanding efforts of my two Judiciary Committee colleagues, Senator KENNEDY from Massachusetts, who worked so hard on the Democratic side of the aisle, and Senator COHEN of Maine, who worked so hard on the Republican side of the aisle. They were instrumental in our ability to favorably report the bill from the committee.

But it is especially important to commend the majority leader, Senator GEORGE MITCHELL. Senator MITCHELL has been with us from the beginning. He has been a wonderful leader. Frankly, I wish he could be our leader on our side for as long as I remain in the Senate. He is going to be impossible to replace.

But I believe it is to his credit as we wind down this session that support for the bill comes not because he is majority leader, but it comes as his being a Senator from the great State of Maine, fighting for a bill that would help the farmers in his State who would be put in a very difficult situation. He has been always, first and foremost, a man who reflects the heart and soul of the very special region and a very special people.

Mr. President, I see my friend and colleague from Vermont, Senator JEFFORDS, and I will yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, first of all, I thank my senior colleague from Vermont for his very articulate and well-expressed thoughts upon the matter of the Northeast Dairy Compact and also most assuredly second his comments on our new second circuit judge, Judge Parker. I will put in an appropriate statement in the RECORD tomorrow with respect to his nomination.

NORTHEAST DAIRY COMPACT

Mr. JEFFORDS. Mr. President, last summer, the heavens opened and much of the Midwest was flooded. We did exactly what we should have done, we provided the farmers and others out there with all the help we could.

I suppose if we had sharpened our pencils and engaged in a bloodless cost-benefit analysis we would not have done so. After all, why should our tax dollars subsidize other farmers?

When the Southeast had a serious drought several years ago, our farmers went out and got extra hay out of their fields, and I had the honor and pleasure and fun of being an engineer on a train that carried the hay from one end of Vermont to the other as we collected it and sent it down to the Southeast in order that their farmers could make it through that very bad summer.

Farmers in my State have always pitched in to help others, whether it was floods in the Midwest or drought in the South.

But what baffles me today is that some of my colleagues from the Midwest were engaged in an even more extreme calculation. Despite the fact that the New England dairy compact would have no impact on States outside the region, a small group of my colleagues seemed hell bent on destroying it.

The logic escapes me. This bipartisan scorched earth policy seems to have so infected this place that spite seems to rule rather than reason. Right now we could not ship milk from this place, the somatic cell count is so high.

What is this terrible monster that we propose? It is a simple effort by the people of six States to control their destiny. I say the people and I mean it. This compact has been the product of six very different legislatures, and six very public processes.

These States, Republicans and Democrats, farmers and consumers, from the concrete of the cities to the rocky hillside farms, all pulled together to agree on the future of those farms.

The compact would provide a mechanism for New England States to coordinate their efforts to establish price stability for both farmers and consumers. We would improve milk markets and milk marketing in the compact region. The compact would set up a commission representative of the milk producer, marketer, and consumer interests in each New England State.

The bill itself is the formal product of a thorough interstate legislative process. The six New England legislatures carefully dissected all of the issues involved, assessing and considering consumer protection, potential impact on the marketplace, both regional and national, and the benefit to the dairy farmers. I believe, as do many of my colleagues, that the compact strikes a successful balance among the different concerns.

The compact provides a benefit to the region's farmers and consumers. There would be no adverse impact on either the national dairy industry or the Federal Marketing Agreement Act which regulates the industry. Let me repeat that. There would be no adverse impact on other farmers in this Nation.

On a different day, many of my colleagues who oppose the compact would

agree with me that it is in the best interest of consumers and rural areas that supplying dairy farms remain local, as well as productive and stable. Ensuring a local supply of fluid milk to the region is in the best interest of the consumers and processors. Stabilizing farm prices is one way to help ensure that dairy farmers can continue to supply fresh, high quality fluid milk to the local markets.

Our dairy farmers are receiving milk prices well below the cost of production. Current milk prices to farmers are as low as they were over 10 years ago, yet the cost of production and price to the consumer have increased. The compact would protect the interests of consumers located within the compact region. Farmers and consumers would both benefit from the compact's ability to establish a more stable price structure for the milk they produce and purchase, removing the fluctuations in fluid milk prices, assuring the region a viable supply of locally produced milk.

Mr. President, as you can see, the compact was developed in the best interest of the consumers and the farmers. Consumers in the compact region have sufficient power to protect themselves. The compact allows one State, one vote. Consuming States, such as Rhode Island, with 35 farmers and 1.3 million people, have equal say in the decision to impose a pricing regulation with Vermont, having 2,200 farmers and 550,000 people. Also, the imposition of a pricing regulation requires a two-thirds vote of the compact commission's delegations.

In Massachusetts consumers outnumber the farmers about 1,800 to 1. Yet, the support for the compact is overwhelming. I say God bless them.

It must be made clear that the compact would not discriminate against out-of-region farmers or processors. The compact models or mirrors the Federal law of milk price regulation. Under the compact, as under Federal law, no burden other than the regulation of the farm price would be placed on the interstate shipment of milk. Any dairy farmer, without any competitive disadvantage, may market milk in the compact region, whether they reside in the region or not. No barriers to trade are created. Milk would continue to flow into and from the compact region in the same manner as it does under the current Federal law.

New England produces approximately 3 to 4 percent of the Nation's milk supply. Of that only half goes into class 1 or fluid milk, which represents 1½ percent of the Nation's supply. We are talking about an extremely small amount of milk in a localized area.

Yet there are still those who insist that the dairy compact will result in a surplus of milk. Those who believe this are wrong. New England is a milk deficit area for its fluid milk. Rhode Island, Massachusetts, and Connecticut produce milk at levels far below the needs to serve consumer's fluid milk. Only Vermont and Maine produce more milk than they consume. New England, to meet the demands of the consumers, must go well into the New York State area. The fact is, the result of the compact would be no increase in milk production in New England.

And for those of us in the North, we cannot ship to Canada, yet Canada can ship into our manufactured product market. Our farmers need the flexibility of benefiting from our local markets. The compact would give us that opportunity. As I say, we cannot ship to Canada. They are a highly subsidized area, and yet they can ship to businesses in our area.

The compact would have the authority to set a price on class 1 or bottled milk only. Almost all of this fluid milk is produced within a 300-mile radius of Boston. All other classes of milk purchased for manufacturing purposes such as cheese, ice cream, and milk powder would be exempt from the compact.

This past weekend I was back in my home State of Vermont. Dairy farmers spent most of the weekend chopping the last of their corn and finishing fall chores, getting ready for the cold Vermont winter. Since only 1984, almost a third of the 3,170 dairy farms operating in Vermont have shut down. The trend continues, not only Vermont and New England but other regions of the country as well.

What does it say about our values and priorities when farmers, who perform one of the most basic and important jobs to our society, are underpaid and unappreciated? Do we value farmers or do we not? New England, along with its Governors, legislatures, consumers, processors, and farmers know the importance and value of their dairy farmers. A fresh local supply of milk, open productive land, rural economic communities, strong family values, and the need for good farmers for many years to come is why the consumers of New England are willing to pay to farmers the money they deserve.

Our consumers have proved they are willing to pay 5 to 10 cents more per gallon of milk to give the farmers the price they deserve. The average family will spend about $5 more per year on milk if the compact increased the price to consumers by 10 cents.

I was asking my colleagues to respect the interstate cooperation among the compact region. Concerns of the compact, with respect to several of my colleagues, have been addressed with amendments and explanations.

Six years of interstate cooperation has gone into this dairy compact to assure those outside the compact region would not be adversely impacted.

New England's dairy industry will continue to slip away, unless the region can act together to help protect one of the region's most vital resources, its dairy farms. This interstate compact gives us the opportunity to do just that. It would give New England the chance we deserve to help ourselves.

As Sam Rayburn used to say, any jackass can kick down a barn, but it takes a carpenter to build one. We have the drawings, thanks to the people of New England. Now let us raise that barn.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I commend the Senators from Vermont and associate myself with their remarks and with the compact which they have fought so hard for.

Although the dairy industry in Maine is not as proportionately significant statewide as it is in Vermont, for those involved it is, of course, of equal and total significance.

Over the past few weekends, I have met with several of the dairy farmers in my State and can verify from personal experience and knowledge the difficult circumstances that exist as a result of the situation described by the Senators from Vermont.

We believe that the compact would have had the dual benefits of assisting farmers in the region without threatening in any way farmers in any other region. We regret that not all saw it that way, and we regret even more that this important legislation will not be enacted this year.

But I think it inevitable, and I encourage my colleagues to continue their efforts. I will not attempt to restate all of the facts set forth in their statements or the reasons for the need for such a compact.

I can only say that I strongly support the compact. I regret that the underlying legislation to which it was intended to be offered was prevented from being brought to the Senate, and therefore it was not possible to complete action in the Senate. In any event, as we know, the House did not act on the matter, and therefore it will have to go over until the next year.

In the meantime, many farm families throughout New England will suffer through a most difficult winter because of the circumstances which now exist.

And so I conclude by thanking my colleagues from Vermont for their leadership and aggressive effort. It has been a pleasure for me to work with them on this matter, and I join them in regretting that we were not able to enact this legislation this year.

Mr. President, I yield the floor.

Mr. FEINGOLD. Mr. President, it is with no great happiness that I must rise in opposition to S. 2069, a bill which grants the consent of Congress to the Northeast Interstate Dairy Compact. I have a great deal of respect for

Senator LEAHY, the sponsor of this legislation and my Chairman on the Agriculture Committee as well as the majority leader, Senator MITCHELL, and the junior Senator from Vermont [Mr. JEFFORDS] as well. I have very high regard for their commitment to agricultural producers in their States and throughout the country. In particular, there is no one in this body who has worked harder to develop and pass national dairy policy for the farmers of this country than Senator LEAHY.

Unfortunately, the Compact is the antithesis of national policy—it is an approach which divides the U.S. dairy industry by insulating the northeast dairy industry from the market conditions that all other farmers in this country must face. That is inconsistent with the national approach to policy reform that Wisconsin dairy farmers tell me is desperately needed.

I also want to say that I have the utmost respect for the intentions of Senator LEAHY, the majority leader and the other cosponsors of this bill. I understand the plight of their farmers, I understand the pain those farmers and the rural northeast communities have experienced, I understand the loss of family farms.

I understand these things because producers and others in Wisconsin have experienced these problems more acutely than any other region of the country and more than any other individual State. My State of Wisconsin, which until last year was the No. 1 milk producing State in the country, suffers from the loss of over 1,000 dairy farmers per year. We lose more farms per year than the current number of dairy farmers in five of the six compact States.

Wisconsin is not only losing farms but we are also losing milk production overall. We are also losing cheese processing plants to other regions due to artificial advantages provided to other regions by Federal law.

In the early 1980's we had nearly 45,000 family dairy farmers in Wisconsin. Today we have only 29,000. While we still have more producers than any other State in this country, our numbers are dwindling. A recent survey indicated that in the next 5 years 40 percent of our remaining farmers will go out of business. That is over 11,000 family dairy farmers.

This trend is mirrored in other States throughout the Upper Midwest. While we recognize that there are many reasons for this decline, the overwhelming message I hear from family dairy farmers in Wisconsin, Minnesota and throughout the Midwest is that we need reform of outdated federal milk marketing orders which provide artificial advantages to other regions of the country driving Wisconsin farmers out of business.

So I understand the desire of Senator LEAHY and others in the Northeast to remedy their local and regional problems in their dairy industry, however further regionalizing dairy policy is not the answer. Milk is marketed nationally and regulated federally. Similarly, congressional changes to dairy policy must recognize the national nature of milk marketing as well as the comprehensive and interrelated nature of fluid and manufactured milk products.

I had hoped to work with him on the compact in the context of national milk marketing order reform. I had hoped the situation was not at a stalemate. I do look forward to working with the chairman on dairy policy next year.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRAUMATIC BRAIN INJURY ACT OF 1994—MESSAGE FROM THE HOUSE

Mr. FEINGOLD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 725) to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 725) entitled "An Act to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. PROGRAMS OF CENTERS FOR DISEASE CONTROL AND PREVENTION.

Part B of title III of the Public Health Service Act (42 U.S.C. 241 et seq.), as amended by section 703 of Public Law 103-183 (107 Stat. 2240), is amended by inserting after section 317F the following section:

"PREVENTION OF TRAUMATIC BRAIN INJURY

"SEC. 317G. The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may carry out projects to reduce the incidence of traumatic brain injury. Such projects may be carried out by the Secretary directly or through awards of grants or contracts to public or nonprofit private entities. The Secretary may directly or through such awards provide technical assistance with respect to the planning, development, and operation of such projects.

"(b) CERTAIN ACTIVITIES.—Activities under subsection (a) may include—

"(1) the conduct of research into identifying effective strategies for the prevention of traumatic brain injury; and

"(2) the implementation of public information and education programs for the prevention of such injury and for broadening the awareness of the public concerning the public health consequences of such injury.

"(c) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(d) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.".

SEC. 2. PROGRAMS OF NATIONAL INSTITUTES OF HEALTH.

Section 1261 of the Public Health Service Act (42 U.S.C. 300d-61) is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking "and" after the semicolon at the end;

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by adding at the end the following paragraph:

"(4) the authority to make awards of grants or contracts to public or nonprofit private entities for the conduct of basic and applied research regarding traumatic brain injury, which research may include—

"(A) the development of new methods and modalities for the more effective diagnosis, measurement of degree of injury, post-injury monitoring and prognostic assessment of head injury for acute, subacute and later phases of care;

"(B) the development, modification and evaluation of therapies that retard, prevent or reverse brain damage after acute head injury, that arrest further deterioration following injury and that provide the restitution of function for individuals with long-term injuries;

"(C) the development of research on a continuum of care from acute care through rehabilitation, designed, to the extent practicable, to integrate rehabilitation and long-term outcome evaluation with acute care research; and

"(D) the development of programs that increase the participation of academic centers of excellence in head injury treatment and rehabilitation research and training."; and

(2) in subsection (h), by adding at the end the following paragraph:

"(4) The term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.".

SEC. 3. PROGRAMS OF HEALTH RESOURCES AND SERVICES ADMINISTRATION.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d-51 et seq.) is amended by adding at the end the following section:

"SEC. 1252. STATE GRANTS FOR DEMONSTRATION PROJECTS REGARDING TRAUMATIC BRAIN INJURY.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of carrying out demonstration projects to improve access to health and other services regarding traumatic brain injury.

"(b) STATE ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved agrees to establish an advisory board

within the appropriate health department of the State or within another department as designated by the chief executive officer of the State.

"(2) FUNCTIONS.—An advisory board established under paragraph (1) shall advise and make recommendations to the State on ways to improve services coordination regarding traumatic brain injury. Such advisory boards shall encourage citizen participation through the establishment of public hearings and other types of community outreach programs.

"(3) COMPOSITION.—An advisory board established under paragraph (1) shall be composed of—

"(A) representatives of—

"(i) the corresponding State agencies involved;

"(ii) public and nonprofit private health related organizations;

"(iii) other disability advisory or planning groups within the State;

"(iv) members of an organization or foundation representing traumatic brain injury survivors in that State; and

"(v) injury control programs at the State or local level if such programs exist; and

"(B) a substantial number of individuals who are survivors of traumatic brain injury, or the family members of such individuals.

"(c) MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs to be incurred by a State in carrying out the purpose described in subsection (a), the Secretary may make a grant under such subsection only if the State agrees to make available, in cash, non-Federal contributions toward such costs in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(d) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(f) REPORT.—Not later than 2 years after the date of the enactment of this section, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and results of the programs established under this section, including measures of outcomes and consumer and surrogate satisfaction.

"(g) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1995 through 1997.".

SEC. 4. STUDY; CONSENSUS CONFERENCE.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), acting through the appropriate agencies of the Public Health Service, shall conduct a study for the purpose of carrying out the following with respect to traumatic brain injury:

(A) In collaboration with appropriate State and local health-related agencies—

(i) determine the incidence and prevalence of traumatic brain injury; and

(ii) develop a uniform reporting system under which States report incidences of traumatic brain injury, if the Secretary determines that such a system is appropriate.

(B) Identify common therapeutic interventions which are used for the rehabilitation of individuals with such injuries, and shall, subject to the availability of information, include an analysis of—

(i) the effectiveness of each such intervention in improving the functioning of individuals with brain injuries;

(ii) the comparative effectiveness of interventions employed in the course of rehabilitation of individuals with brain injuries to achieve the same or similar clinical outcome; and

(iii) the adequacy of existing measures of outcomes and knowledge of factors influencing differential outcomes.

(C) Develop practice guidelines for the rehabilitation of traumatic brain injury at such time as appropriate scientific research becomes available.

(2) DATES CERTAIN FOR REPORTS.—

(A) Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of carrying out paragraph (1)(A).

(B) Not later than 3 years after the date of the enactment of this Act, the Secretary shall submit to the Committees specified in subparagraph (A) a report describing the findings made as a result of carrying out subparagraphs (B) and (C) of paragraph (1).

(b) CONSENSUS CONFERENCE.—The Secretary, acting through the Director of the National Center for Medical Rehabilitation Research within the National Institute for Child Health and Human Development, shall conduct a national consensus conference on managing traumatic brain injury and related rehabilitation concerns.

(c) DEFINITION.—For purposes of this section, the term "traumatic brain injury" means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning. The Secretary may revise the definition of such term as the Secretary determines necessary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1995 through 1997.

SEC. 5. STATE STANDARDS.

(a) PREEMPTION.—Section 403A(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343–1(a)) is amended—

(1) in paragraph (1), by inserting at the end the following: "except that this paragraph does not apply to a standard of identity of—

"(A) a State or political subdivision of a State for maple syrup which is of the type required by sections 401 and 403(g), or

"(B) a State for fluid milk which is of the type required by sections 401 and 403(g) and which specifies a higher minimum level of milk components than is provided for in the corresponding standard of identity promulgated under section 401,",

(2) in paragraph (2), by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State which is of the type required by section 403(c) and which is applicable to maple syrup,",

(3) in paragraph (3), by inserting at the end the following: "except that this paragraph does not apply to a requirement of a State or political subdivision of a State which is of the type required by section 403(h)(1) and which is applicable to maple syrup,", and

(4) by adding at the end the following: "For purposes of paragraph (1)(B), the term 'fluid milk' means liquid milk in final packaged form for beverage use and does not include dry milk, manufactured milk products, or tanker bulk milk.".

(b) PROCEDURE.—Section 701(e)(1) of such Act (21 U.S.C. 371(e)(1)) is amended by striking "or maple syrup (regulated under section 168.140 of title 21, Code of Federal Regulations)".

SEC. 6. SELENIUM.

The stay (published at 58 Fed. Reg. 47962) of the 1987 food additive regulation relating to selenium (21 Code of Federal Regulations 573.920) is suspended until December 31, 1995.

Mr. FEINGOLD. Mr. President, I move that the Senate concur in the House amendment with the amendment I now send to the desk on behalf of Senators KENNEDY and HATCH; that the motion to reconsider be laid on the table, and that any statements appear thereon at the appropriate place in the RECORD as though read.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for Mr. KENNEDY and Mr. HATCH, proposes an amendment numbered 2654.

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. PROGRAMS OF CENTERS FOR DISEASE CONTROL AND PREVENTION.

(a) IN GENERAL.—Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.), as amended by section 209 of the Minority Health Improvement Act of 1994, is amended by inserting after section 317G the following section:

"PREVENTION OF TRAUMATIC BRAIN INJURY

"SEC. 317H. (a) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may carry out projects to reduce the incidence of traumatic brain injury. Such projects may be carried out by the Secretary directly or through awards of grants or contracts to public or nonprofit private entities. The Secretary may directly or through such awards provide technical assistance with respect to the planning, development, and operation of such projects.

"(b) CERTAIN ACTIVITIES.—Activities under subsection (a) may include—

"(1) the conduct of research into identifying effective strategies for the prevention of traumatic brain injury; and

"(2) the implementation of public information and education programs for the prevention of such injury and for broadening the awareness of the public concerning the public health consequences of such injury.

"(c) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(d) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.".

SEC. 2. PROGRAMS OF NATIONAL INSTITUTES OF HEALTH.

Section 1261 of the Public Health Service Act (42 U.S.C. 300d-61) is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking "and" after the semicolon at the end;

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by adding at the end the following paragraph:

"(4) the authority to make awards of grants or contracts to public or nonprofit private entities for the conduct of basic and applied research regarding traumatic brain injury, which research may include—

"(A) the development of new methods and modalities for the more effective diagnosis, measurement of degree of injury, post-injury monitoring and prognostic assessment of head injury for acute, subacute and later phases of care;

"(B) the development, modification and evaluation of therapies that retard, prevent or reverse brain damage after acute head injury, that arrest further deterioration following injury and that provide the restitution of function for individuals with long-term injuries;

"(C) the development of research on a continuum of care from acute care through rehabilitation, designed, to the extent practicable, to integrate rehabilitation and long-term outcome evaluation with acute care research; and

"(D) the development of programs that increase the participation of academic centers of excellence in head injury treatment and rehabilitation research and training."; and

(2) in subsection (h), by adding at the end the following paragraph:

"(4) The term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.".

SEC. 3. PROGRAMS OF HEALTH RESOURCES AND SERVICES ADMINISTRATION.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d-51 et seq.) is amended by adding at the end the following section:

"SEC. 1252. STATE GRANTS FOR DEMONSTRATION PROJECTS REGARDING TRAUMATIC BRAIN INJURY.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of carrying out demonstration projects to improve the availability of health services regarding traumatic brain injury.

"(b) STATE ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved agrees to establish an advisory board within the appropriate health department of the State or within another department as designated by the chief executive officer of the State.

"(2) FUNCTIONS.—An advisory board established under paragraph (1) shall be cognizant of findings and concerns of Federal, State and local agencies, citizens groups, and private industry (such as insurance, health care, automobile, and other industry entities). Such advisory boards shall encourage citizen participation through the establishment of public hearings and other types of community outreach programs.

"(3) COMPOSITION.—An advisory board established under paragraph (1) shall be composed of—

"(A) representatives of—

"(i) the corresponding State agencies involved;

"(ii) public and nonprofit private health related organizations;

"(iii) other disability advisory or planning groups within the State;

"(iv) members of an organization or foundation representing traumatic brain injury survivors in that State; and

"(v) injury control programs at the State or local level if such programs exist; and

"(B) a substantial number of individuals who are survivors of traumatic brain injury, or the family members of such individuals.

"(c) MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs to be incurred by a State in carrying out the purpose described in subsection (a), the Secretary may make a grant under such subsection only if the State agrees to make available, in cash, non-Federal contributions toward such costs in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(d) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(f) REPORT.—Not later than 2 years after the effective date under section 901 of the Minority Health Improvement Act of 1994, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and results of the programs established under this section, including measures of outcomes and consumer and surrogate satisfaction.

"(g) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.".

SEC. 4. STUDY; CONSENSUS CONFERENCE.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), acting through the appropriate agencies of the Public Health Service, shall conduct a study for the purpose of carrying out the following with respect to traumatic brain injury:

(A) In collaboration with appropriate State and local health-related agencies—

(i) determine the incidence and prevalence of traumatic brain injury; and

(ii) develop a uniform reporting system under which States report incidence of traumatic brain injury, if the Secretary determines that such a system is appropriate.

(B) Identify common therapeutic interventions which are used for the rehabilitation of individuals with such injuries, and shall, subject to the availability of information, include an analysis of—

(i) the effectiveness of each such intervention in improving the functioning of individuals with brain injuries;

(ii) the comparative effectiveness of interventions employed in the course of rehabilitation of individuals with brain injuries to achieve the same or similar clinical outcome; and

(iii) the adequacy of existing measures of outcomes and knowledge of factors influencing differential outcomes.

(C) Develop practice guidelines for the rehabilitation of traumatic brain injury at such time as appropriate scientific research becomes available.

(2) DATES CERTAIN FOR REPORTS.—

(A) Not later than 18 months after the effective date under section 901, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of carrying out paragraph (1)(A).

(B) Not later than 3 years after the effective date under section 901, the Secretary shall submit to the Committees specified in subparagraph (A) a report describing the findings made as a result of carrying out subparagraphs (B) and (C) of paragraph (1).

(b) CONSENSUS CONFERENCE.—The Secretary, acting through the Director of the National Center for Medical Rehabilitation Research within the National Institute for Child Health and Human Development, shall conduct a national consensus conference on managing traumatic brain injury and related rehabilitation concerns.

(c) DEFINITION.—For purposes of this section, the term "traumatic brain injury" means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.

Mr. HATCH. Mr. President, As the 103d Congress is drawing to a close, it is important that we approve S. 725, the Traumatic Brain Injury Act. This bill is critically important to the millions of Americans who suffer from traumatic brain injuries, and those who will have the misfortune of this type of injury in the future. There is no reason this legislation should not be enacted into law this year.

The Traumatic Brain Injury bill will provide visibility to the silent epidemic of brain injuries, which currently plague an additional 2 million Americans per year. Traumatic brain injuries have become the number one killer and cause of disability of young people in the U.S., far outdistancing all other causes.

Because of the serious consequences of traumatic brain injury and the failure of human services systems and educational programs to properly meet the needs of sufferers of these injuries, S. 725 will make large strides toward helping these people to be identified as people with a brain injury, and not labeled as having some other disability. This is important if appropriate services are to be developed and targeted and prevention efforts are to be conducted.

With the passage of the Traumatic Brain Injury Act will come funding for research, not only for the treatment of TBI, but also for prevention and awareness programs which will help decrease the occurrence of such tragedies.

Specifically, S. 725 will authorize the Centers for Disease Control and Prevention to conduct projects to reduce the incidence of traumatic brain injury.

It will also authorize the National Institutes of Health to conduct basic and applied research on traumatic brain injury.

It will provide matching grants to the states through the Health Resources and Services Administration for demonstration projects to improve access to health and other services regarding traumatic brain injury.

And, S. 725, will provide for an HHS study of a number of factors relating to traumatic brain injury and for a national consensus conference on traumatic brain injury.

The Traumatic Brain Injury Act should be high priority legislation, and at the top of our legislative Agendas. As my colleagues are aware, this bill was passed in the Senate in April of this year and as part of H.R. 3869, "The Minority Health Improvement Act" in the House. Because this bill has been passed by members from both sides of the aisle and by both legislative bodies, we know it isn't controversial.

However, because of the popularity of this bill, it became a target for unrelated amendments. I do not want to argue for or against any amendments at this time, but I feel that in order to get the Traumatic Brain Bill enacted into law this year, we must move it through the Senate today, without amendments. Let them stand on their own merit, and not on that of a good bill like S. 725.

Mr. President, let's not forget that traumatic brain injury is the leading cause of death and disability among Americans under the age of 30. There are 8 million Americans who currently suffer from traumatic brain injuries and an additional 2 million Americans who suffer brain injuries each year. Many of these people would be helped by this legislation. We need to make passage of this bill an immediate priority.

Let's proceed in this manner, by encouraging the passage of S. 725 as a clean bill, without unrelated amendments. There are millions of Americans in need of this legislation this year. I ask my colleagues' support in speedily enacting the Traumatic Brain Injury Act. I am hopeful the House will be able to take it up in the future.

The motion was agreed to.

DIETARY SUPPLEMENT HEALTH AND EDUCATION ACT OF 1994—MESSAGE FROM THE HOUSE

Mr. FEINGOLD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 784) to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 784) entitled "An Act to amend the Federal Food, Drug, and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes", do pass with the following amendment:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Dietary Supplement Health and Education Act of 1994".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. Safety of dietary supplements and burden of proof on FDA.
Sec. 5. Dietary supplement claims.
Sec. 6. Statements of nutritional support.
Sec. 7. Dietary supplement ingredient labeling and nutrition information labeling.
Sec. 8. New dietary ingredients.
Sec. 9. Good manufacturing practices.
Sec. 10. Conforming amendments.
Sec. 11. Withdrawal of the regulations and notice.
Sec. 12. Commission on dietary supplement labels.
Sec. 13. Office of dietary supplements.

SEC. 2. FINDINGS.

Congress finds that—

(1) improving the health status of United States citizens ranks at the top of the national priorities of the Federal Government;

(2) the importance of nutrition and the benefits of dietary supplements to health promotion and disease prevention have been documented increasingly in scientific studies;

(3)(A) there is a link between the ingestion of certain nutrients or dietary supplements and the prevention of chronic diseases such as cancer, heart disease, and osteoporosis; and

(B) clinical research has shown that several chronic diseases can be prevented simply with a healthful diet, such as a diet that is low in fat, saturated fat, cholesterol, and sodium, with a high proportion of plant-based foods;

(4) healthful diets may mitigate the need for expensive medical procedures, such as coronary bypass surgery or angioplasty;

(5) preventive health measures, including education, good nutrition, and appropriate use of safe nutritional supplements will limit the incidence of chronic diseases, and reduce long-term health care expenditures;

(6)(A) promotion of good health and healthy lifestyles improves and extends lives while reducing health care expenditures; and

(B) reduction in health care expenditures is of paramount importance to the future of the country and the economic well-being of the country;

(7) there is a growing need for emphasis on the dissemination of information linking nutrition and long-term good health;

(8) consumers should be empowered to make choices about preventive health care programs based on data from scientific studies of health benefits related to particular dietary supplements;

(9) national surveys have revealed that almost 50 percent of the 260,000,000 Americans regularly consume dietary supplements of vitamins, minerals, or herbs as a means of improving their nutrition;

(10) studies indicate that consumers are placing increased reliance on the use of nontraditional health care providers to avoid the excessive costs of traditional medical services and to obtain more holistic consideration of their needs;

(11) the United States will spend over $1,000,000,000,000 on health care in 1994, which is about 12 percent of the Gross National Product of the United States, and this amount and percentage will continue to increase unless significant efforts are undertaken to reverse the increase;

(12)(A) the nutritional supplement industry is an integral part of the economy of the United States;

(B) the industry consistently projects a positive trade balance; and

(C) the estimated 600 dietary supplement manufacturers in the United States produce approximately 4,000 products, with total annual sales of such products alone reaching at least $4,000,000,000;

(13) although the Federal Government should take swift action against products that are unsafe or adulterated, the Federal Government should not take any actions to impose unreasonable regulatory barriers limiting or slowing the flow of safe products and accurate information to consumers;

(14) dietary supplements are safe within a broad range of intake, and safety problems with the supplements are relatively rare; and

(15)(A) legislative action that protects the right of access of consumers to safe dietary supplements is necessary in order to promote wellness; and

(B) a rational Federal framework must be established to supersede the current ad hoc, patchwork regulatory policy on dietary supplements.

SEC. 3. DEFINITIONS.

(a) DEFINITION OF CERTAIN FOODS AS DIETARY SUPPLEMENTS.—Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

"(ff) The term 'dietary supplement'—

"(1) means a product (other than tobacco) intended to supplement the diet that bears or contains one or more of the following dietary ingredients:

"(A) a vitamin;

"(B) a mineral;
"(C) an herb or other botanical;
"(D) an amino acid;
"(E) a dietary substance for use by man to supplement the diet by increasing the total dietary intake; or
"(F) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in clause (A), (B), (C), (D), or (E);
"(2) means a product that—
"(A)(i) is intended for ingestion in a form described in section 411(c)(1)(B)(i); or
"(ii) complies with section 411(c)(1)(B)(ii); and
"(B) is not represented for use as a conventional food or as a sole item of a meal or the diet; and
"(C) is labeled as a dietary supplement; and
(3) does—
"(A) include an article that is approved as a new drug under section 505, certified as an antibiotic under section 507, or licensed as a biologic under section 351 of the Public Health Service Act (42 U.S.C. 262) and was, prior to such approval, certification, or license, marketed as a dietary supplement or as a food unless the Secretary has issued a regulation, after notice and comment, finding that the article, when used as or in a dietary supplement under the conditions of use and dosages set forth in the labeling for such dietary supplement, is unlawful under section 402(f); and
"(B) not include—
"(i) an article that is approved as a new drug under section 505, certified as an antibiotic under section 507, or licensed as a biologic under section 351 of the Public Health Service Act (42 U.S.C. 262), or
"(ii) an article authorized for investigation as a new drug, antibiotic, or biological for which substantial clinical investigations have been instituted and for which the existence of such investigations has been made public,
which was not before such approval, certification, licensing, or authorization marketed as a dietary supplement or as a food unless the Secretary, in the Secretary's discretion, has issued a regulation, after notice and comment, finding that the article would be lawful under this Act.
Except for purposes of section 201(g), a dietary supplement shall be deemed to be a food within the meaning of this Act.".
(b) EXCLUSION FROM DEFINITION OF FOOD ADDITIVE.—Section 201(s) (21 U.S.C. 321(s)) is amended—
(1) by striking "or" at the end of subparagraph (4);
(2) by striking the period at the end of subparagraph (5) and inserting "; or"; and
(3) by adding at the end the following new subparagraph:
"(6) an ingredient described in paragraph (ff) in, or intended for use in, a dietary supplement.".
(c) FORM OF INGESTION.—Section 411(c)(1)(B) (21 U.S.C. 350(c)(1)(B)) is amended—
(1) in clause (i), by inserting "powder, softgel, gelcap," after "capsule,"; and
(2) in clause (ii), by striking "does not simulate and".

SEC. 4. SAFETY OF DIETARY SUPPLEMENTS AND BURDEN OF PROOF ON FDA.

Section 402 (21 U.S.C. 342) is amended by adding at the end the following:
"(f)(1) If it is a dietary supplement or contains a dietary ingredient that—
"(A) presents a significant or unreasonable risk of illness or injury under—
"(i) conditions of use recommended or suggested in labeling, or
"(ii) if no conditions of use are suggested or recommended in the labeling, under ordinary conditions of use;
"(B) is a new dietary ingredient for which there is inadequate information to provide reasonable assurance that such ingredient does not present a significant or unreasonable risk of illness or injury;
"(C) the Secretary declares to pose an imminent hazard to public health or safety, except that the authority to make such declaration shall not be delegated and the Secretary shall promptly after such a declaration initiate a proceeding in accordance with sections 554 and 556 of title 5, United States Code, to affirm or withdraw the declaration; or
"(D) is or contains a dietary ingredient that renders it adulterated under paragraph (a)(1) under the conditions of use recommended or suggested in the labeling of such dietary supplement.
In any proceeding under this subparagraph, the United States shall bear the burden of proof on each element to show that a dietary supplement is adulterated. The court shall decide any issue under this paragraph on a de novo basis.
"(2) Before the Secretary may report to a United States attorney a violation of paragraph (1)(A) for a civil proceeding, the person against whom such proceeding would be initiated shall be given appropriate notice and the opportunity to present views, orally and in writing, at least 10 days before such notice, with regard to such proceeding.".

SEC. 5. DIETARY SUPPLEMENT CLAIMS.

Chapter IV (21 U.S.C. 341 et seq.) is amended by inserting after section 403A the following new section:
"DIETARY SUPPLEMENT LABELING EXEMPTIONS
"SEC. 403B. (a) IN GENERAL.—A publication, including an article, a chapter in a book, or an official abstract of a peer-reviewed scientific publication that appears in an article and was prepared by the author or the editors of the publication, which is reprinted in its entirety, shall not be defined as labeling when used in connection with the sale of a dietary supplement to consumers when it—
"(1) is not false or misleading;
"(2) does not promote a particular manufacturer or brand of a dietary supplement;
"(3) is displayed or presented, or is displayed or presented with other such items on the same subject matter, so as to present a balanced view of the available scientific information on a dietary supplement;
"(4) if displayed in an establishment, is physically separate from the dietary supplements; and
"(5) does not have appended to it any information by sticker or any other method.
"(b) APPLICATION.—Subsection (a) shall not apply to or restrict a retailer or wholesaler of dietary supplements in any way whatsoever in the sale of books or other publications as a part of the business of such retailer or wholesaler.
"(c) BURDEN OF PROOF.—In any proceeding brought under subsection (a), the burden of proof shall be on the United States to establish that an article or other such matter is false or misleading.".

SEC. 6. STATEMENTS OF NUTRITIONAL SUPPORT.

Section 403(r) (21 U.S.C. 343(r)) is amended by adding at the end the following:
"(6) For purposes of paragraph (r)(1)(B), a statement for a dietary supplement may be made if—
"(A) the statement claims a benefit related to a classical nutrient deficiency disease and discloses the prevalence of such disease in the United States, describes the role of a nutrient or dietary ingredient intended to affect the structure or function in humans, characterizes the documented mechanism by which a nutrient or dietary ingredient acts to maintain such structure or function, or describes general well-being from consumption of a nutrient or dietary ingredient,
"(B) the manufacturer of the dietary supplement has substantiation that such statement is truthful and not misleading, and
"(C) the statement contains, prominently displayed and in boldface type, the following: 'This statement has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.'.

A statement under this subparagraph may not claim to diagnose, mitigate, treat, cure, or prevent a specific disease or class of diseases. If the manufacturer of a dietary supplement proposes to make a statement described in the first sentence of this subparagraph in the labeling of the dietary supplement, the manufacturer shall notify the Secretary no later than 30 days after the first marketing of the dietary supplement with such statement that such a statement is being made.".

SEC. 7. DIETARY SUPPLEMENT INGREDIENT LABELING AND NUTRITION INFORMATION LABELING.

(a) MISBRANDED SUPPLEMENTS.—Section 403 (21 U.S.C. 343) is amended by adding at the end the following:
"(s) If—
"(1) it is a dietary supplement; and
"(2)(A) the label or labeling of the supplement fails to list—
"(i) the name of each ingredient of the supplement that is described in section 201(ff); and
"(ii)(I) the quantity of each such ingredient; or
"(II) with respect to a proprietary blend of such ingredients, the total quantity of all ingredients in the blend;
"(B) the label or labeling of the dietary supplement fails to identify the product by using the term 'dietary supplement', which term may be modified with the name of such an ingredient;
"(C) the supplement contains an ingredient described in section 201(ff)(1)(C), and the label or labeling of the supplement fails to identify any part of the plant from which the ingredient is derived;
"(D) the supplement—
"(i) is covered by the specifications of an official compendium;
"(ii) is represented as conforming to the specifications of an official compendium; and
"(iii) fails to so conform; or
"(E) the supplement—
"(i) is not covered by the specifications of an official compendium; and
"(ii)(I) fails to have the identity and strength that the supplement is represented to have; or
"(II) fails to meet the quality (including tablet or capsule disintegration), purity, or compositional specifications, based on validated assay or other appropriate methods, that the supplement is represented to meet.".

(b) SUPPLEMENT LISTING ON NUTRITION LABELING.—Section 403(q)(5)(F) (21 U.S.C. 343(q)(5)(F)) is amended to read as follows:

"(F) A dietary supplement product (including a food to which section 411 applies) shall

comply with the requirements of subparagraphs (1) and (2) in a manner which is appropriate for the product and which is specified in regulations of the Secretary which shall provide that—

"(i) nutrition information shall first list those dietary ingredients that are present in the product in a significant amount and for which a recommendation for daily consumption has been established by the Secretary, except that a dietary ingredient shall not be required to be listed if it is not present in a significant amount, and shall list any other dietary ingredient present and identified as having no such recommendation;

"(ii) the listing of dietary ingredients shall include the quantity of each such ingredient (or of a proprietary blend of such ingredients) per serving;

"(iii) the listing of dietary ingredients may include the source of a dietary ingredient; and

"(iv) the nutrition information shall immediately precede the ingredient information required under subclause (i), except that no ingredient identified pursuant to subclause (i) shall be required to be identified a second time.".

(c) PERCENTAGE LEVEL CLAIMS.—Section 403(r)(2) (21 U.S.C. 343(r)(2)) is amended by adding after clause (E) the following:

"(F) Subclause (i) clause (A) does not apply to a statement in the labeling of a dietary supplement that characterizes the percentage level of a dietary ingredient for which the Secretary has not established a reference daily intake, daily recommended value, or other recommendation for daily consumption."

(d) VITAMINS AND MINERALS.—Section 411(b)(2) (21 U.S.C. 350(b)(2)) is amended—

(1) by striking "vitamins or minerals" and inserting "dietary supplement ingredients described in section 201(ff)";

(2) by striking "(2)(A)" and inserting "(2)"; and

(3) by striking subparagraph (B).

(e) EFFECTIVE DATE.—Dietary supplements—

(1) may be labeled after the date of the enactment of this Act in accordance with the amendments made by this section, and

(2) shall be labeled after December 31, 1996, in accordance with such amendments.

SEC. 8. NEW DIETARY INGREDIENTS.

Chapter IV of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following:

"NEW DIETARY INGREDIENTS

"SEC. 413. (a) IN GENERAL.—A dietary supplement which contains a new dietary ingredient shall be deemed adulterated under section 402(f) unless it meets one of the following requirements:

"(1) The dietary supplement contains only dietary ingredients which have been present in the food supply as an article used for food in a form in which the food has not been chemically altered.

"(2) There is a history of use or other evidence of safety establishing that the dietary ingredient when used under the conditions recommended or suggested in the labeling of the dietary supplement will reasonably be expected to be safe and, at least 75 days before being introduced or delivered for introduction into interstate commerce, the manufacturer or distributor of the dietary ingredient or dietary supplement provides the Secretary with information, including any citation to published articles, which is the basis on which the manufacturer or distributor has concluded that a dietary supplement containing such dietary ingredient will reasonably be expected to be safe.

The Secretary shall keep confidential any information provided under paragraph (2) for 90 days following its receipt. After the expiration of such 90 days, the Secretary shall place such information on public display, except matters in the information which are trade secrets or otherwise confidential, commercial information.

"(b) PETITION.—Any person may file with the Secretary a petition proposing the issuance of an order prescribing the conditions under which a new dietary ingredient under its intended conditions of use will reasonably be expected to be safe. The Secretary shall make a decision on such petition within 180 days of the date the petition is filed with the Secretary. For purposes of chapter 7 of title 5, United States Code, the decision of the Secretary shall be considered final agency action.

"(c) DEFINITION.—For purposes of this section, the term 'new dietary ingredient' means a dietary ingredient that was not marketed in the United States before October 15, 1994 and does not include any dietary ingredient which was marketed in the United States before October 15, 1994.".

SEC. 9. GOOD MANUFACTURING PRACTICES.

Section 402 (21 U.S.C. 342), as amended by section 4, is amended by adding at the end the following:

"(g)(1) If it is a dietary supplement and it has been prepared, packed, or held under conditions that do not meet current good manufacturing practice regulations, including regulations requiring, when necessary, expiration date labeling, issued by the Secretary under subparagraph (2).

"(2) The Secretary may by regulation prescribe good manufacturing practices for dietary supplements. Such regulations shall be modeled after current good manufacturing practice regulations for food and may not impose standards for which there is no current and generally available analytical methodology. No standard of current good manufacturing practice may be imposed unless such standard is included in a regulation promulgated after notice and opportunity for comment in accordance with chapter 5 of title 5, United States Code.".

SEC. 10. CONFORMING AMENDMENTS.

(a) SECTION 201.—The last sentence of section 201(g)(1) (21 U.S.C. 321(g)(1)) is amended to read as follows: "A food or dietary supplement for which a claim, subject to sections 403(r)(1)(B) and 403(r)(3) or sections 403(r)(1)(B) and 403(r)(5)(D), is made in accordance with the requirements of section 403(r) is not a drug solely because the label or the labeling contains such a claim. A food, dietary ingredient, or dietary supplement for which a truthful and not misleading statement is made in accordance with section 403(r)(6) is not a drug under clause (C) solely because the label or the labeling contains such a statement.".

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

"(u) The introduction or delivery for introduction into interstate commerce of a dietary supplement that is unsafe under section 413.".

(c) SECTION 403.—Section 403 (21 U.S.C. 343), as amended by section 7, is amended by adding after paragraph (s) the following:

"A dietary supplement shall not be deemed misbranded solely because its label or labeling contains directions or conditions of use or warnings.".

SEC. 11. WITHDRAWAL OF THE REGULATIONS AND NOTICE.

The advance notice of proposed rulemaking concerning dietary supplements published in the Federal Register of June 18, 1993 (58 FR 33690–33700) is null and void and of no force or effect insofar as it applies to dietary supplements. The Secretary of Health and Human Services shall publish a notice in the Federal Register to revoke the item declared to be null and void and of no force or effect under subsection (a).

SEC. 12. COMMISSION ON DIETARY SUPPLEMENT LABELS.

(a) ESTABLISHMENT.—There shall be established as an independent agency within the executive branch a commission to be known as the Commission on Dietary Supplement Labels (hereafter in this section referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 7 members who shall be appointed by the President.

(2) EXPERTISE REQUIREMENT.—The members of the Commission shall consist of individuals with expertise and experience in dietary supplements and in the manufacture, regulation, distribution, and use of such supplements. At least three of the members of the Commission shall be qualified by scientific training and experience to evaluate the benefits to health of the use of dietary supplements and one of such three members shall have experience in pharmacognosy, medical botany, traditional herbal medicine, or other related sciences. Members and staff of the Commission shall be without bias on the issue of dietary supplements.

(c) FUNCTIONS OF THE COMMISSION.—The Commission shall conduct a study on, and provide recommendations for, the regulation of label claims and statements for dietary supplements, including the use of literature in connection with the sale of dietary supplements and procedures for the evaluation of such claims. In making such recommendations, the Commission shall evaluate how best to provide truthful, scientifically valid, and not misleading information to consumers so that such consumers may make informed and appropriate health care choices for themselves and their families.

(d) ADMINISTRATIVE POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may hold hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this section.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may necessary to carry out this section.

(e) REPORTS AND RECOMMENDATIONS.—

(1) FINAL REPORT REQUIRED.—Not later than 24 months after the date of enactment of this Act, the Commission shall prepare and submit to the President and to the Congress a final report on the study required by this section.

(2) RECOMMENDATIONS.—The report described in paragraph (1) shall contain such recommendations, including recommendations for legislation, as the Commission deems appropriate.

(3) ACTION ON RECOMMENDATIONS.—Within 90 days of the issuance of the report under paragraph (1), the Secretary of Health and Human Services shall publish in the Federal Register a notice of any recommendation of

Commission for changes in regulations of the Secretary for the regulation of dietary supplements and shall include in such notice a notice of proposed rulemaking on such changes together with an opportunity to present views on such changes. Such rulemaking shall be completed not later than 2 years after the date of the issuance of such report. If such rulemaking is not completed on or before the expiration of such 2 years, regulations of the Secretary published in 59 F.R. 395-426 on January 4, 1994, shall not be in effect.

SEC. 13. OFFICE OF DIETARY SUPPLEMENTS.

(a) IN GENERAL.—Title IV of the Public Health Service Act is amended by inserting after section 485B (42 U.S.C. 287c-3) the following:

"Subpart 4—Office of Dietary Supplements

"SEC. 485C. DIETARY SUPPLEMENTS.

"(a) ESTABLISHMENT.—The Secretary shall establish an Office of Dietary Supplements within the National Institutes of Health.

"(b) PURPOSE.—The purposes of the Office are—

"(1) to explore more fully the potential role of dietary supplements as a significant part of the efforts of the United States to improve health care; and

"(2) to promote scientific study of the benefits of dietary supplements in maintaining health and preventing chronic disease and other health-related conditions.

"(c) DUTIES.—The Director of the Office of Dietary Supplements shall—

"(1) conduct and coordinate scientific research within the National Institutes of Health relating to dietary supplements and the extent to which the use of dietary supplements can limit or reduce the risk of diseases such as heart disease, cancer, birth defects, osteoporosis, cataracts, or prostatism;

"(2) collect and compile the results of scientific research relating to dietary supplements, including scientific data from foreign sources or the Office of Alternative Medicine;

"(3) serve as the principal advisor to the Secretary and to the Assistant Secretary for Health and provide advice to the Director of the National Institutes of Health, the Director of the Centers for Disease Control and Prevention, and the Commissioner of Food and Drugs on issues relating to dietary supplements including—

"(A) dietary intake regulations;

"(B) the safety of dietary supplements;

"(C) claims characterizing the relationship between—

"(i) dietary supplements; and

"(ii)(I) prevention of disease or other health-related conditions; and

"(II) maintenance of health; and

"(D) scientific issues arising in connection with the labeling and composition of dietary supplements;

"(4) compile a database of scientific research on dietary supplements and individual nutrients; and

"(5) coordinate funding relating to dietary supplements for the National Institutes of Health.

"(d) DEFINITION.—As used in this section, the term 'dietary supplement' has the meaning given the term in section 201(ff) of the Federal Food, Drug, and Cosmetic Act.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1994 and such sums as may be necessary for each subsequent fiscal year.".

(b) CONFORMING AMENDMENT.—Section 401(b)(2) of the Public Health Service Act (42 U.S.C. 281(b)(2)) is amended by adding at the end the following:

"(E) The Office of Dietary Supplements.".

Mr. FEINGOLD. Mr. President, I move that the Senate concur in the House amendment, the motion to reconsider be laid on the table, and any statements thereon appear in the RECORD at the appropriate place as though read.

The motion was agreed to.

Mr. KENNEDY. Mr. President, the Dietary Supplement Health and Education Act of 1994 represents a bi-partisan agreement which resolves the controversy surrounding dietary supplements. All of us in Congress have received a large number of calls and letters from constituents afraid that supplements will no longer be available. This compromise will assure consumers freedom of choice while guaranteeing that unsafe products can be removed quickly from the market.

Implementation of the Nutrition Labeling and Education Act, NLEA, has caused great uncertainty about how supplements are to be regulated; this legislation will allay these concerns while preserving the important purposes of the NLEA.

I would like to thank Senators HATCH and HARKIN for their hard work that has allowed for the resolution of this difficult issue. The chief sponsors of the bill from both chambers have agreed that the only legislative history for this legislation will be a statement of agreement. I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF AGREEMENT

This statement comprises the entire legislative history for the Dietary Supplement Health and Education Act of 1994, S. 784. It is the intent of the chief sponsors of the bill (Senators Hatch, Harkin and Kennedy, and Congressmen Richardson, Bliley, Moorhead, Gallegly, Dingell, Waxman) that no other reports or statements be considered as legislative history for the bill.

1. The bill does not affect the Food and Drug Administration's existing authority under the Federal Food, Drug and Cosmetic Act to prohibit the import or sale of any product marketed as a drug in a foreign country.

2. In section 201(ff)(3)(B)(ii), added by section 3 of the bill, the term "substantial clinical investigations" does not include compassionate investigational new drug applications or an investigational new drug application submitted by a physician for a single patient.

3. Section 403B, added by section 5, does not apply to a summary of a publication other than an official abstract of a peer-reviewed scientific publication.

4. Section 403(r)(6)(A), added by section 6, does not permit premarket approval or require premarket review by the FDA of any statement permitted under that provision.

5. In section 413(a)(1), added by section 8, the term "chemically altered" does not include the following physical modifications: minor loss of volatile components, dehydration, lyophlization, milling, tincture or solution in water, slurry, powder, or solid in suspension.

Mr. HATCH. Mr. President, any statement I could make would pale in comparison to the elation I feel over passage of S. 784 tonight.

Our compromise bill is a tremendous victory. It is a victory for the American people. It is a victory for consumers who want to lead healthy lifestyles.

And it is a victory for the legislative process, for it shows that the Congress can act decisively to affirm the desires of the American public.

I want to thank each and every one of the individuals who have made this legislation a possibility.

COMMENDATION OF THE U.S. RICE INDUSTRY "MENY OTIS WARREN DAY" TESTIMONY IN DOMESTIC VIOLENCE TRIALS

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged en bloc and the Senate proceed en bloc to the immediate consideration of Senate Joint Resolution 219, Senate Joint Resolution 222, and Senate Concurrent Resolution 21; that the joint resolutions each be read a third time; that the concurrent resolution be adopted; that the motions to reconsider be laid upon the table en bloc; that the preambles be agreed to en bloc; that the title amendment at the desk be agreed to; that the consideration of each of these items appear individually in the RECORD, and that any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. The joint resolutions (S.J. Res. 219, S.J. Res. 222) were passed. The concurrent resolution (S. Con. Res. 21) was agreed to. (The text of the resolutions will be printed in a future edition of the RECORD.)

SAMUEL PERRY POST OFFICE

GRAHAM PURCELL POST OFFICE

JOHN LONGO POST OFFICE

ARTURO WATLINGTON POST OFFICE

UBALDINA SIMMONS POST OFFICE

FANNIE LOU HAMER POST OFFICE

WILLIAM RANDALL POST OFFICE

WILBERT ARMSTRONG POST OFFICE

MARIAN OLDHAM POST OFFICE

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged en bloc from consideration of the following bills, H.R. 2056, H.R. 2294, H.R. 3984, H.R. 4192, H.R. 4193, H.R. 4452, H.R. 4551, H.R. 4571, and H.R. 4595; that the Senate then proceed en bloc to their immediate consideration; that the bills be deemed read three times, passed, and the motion to reconsider laid upon the table en bloc; further that any statements relative to the passage of these measures be placed in the RECORD at the appropriate place and the consideration of these items appear individually in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bills were passed.

CRIMES RELATING TO THE CONGRESSIONAL MEDAL OF HONOR

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5102, a bill relating to certain crimes relating to the Congressional Medal of Honor just received from the House, that the bill be read three times, passed, and the motion to reconsider laid upon the table, and that any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 5102) was deemed read the third time, and passed.

FOR THE RELIEF OF LETEANE CLEMENT MONATSI

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 526, H.R. 2411, a bill for the relief of the Leteane Clement Monatsi, that the bill be deemed read a third time and passed; that the motion to reconsider be laid upon the table, and that any statements relative to the passage of this item appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2411) was deemed read the third time, and passed.

VETERANS BENEFITS AND SERVICES AMENDMENTS OF 1994—MESSAGES FROM THE HOUSE

Mr. FEINGOLD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (H.R. 3313) to amend title 38, United States Code, to improve health care services of the Department of Veterans Affairs relating to women veterans, to extend and expand authority for the Secretary of Veterans Affairs to provide priority health care to veterans who were exposed to ionizing radiation or to Agent Orange, to expand the scope of services that may be provided to veterans through Vet Centers, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 3313) entitled "An Act to amend title 38, United States Code, to improve health care services of the Department of Veterans Affairs relating to women veterans, to extend and expand authority for the Secretary of Veterans Affairs to provide priority health care to veterans who were exposed to ionizing radiation or to Agent Orange, to expand the scope of services that may be provided to veterans through Vet Centers, and for other purposes", with the following amendments:

In lieu of the matter proposed to be inserted by said amendment to the text, insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Health Programs Extension Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—GENERAL MEDICAL AUTHORITIES

Sec. 101. Sexual trauma counseling and services.
Sec. 102. Research relating to women veterans.
Sec. 103. Extension of expiring authorities.
Sec. 104. Facilities in Republic of the Philippines.
Sec. 105. Savings provision.

TITLE II—CONSTRUCTION AUTHORIZATION

Sec. 201. Authorization of major medical facility projects and major medical facility leases.
Sec. 202. Authorization of appropriations.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—GENERAL MEDICAL AUTHORITIES

SEC. 101. SEXUAL TRAUMA COUNSELING AND SERVICES.

(a) AUTHORITY TO PROVIDE TREATMENT SERVICES FOR SEXUAL TRAUMA; REPEAL OF LIMITATION ON TIME TO SEEK SERVICES.—Subsection (a) of section 1720D is amended—

(1) by striking out paragraph (2); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) During the period referred to in paragraph (1), the Secretary may provide appropriate care and services to a veteran for an injury, illness, or other psychological condition that the Secretary determines to be the result of a physical assault, battery, or harassment referred to in that paragraph.".

(b) EXTENSION OF PERIOD OF AUTHORITY TO PROVIDE SEXUAL TRAUMA SERVICES.—Such subsection is further amended—

(1) in paragraph (1), by striking out "December 31, 1995," and inserting in lieu thereof "December 31, 1998,"; and

(2) in paragraph (3), by striking out "December 31, 1994," and inserting in lieu thereof "December 31, 1998,".

(c) REPEAL OF LIMITATION ON PERIOD OF RECEIPT OF SERVICES.—Such section is further amended—

(1) by striking out subsection (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(d) COORDINATION OF CARE.—Paragraph (1) of subsection (b) of such section, as redesignated by subsection (c)(2), is amended to read as follows:

"(1) The Secretary shall give priority to the establishment and operation of the program to provide counseling and care and services under subsection (a). In the case of a veteran eligible for counseling and care and services under subsection (a), the Secretary shall ensure that the veteran is furnished counseling and care and services under this section in a way that is coordinated with the furnishing of such care and services under this chapter.".

(e) INCREASED PRIORITY OF CARE.—Section 1712(i) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "To a veteran"; and

(B) by inserting ", or (B) who is eligible for counseling and care and services under section 1720D of this title, for the purposes of such counseling and care and services" before the period at the end; and

(2) in paragraph (2)—

(A) by striking out ", (B)" and inserting in lieu thereof "or (B)"; and

(B) by striking out ", or (C)" and all that follows through "such counseling".

(f) PROGRAM REVISION.—(1) Section 1720D is further amended—

(A) by striking out "woman" in subsection (a)(1);

(B) by striking out "women" in subsection (b)(2)(C) and in the first sentence of subsection (c), as redesignated by subsection (c); and

(C) by striking out "women" in subsection (c)(2), as so redesignated, and inserting in lieu thereof "individuals".

(2)(A) The heading of such section is amended to read as follows:

"§ 1720D. Counseling and treatment for sexual trauma".

(B) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"1720D. Counseling and treatment for sexual trauma.".

(g) INFORMATION BY TELEPHONE.—(1) Paragraph (1) of section 1720D(c), as redesignated by subsection (c) of this section, is amended to read as follows:

"(1) shall include availability of a toll-free telephone number (commonly referred to as an 800 number); and".

(2) In providing information on counseling available to veterans as required under section 1720D(c)(1) of title 38, United States Code (as amended by paragraph (1)), the Secretary of Veterans Affairs shall ensure that the Department of Veterans Affairs personnel who provide assistance under such section are trained in the provision to persons who have experienced sexual trauma of information about the care and services relating to sexual trauma that are available to veterans in the communities in which such veterans reside, including care and services available under programs of the Department (including the care and services available under section 1720D of such title) and from non-Department agencies or organizations.

(3) The telephone assistance service shall be operated in a manner that protects the confidentiality of persons who place calls to the system.

(4) The Secretary shall ensure that information about the availability of the telephone assistance service is visibly posted in Department medical facilities and is advertised through public service announcements, pamphlets, and other means.

(5) Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the operation of the telephone assistance service required under section 1720D(c)(1) of title 38, United States Code (as amended by paragraph (1)). The report shall set forth the following:

(A) The number of persons who sought information during the period covered by the report through a toll free telephone number regarding services available to veterans relating to sexual trauma, with a separate display of the number of such persons arrayed by State (as such term is defined in section 101(20) of title 38, United States Code).

(B) A description of the training provided to the personnel who provide such assistance.

(C) The recommendations and plans of the Secretary for the improvement of the service.

(h) CONFORMING REPEAL.—Section 102(b) of the Veterans Health Care Act of 1992 (Public Law 102-585; 106 Stat. 4946; 38 U.S.C. 1720D note) is repealed.

SEC. 102. RESEARCH RELATING TO WOMEN VETERANS.

(a) INCLUSION OF WOMEN AND MINORITIES IN CLINICAL RESEARCH PROJECTS.—Section 7303 is amended—

(1) by transferring the text of subsection (c) to the end of subsection (a)(1); and

(2) by striking out "(c)" and inserting in lieu thereof the following:

"(c)(1) In conducting or supporting clinical research, the Secretary shall ensure that, whenever possible and appropriate—

"(A) women who are veterans are included as subjects in each project of such research; and

"(B) members of minority groups who are veterans are included as subjects of such research.

"(2) In the case of a project of clinical research in which women or members of minority groups will under paragraph (1) be included as subjects of the research, the Secretary shall ensure that the project is designed and carried out so as to provide for a valid analysis of whether the variables being tested in the research affect women or members of minority groups, as the case may be, differently than other persons who are subjects of the research.".

(b) HEALTH RESEARCH.—(1) Such section is further amended by adding after subsection (c), as added by subsection (a), the following new subsection:

"(d)(1) The Secretary, in carrying out the Secretary's responsibilities under this section, shall foster and encourage the initiation and expansion of research relating to the health of veterans who are women.

"(2) In carrying out this subsection, the Secretary shall consult with the following to assist the Secretary in setting research priorities:

"(A) Officials of the Department assigned responsibility for women's health programs and sexual trauma services.

"(B) The members of the Advisory Committee on Women Veterans.

"(C) Members of appropriate task forces and working groups within the Department (including the Women Veterans Working Group and the Task Force on Treatment of Women Who Suffer Sexual Abuse).".

(2) Section 109 of the Veterans Health Care Act of 1992 (Public Law 102-585; 38 U.S.C. 7303 note) is repealed.

(c) POPULATION STUDY.—Section 110(a) of the Veterans Health Care Act of 1992 (Public Law 102-585; 106 Stat. 4948) is amended by adding at the end of paragraph (3) the following: "If it is feasible to do so within the amounts available for the conduct of the study, the Secretary shall ensure that the sample referred to in paragraph (1) constitutes a representative sampling (as determined by the Secretary) of the ages, the ethnic, social and economic backgrounds, the enlisted and officer grades, and the branches of service of all veterans who are women.".

SEC. 103. EXTENSION OF EXPIRING AUTHORITIES.

(a) AUTHORITY TO PROVIDE PRIORITY HEALTH CARE FOR VETERANS EXPOSED TO TOXIC SUBSTANCES.—Chapter 17 is amended—

(1) in section 1710(e)(3)—

(A) by striking out "June 30, 1994" and inserting in lieu thereof "June 30, 1995"; and

(B) by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1995"; and

(2) in section 1712(a)(1)(D), by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1995".

(b) DRUG AND ALCOHOL ABUSE AND DEPENDENCE.—Section 1720A(e) is amended by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1995".

(c) PILOT PROGRAM FOR NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE.—(1) Effective as of October 1, 1994, subsection (a) of section 1720C is amended by striking out "During the four-year period beginning on October 1, 1990," and inserting in lieu thereof "During the period through September 30, 1995,".

(2) Such subsection is further amended by striking out "care and who—" and inserting in lieu thereof "care. The Secretary shall give priority for participation in such program to veterans who—".

(d) ENHANCED-USE LEASES OF REAL PROPERTY.—Section 8169 is amended by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1995".

(e) AUTHORITY FOR COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS CHRONICALLY MENTALLY ILL VETERANS AND OTHER VETERANS.—Section 115(d) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1995".

(f) DEMONSTRATION PROGRAM OF COMPENSATED WORK THERAPY.—Section 7(a) of Public Law 102-54 (105 Stat. 269; 38 U.S.C. 1718 note) is amended by striking out "1994" and inserting in lieu thereof "1995".

(g) REPORT DEADLINES.—Section 201(b) of the Department of Veterans Affairs Nurse Pay Act of 1990 (Public Law 101-366; 38 U.S.C. 1720C note) is amended by striking out "February 1, 1994," and inserting in lieu thereof "February 1, 1995,".

SEC. 104. FACILITIES IN REPUBLIC OF THE PHILIPPINES.

Notwithstanding section 1724 of title 38, United States Code, the Secretary of Veterans Affairs may contract with facilities in the Republic of the Philippines other than the Veterans Memorial Medical Center to furnish, during the period from February 28, 1994, through June 1, 1994, hospital care and medical services to veterans for nonservice-connected disabilities if such veterans are unable to defray the expenses of necessary hospital care. When the Secretary determines it to be most feasible, the Secretary may provide medical services under the preceding sentence to such veterans at the Department of Veterans Affairs Outpatient Clinic at Manila, Republic of the Philippines.

SEC. 105. RATIFICATION OF ACTIONS DURING PERIOD OF LAPSED AUTHORITY.

Any action of the Secretary of Veterans Affairs under section 1710(e) of title 38, United States Code, during the period beginning on July 1, 1994, and ending on the date of the enactment of this Act is hereby ratified.

TITLE II—CONSTRUCTION AUTHORIZATION

SEC. 201. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS AND MAJOR MEDICAL FACILITY LEASES.

(a) PROJECTS AUTHORIZED.—The Secretary of Veterans Affairs may carry out the major medical facility projects for the Department of Veterans Affairs, and may carry out the major medical facility leases for that Department, for which funds are requested in the budget of the President for fiscal year 1995. The authorization in the preceding sentence applies to projects and leases which have not been authorized, or for which funds have not been appropriated, in any fiscal year before fiscal year 1995 and to projects and leases which have been authorized, or for which funds were appropriated, in fiscal years before fiscal year 1995.

(b) ADDITIONAL PROJECTS.—(1) In addition to the projects authorized in subsection (a), the Secretary may carry out the following major medical facility projects in the amounts specified for such projects:

(A) The projects that are proposed in the documents submitted to Congress by the Secretary of Veterans Affairs in conjunction with the budget of the President for fiscal year 1995 to be financed with funds from the proposed Health Care Investment Fund.

(B) Construction of a nursing home facility at the Department of Veterans Affairs Medical Center in Charleston, South Carolina, in the amount of $7,300,000.

(C) Construction of an outpatient care addition at the Department of Veterans Affairs medical center in Phoenix, Arizona, in the amount of $50,000,000.

(D) A lease/purchase of a nursing home facility near Fort Myers, Florida, in the amount of $12,800,000.

(2) The authorizations in paragraph (1) apply to projects which have not been authorized, or for which funds have not been

appropriated, in any fiscal year before fiscal year 1995 and to projects which have been authorized, or for which funds were appropriated, in fiscal years before fiscal year 1995.

(c) PROJECTS FOR WHICH FUNDS APPROPRIATED.—In addition to the projects authorized in subsections (a) and (b), the Secretary may carry out the following major medical facility projects for which funds were appropriated in chapter 7 of the Emergency Supplemental Appropriations Act of 1994 (title I of Public Law 103-211; 108 Stat. 10) in the amounts specified:

(1) Construction of an ambulatory care/support services facility at the Department of Veterans Affairs Medical Center in Sepulveda, California, $53,700,000.

(2) Other major medical facility projects required to repair, restore, or replace earthquake-damaged facilities at the Department of Veterans Affairs Medical Center in Sepulveda, California, $50,000,000.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 1995—

(1) $379,370,000 for the major medical facility projects authorized in subsections (a), (b), and (c) of section 201; and

(2) $15,800,000 for the major medical facility leases authorized in section 201(a).

(b) LIMITATION.—The projects authorized in subsections (a) and (b) of section 201 may only be carried out using—

(1) funds appropriated for fiscal year 1995 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects for a fiscal year before fiscal year 1995 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects for fiscal year 1995 for a category of activity not specific to a project.

(c) LIMITATION ON CERTAIN PROJECTS.—The projects authorized in subsection (c) of section 201 may only be carried out using—

(1) funds appropriated to the Construction, Major Projects account under chapter 7 of the Emergency Supplemental Appropriations Act of 1994 (title I of Public Law 103-211; 108 Stat. 10) and funds transferred by the President to the Construction, Major Projects account pursuant to chapter 8 of that Act (108 Stat. 14);

(2) funds appropriated to the Medical Care account by chapter 7 of the Emergency Supplemental Appropriations Act of 1994 that are transferred to the Construction, Major Projects account;

(3) funds appropriated to the Construction, Major Projects account for a fiscal year before fiscal year 1995 that remain available for obligation; and

(4) funds appropriated to the Construction, Major Projects account for fiscal year 1995 for a category of activity not specific to a project.

Amend the amendment of the title so as to read: "An Act to amend title 38, United States Code, to extend certain expiring veterans' health care programs, and for other purposes.".

VETERANS HEALTH PROGRAMS EXTENSION ACT OF 1994

Mr. ROCKEFELLER. Mr. President, as chairman of the Committee on Veterans' Affairs, I urge my colleagues to approve the compromise agreement on H.R. 3313, the proposed Veterans Health Programs Extension Act of 1994. This compromise is the result of efforts to reach a compromise on many issues.

Mr. President, I am deeply disappointed that we will be unable to pursue passage of a more comprehensive veterans health care bill this session. The bill we are passing today, the Veterans Health Programs Extension Act of 1994, is a much abbreviated version of an omnibus measure which was the final result of over a year of hearings, discussions, and most recently, successful negotiations involving the majority and minority staff of both Committees on Veterans' Affairs. If passed in the originally negotiated form, this bill would have been the only veterans omnibus health care bill of this year. Unfortunately, at the last minute, a Republican member of the House Committee raised objections—ones which I believe were without merit—that in light of the little time left in the session, made it impossible for the overall bill to pass. As a result, we were forced to pare it back to the very modest measure that comes before the Senate today.

Mr. President, this measure originally encompassed many different programs and would have helped many more veterans. It is truly sad, that because of the intransigence of one Republican Member of the House, many groups of deserving veterans will have to wait until next Congress to see real improvements in their health care—the health care which they have earned by their service.

Mr. President, the women veterans of this Nation will be particularly hurt by the blockage of some of the provisions of this bill. The measure would have expanded the list of women's health services offered by VA, and assured that women veterans would receive pap smears, breast examinations and mammography, services related to menopause and osteoporosis, and prenatal care, delivery, and postpartum care.

Additionally, the bill included provisions to authorize VA to furnish readjustment counseling to World War II or Korean conflict veterans, to furnish some preventive health services in Vet Centers, and to provide bereavement counseling services to family members of certain deceased servicemembers.

The bill would have improved VA's research on mental illness, including posttraumatic stress disorder, schizophrenia, and alcohol and drug abuse. And the bill, as originally negotiated, would have made it easier for VA to recruit nurses and other health professionals.

Mr. President, I will at this time highlight some of the provisions that remain in the compromise. Detailed descriptions of all the provisions are set forth in the explanatory statement accompanying the compromise agreement which was developed in cooperation with the House Committee on Veterans' Affairs. My distinguished counterpart, Chairman G.V. "SONNY" MONTGOMERY, inserted the same explanatory statement in the RECORD during House consideration of this measure.

Mr. President, the proposed Veterans Health Programs Extension Act of 1994 has two titles: General Medical Authorities and Construction Authorization.

TITLE I—GENERAL MEDICAL AUTHORITIES

SEXUAL TRAUMA COUNSELING AND SERVICES

Mr. President, the provisions in title I relating to sexual trauma services are derived, in part, from S. 2973 of the 102d Congress, which was ultimately enacted as the Veterans Health Care Act of 1992 (Public law 102-585), an omnibus veterans health measure.

Mr. President, this legislation would extend the entire sexual trauma counseling program within VA. Under current law, VA's authority to carry out this program would expire on December 31, 1995. VA needs more time to reach the veterans who need these services.

In addition, this legislation would repeal the restriction in current law that requires women veterans to seek sexual trauma counseling within 2 years of discharge from active duty, and it would also repeal the 1-year time limit during which a veteran could receive VA care for sexual trauma.

Women veterans have served with dignity and courage in all wars since the American Revolution, and we must ensure that any veteran who is raped or sexually assaulted while serving on active duty, is able to seek care at any point after leaving the service and get care for as long as is necessary.

EXTENSION OF EXPIRING AUTHORITIES

AUTHORITY TO PROVIDE PRIORITY HEALTH CARE

Mr. President, I am pleased that this legislation includes provisions relating to eligibility for medical care for exposure to dioxin or ionizing radiation.

These provisions also symbolize Congress' resolve to help veterans who were poorly informed or misinformed about their exposures to chemicals or atomic radiation. We want to assure these veterans that Congress is committed to providing the health care they need, even if the nature of their exposure makes it difficult to establish scientific proof that their exposures caused specific illnesses.

The proposed bill would extend, until June 30, 1995, current eligibility criteria for dioxin-exposed or radiation-exposed veterans to inpatient and nursing home care for the treatment of any disability not found to have resulted from a cause other than the exposure in question.

Mr. President,, although it may take years to determine all the causes of the mysterious illnesses experienced by our Persian Gulf war veterans, we must continue to provide medical care to those veterans who are suffering from these illnesses.

In this regard, the pending measure also includes a provision to authorize VA to provide inpatient or outpatient care to Persian Gulf war veterans until December 31, 1995.

TITLE II—CONSTRUCTION AUTHORIZATION

Mr. President, I am pleased that the compromise agreement would authorize major medical facility projects—projects for the construction, alteration, or acquisition of a medical facility currently involving a total expenditure of more than $3 million, as requested in the President's budget for fiscal year 1995. The following five projects, and the amounts specified, were requested in the President's budget submission for fiscal year 1995: (1) Design funds for construction of a new medical facility and nursing home in Brevard County, FL, $17.2 million; (2) seismic corrections to an existing facility in Memphis, TN, $62.3 million; (3) a tower addition to the David Grant Medical Center in Travis, CA, $7.3 million; (4) a research addition to the Medical Education Building in Huntington, WV, $9.9 million; (5) a research addition at the Portland, OR, Medical Center, $16.1 million.

As noted by both committees in the explanatory statement, three of the major medical facility projects in the VA fiscal year 1995 budget submission were authorized or partially funded in a prior year and therefore do not require authorization under section 8104(a)(2) of title 38, United States Code. These projects are at the VA medical centers in Memphis, TN—$10.7 million was authorized for FY 1994; Travis, CA—$11 million was appropriated for fiscal year 1993; and Huntington, WV—$250,000 was appropriated for fiscal year 1991.

The compromise agreement would also authorize the ambulatory care projects that were proposed in the documents submitted to Congress by the Secretary of Veterans Affairs in conjunction with the budget, to be financed with funds from the Health Care Investment Fund to be established under the proposed Health Security Act. These projects will be crucial to VA's ability to adapt to changing trends in health care practices. They are: (1) $9.6 million for the lease-purchase of an outpatient clinic in Bay Pines, FL; (2) $48 million for an ambulatory care addition and renovations at the Boston, MA, Medical Center; (3) $14 million to renovate the Naval Training Center Hospital in Orlando, FL, for use as a VA outpatient clinic and nursing home; (4) $29.2 million for an ambulatory care addition at the Hampton, VA, Medical Center; and (5) $48.6 million for an ambulatory care addition and renovations at the West Haven, CT, Medical Center.

Ambulatory care projects proposed to be constructed through the investment fund that do not require authorization are: (1) $17.8 million for an ambulatory care addition at the Gainesville, FL, Medical Center; (2) $22.9 million for an ambulatory care addition at the Columbia, MO, Medical Center; and (3) $34.8 million for an ambulatory care addition and parking garage at San Juan, PR.

Mr. President, I am pleased that the compromise agreement would also authorize the following additional projects: (1) a nursing home facility at the VA Medical Center in Charleston, SC, $7,300,000; (2) a lease/purchase of a nursing home facility near Ft. Myers, FL, $12,800,000; and (3) an outpatient care addition at the VA Medical Center in Phoenix, AZ, $50,000,000.

The compromise agreement would also authorize funds for construction of an ambulatory care facility to replace the earthquake-damaged facility in Sepulveda, CA. Funds for this project totaling $103.7 million have been made available through the Emergency Supplemental Appropriations Act of 1994.

I am pleased also that the compromise agreement would authorize the Secretary of Veterans Affairs to carry out two major medical facility leases—leases of space for use as a medical facility at an average annual rental rate of more than $300,000—for which funds were requested in the President's budget submission for fiscal year 1995, and would authorize the appropriation of $15,800,000 for those leases.

The major medical facility leases proposed in the President's budget and authorized by the committees are: an outpatient clinic in Ponce, PR—$1,175,040; and an outpatient clinic in Winston-Salem, NC—$844,800.

Leases for which funding is requested in the President's fiscal year 1995 budget, but for which authorization is not required are: a residential facility in Hilo, HI—$457,200; an outpatient expansion in Sacramento, CA—$345,000; a parking garage in Birmingham, AL $546,000; and a health care medical education center in Washington, DC—$350,000.

I am pleased that the compromise agreement also would include an authorization of $379,370,000 for the major medical facility projects I have outlined.

It is critical to the VA's mission that it maintain its capital investment and modernize the physical plants where appropriate to ensure that the VA health care system can provide state-of-the-art medical care and respond to the changing needs of our Nation's veterans.

Mr. President, in closing, I thank our committee's ranking Republican member, Senator MURKOWSKI, for his cooperation and help with this bill. I am also grateful to many other members of the committee for their support on this measure.

I also express my gratitude for their work on this legislation to the committee's minority staff, Carrie Gavora, Mickey Thursam, Chris Yoder, Bill Tuerk, and John Moseman, and, for all their help to me on this measure, majority staff members Kim Lipsky, Tom Hart, Diana Zuckerman, Valerie Kessner, Bill Brew, and Jim Gottlieb.

I also thank the chairman of the House Committee on Veterans' Affairs, G.V. "SONNY" MONTGOMERY, and the committee's ranking Republican member, BOB STUMP, as well as the other members of the House committee.

We also owe a debt of gratitude to Charlie Armstrong of the Senate Legislative Counsel's office and to Bob Cover of the House Legislative Counsel's office for the painstaking care and skill they devoted to the drafting of this legislation.

Thank you, Mr. President.

Mr. President, I ask unanimous consent that the explanatory statement on this compromise agreement prepared by the House and Senate Committees on Veterans' Affairs be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT EXPLANATORY STATEMENT FOR H.R. 3313, THE PROPOSED VETERANS HEALTH PROGRAMS EXTENSION ACT OF 1994

H.R. 3313, the proposed "Veterans Health Programs Extension Act of 1994", reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs have reached on a number of bills considered in the Senate and House during the 103d Congress, including: H.R. 3313 as passed by the House on November 16, 1993 (hereinafter referred to as the "House bill"); H.R. 4425 as passed by the House on May 23, 1994; S. 1030 as passed by the Senate on July 26, 1994 (hereinafter referred to as the "Senate bill"); S. 2277 as passed by the Senate on August 19, 1994; and S. 2325, which the Senate Committee on Veterans' Affairs reported on September 27, 1994, but which did not receive Senate consideration prior to the end of the 103d Congress.

The Committees on Veterans' Affairs have prepared the following explanation of H.R. 3313 as amended (hereinafter referred to as the "compromise agreement"). Differences between the provisions contained in the compromise agreement and the related provisions in the bills listed above are noted in this document, except for clerical corrections and conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

TITLE I—GENERAL MEDICAL AUTHORITIES

SEXUAL TRAUMA COUNSELING AND SERVICES

Current law: Section 102 of 1720D of title 38 (a) provides that through December 31, 1995, VA may furnish sexual trauma counseling to any woman who seeks counseling within 2 years after her discharge from service; (b) authorizes VA to provide counseling services through contract with non-VA providers through December 31, 1994; (c) prohibits VA from providing counseling for a period in excess of 1 year unless the Secretary determines that a longer period of counseling is needed; and (d) requires the Secretary to provide information on the availability of such counseling.

Under section 103 of Public Law 102-585, veterans who seek care for sexual trauma

have the same priority for care as a veteran who has a service-connected disability rated at 30 percent or below and who is seeking care for a non-service-connected disability or who is being examined to determine the existence or severity of a service-connected disability.

House bill: Section 106 would (a) extend the time period during which VA may provide sexual trauma counseling to veterans to December 31, 1998; (b) repeal the limitation on the period within which a veteran could seek sexual trauma counseling; (c) extend VA's authority to provide sexual trauma care through contracts with non-VA providers for 4 years, through December 31, 1998; (d) authorize VA to provide sexual trauma counseling to males; (e) require, rather than permit, VA to establish a toll-free telephone number to provide informational services; and (f) require a report on the operation of the telephone program. Section 106(d) would increase the priority for VA outpatient care accorded to veterans for sexual trauma care to that accorded to any veteran seeking care for a service-connected disability or for the treatment of any disability of a veteran who has a service-connected disability rated at 50 percent or above.

Senate bill: Section 101 is similar to the House bill, except that it authorizes VA to provide, in addition to counseling for sexual trauma, treatment for physical conditions resulting from that trauma.

Compromise agreement: Section 101 contains provisions derived from the two bills, including the provision from the Senate bill relating to treatment for physical conditions.

RESEARCH RELATING TO WOMEN VETERANS

Current law: Section 109 of Public Law 102-585 directs the Secretary to foster and encourage research relating to the health of women veterans; section 110 of Public Law 102-585 authorizes a population study of women veterans.

House bill: Section 105 would (a) require the Secretary to include women and minority veterans in research projects whenever possible and appropriate and ensure that in studies in which such veterans are included, the studies be designed and carried out so as to yield information on such veterans; and (b) amend section 110 of Public Law 102-585 to require that the population study include a sample that is representative of all women veterans.

Senate bill: Section 105 would (a) amend section 109(a) of Public Law 102-585, relating to VA research activity, to require the Secretary to consult with other specified VA officials as part of the effort to foster and encourage the initiation and expansion of research into women's health issues, to ensure that certain personnel be engaged in such research, and to include in such research, research into the following matters as they relate to women: (1) breast cancer, (2) gynecological and reproductive health, including gynecological cancer, infertility, sexually transmitted diseases, and pregnancy, (3) Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS), (4) mental health, including posttraumatic stress disorder and depression, (5) diseases relating to aging, including menopause, osteoporosis, and Alzheimer's disease, (6) substance abuse, (7) sexual violence and related trauma, and (8) exposure to toxic chemicals and other environmental hazards; and (b) amend section 109(b), relating to the population study, in a way similar to the House provision.

Compromise agreement: Section 102 follows the House bill with respect to the amendment to section 110 of Public Law 102-585 relating to the population study. However, rather than amending section 109(a) of Public Law 102-585 with respect to the Secretary's role in encouraging research, the compromise agreement repeals that section and adds a new subsection to section 7303 of title 38. The compromise agreement follows the Senate bill with respect to requiring the Secretary to consult with individuals charged with overseeing women's health programs, including the Director of the Nursing Service, Central Office officials who have the responsibility for women's health programs and sexual trauma services, members of the Advisory Committee on Women Veterans, and other members of appropriate task forces and working groups within the Department.

The Committees strongly urge the Secretary to improve VA research on women's health issues by establishing research priorities, supporting more research on women's health, and when possible, comparing the efficacy of treatment regimens for male and female patients.

EXTENSION OF EXPIRING AUTHORITIES

Authority to Provide Priority Health Care

Current law: Under section 1710(e) of title 38, various groups of veterans exposed to hazardous substances during their service—those exposed (a) to ionizing radiation from the detonation of a nuclear device or during service in Hiroshima or Nagasaki, Japan, following World War II; (b) to dioxin or other toxins during service in Vietnam; or (c) to toxins or environmental hazards during the Persian Gulf War—are eligible for inpatient and nursing home care for the treatment of any disability not found to have resulted from a cause other than the exposure in question. Veterans exposed to radiation or dioxin are eligible for certain outpatient care for the treatment of such disabilities under section 1712(a)(4). Persian Gulf War veterans are eligible under section 1712(a)(1)(D) for comprehensive outpatient care for the treatment of such disabilities. The authority expired on June 30, 1994, as to veterans exposed to radiation or dioxin, and expires on December 31, 1994, as to Persian Gulf War veterans.

House bill: Section 201 would modify current law so as to (a) limit the treatment of veterans exposed to dioxin to treatment of those diseases as to which the National Academy of Sciences has determined there is sufficient evidence to conclude there is a positive association between the disease in humans and exposure to an herbicide agent, those as to which there is evidence suggestive of an association, but such evidence is limited, and those as to which available studies are insufficient to permit a conclusion of an association; (b) extend the period of eligibility for hospital and nursing home care for those exposed to dioxin until September 30, 1996; (c) limit the treatment of veterans exposed to radiation to treatment of those diseases listed in section 1112(c)(2) of title 38 and those as to which VA determines there is credible evidence of a positive association between disease occurrence and radiation exposure for which the Congress has established presumptive service connection; (d) repeal the sunset date for eligibility for hospital and nursing home care for veterans exposed to radiation; (e) mandate, in the case of veterans exposed to either radiation or dioxin, any needed outpatient treatment for covered illnesses and provide a higher priority to such treatment; and (f) provide that veterans who had received care under the prior authority would not lose eligibility for continued care.

Senate bill: Section 201 would amend section 1710(e) of title 38 to extend the period of entitlement to VA inpatient and nursing home care for veterans exposed to dioxin or radiation until December 31, 2003. Section 202 would extend the authority to provide care for veterans of the Persian Gulf War until October 1, 2003.

Compromise agreement: Section 103(a) would amend section 1710(e) of title 38 to extend current law regarding care for veterans exposed to dioxin or radiation until June 30, 1995, and to extend current law regarding care for Persian Gulf War veterans until December 31, 1995.

Drug and Alcohol Abuse and Dependence

Current law: Section 1720(A) of title 38 authorizes VA, through December 3, 1994, to provide veterans who are suffering from substance abuse disabilities with care on a contract basis through community halfway houses.

House bill: No comparable provision.

Senate bill: Section 102 of S. 2325 would make permanent VA's authority to contract with non-VA halfway houses for rehabilitation services for veterans with substance abuse problems.

Compromise agreement: Section 103(b) would extend the authorization of this program until December 31, 1995.

Pilot Program for Noninstitutional Alternatives to Nursing Home Care

Current law: Section 1720C of title 38 authorizes VA, through October 1, 1994, to conduct a pilot program for furnishing certain services in noninstitutional settings for certain veterans who are in need of nursing home care.

House bill: Section 202 of H.R. 4425 would extend, until September 30, 1997, the pilot program, and would expand eligibility for the program to include all veterans who are eligible for and in need of VA nursing home care.

Senate bill: No comparable provision.

Compromise agreement: Section 103(c) would extend the pilot program until September 30, 1995.

Enhanced-Use Leases of Real Property

Current law: Subchapter V of chapter 81, title 38, authorizes the Secretary, through December 31, 1994, to enter into enhanced-use leases under which another party may use VA property so long as at least part of the property will provide for an activity which contributes to the mission of the Department of Veterans Affairs and enhances the use of the property.

House bill: No comparable provision.

Senate bill: Section 408 of S. 2325 would extend until December 31, 1996, the authority for VA to enter into enhanced-use leases.

Compromise agreement: Section 103(d) follows the Senate bill with an extension until December 31, 1995.

Authority for Community-Based Residential Care for Homeless Chronically Mentally Ill Veterans and Other Veterans

Current law: Public Law 100-322, based on Public Law 100-6, authorizes VA to conduct a program, known as the Homeless Chronically Mentally Ill (HCMI) program, through which VA outreach workers contact homeless veterans in the community, assess and refer veterans to community services, and place eligible veterans in contracted community-based residential treatment facilities. Public Law 102-405 extended VA's authority to conduct the HCMI program until September 30, 1994.

House bill: No comparable provision.

Senate bill: Section 104 of S. 2325 would reauthorize until September 30, 1999, the HCMI program and codify the program in title 38, United States Code.

Compromise agreement: Section 103(e) would reauthorize the HCMI program until September 30, 1995.

Demonstration Program of Compensated Work Therapy

Current law: Section 7 of Public Law 102-54, enacted in 1991, authorizes VA to conduct through October 1, 1994, a demonstration program of compensated work therapy and transitional residences (CWT/TR), which shall have two components. Under one component, VA is authorized to purchase and renovate no more than 50 residences as therapeutic transitional houses for chronic substance abusers. Under the second component, VA is authorized to contract with nonprofit corporations which would own and operate the transitional residences in conjunction with existing VA compensated work therapy programs.

House bill: Section 402 would (a) extend the CWT/TR demonstration program from fiscal year 1994 through fiscal year 1998, and (b) permit the Department to increase incrementally the number of residences it operates to a maximum of 106 in fiscal year 1998.

Senate bill: Section 101 of S. 2325 would extend the authorization of the CWT/TR program to fiscal year 1996.

Compromise agreement: Section 103(f) would reauthorize the CWT/TR program until October 1, 1995.

FACILITIES IN THE REPUBLIC OF THE PHILIPPINES

Current law: Section 1724 of title 38 limits the circumstances under which VA may provide medical care outside the United States, Puerto Rico, and the Virgin Islands. Under that section, VA may furnish non-service-connected treatment in the Philippines only on a contract basis with the Veterans Memorial Medical Center, a non-VA facility.

House bill: Section 504 of H.R. 4425 would ratify VA's actions in finding alternative means for caring for patients at the Veterans Memorial Medical Center in the Philippines during the period between February 29 and June 1, 1994, to include the provision of medical services to non-service-connected veterans at its Manila outpatient clinic.

Senate bill: No provision.

Compromise agreement: Section 104 follows the House bill.

TITLE II—CONSTRUCTION AUTHORIZATION

Authorization of Major Medical Facility Projects and Major Medical Facility Leases

Current law: Section 8104(a)(2) of title 38 provides that no funds may be appropriated for any fiscal year, and the Secretary of Veterans Affairs may not obligate or expend funds (other than for advance planning and design), for any major medical facility project or any major medical facility lease, unless funds for that project or lease have been specifically authorized by law.

House bill: Section 101(a)(1) of H.R. 4425 would authorize the Secretary, except as provided in section 101(a)(2), to carry out the major medical facility projects and major medical facility leases for the Department of Veterans Affairs for which funds were requested in the President's budget for fiscal year 1995.

Section 101(a)(2) would prohibit the Secretary from carrying out the projects for the construction of research additions at Huntington, WV, and Portland, OR.

Section 101(b) would authorize the Secretary to carry out the following additional major medical facility projects in the amounts specified: (1) The projects for ambulatory care facilities that are proposed in the budget for fiscal year 1995 to be financed with funds from the Health Care Investment Fund; (2) a nursing home facility at the VA Medical Center in Charleston, SC, $7,300,000; (3) a lease/purchase of a nursing home facility near Ft. Myers, FL, $18,630,000; and (4) an outpatient care addition at the VA Medical Center in Phoenix, AZ, $50,000,000.

Section 201(c) would authorize the construction of an ambulatory care/support services facility and other projects required to repair, restore, or replace, earthquake damage at the VA Medical Center in Sepulveda, CA, for which funds were appropriated in the Emergency Supplemental Appropriations act of 1994.

Senate bill: Section 1(a) of S. 2277 is substantively identical to the House provision in section 101(a), except that it would authorize all of the VA major medical facility projects for which funds are requested for fiscal year 1995, including the research additions in Portland, OR, and Huntington, WV. Section 1(a) states that the authorization in section 1(a) includes projects or leases that were previously authorized or funded.

Section 1(b) would authorize the following additional projects: (1) The projects for ambulatory care facilities that are proposed in the budget for fiscal year 1995 to be financed with funds from the Health Care Investment Fund; (2) a nursing home facility at the VA Medical Center in Charleston, SC, $7,300,000; and (3) an outpatient care addition at the VA Medical Center in Phoenix, AZ, $50,000,000.

Section 1(c) authorizes the construction of an ambulatory care/support services facility and other projects required to repair, restore, or replace, earthquake damage at the VA Medical Center in Sepulveda, CA, for which funds were appropriated in the Emergency Supplemental Appropriations Act of 1994.

Compromise agreement: Section 201(a) follows Senate provision section 1(a) and would authorize the VA to enter into the major medical facility projects and major medical facility leases for the Department of Veteran's Affairs for which funds were requested in the President's budget for fiscal year 1995.

Section 201(b) generally follows House provision section 101(b) and would authorize the following additional projects: (1) The projects for ambulatory care facilities that are proposed in the budget for fiscal year 1995 to be financed with funds from the Health Care Investment Fund; (2) a nursing home facility at the VA Medical Center in Charleston, SC, $7,300,000; (3) a lease/purchase of a nursing home facility near Ft. Myers, FL, $12,800,000; and (4) an outpatient care addition at the VA Medical Center in Phoenix, AZ, $50,000,000.

Section 201(c) is identical to House provision section 101(c) and Senate provision section 1(c) and would authorize the construction of an ambulatory care/support services facility and other projects required to repair, restore, or replace, earthquake damage at the VA Medical Center in Sepulveda, CA, for which funds were appropriated in the Emergency Supplemental Appropriations Act of 1994.

The Committees note that some major medical facility projects in the VA fiscal year 1995 budget submission were authorized or partially funded in a prior year and therefore do not require authorization under section 8104(a)(2) of title 38. These projects are: (1) Seismic corrections at the Memphis, TN, Medical Center, $62.3 million ($10.7 million was authorized for FY 1994); (2) construction of a medical center in Travis, CA, to replace the Martinez facility, $7.3 million for phase I ($11 million was appropriated for FY 1993); (3) construction of research facility in Huntington, WV, $9.9 million ($250,000 was appropriated for FY 1991); (4) construction of an ambulatory care addition at the Columbia, MO, Medical Center, $22.9 million ($300,00 was appropriated for FY 1993); (5) construction of an ambulatory care addition and parking garage at the San Juan, PR, Medical Center, $34.8 million ($46 million was authorized FY 1994); and (6) construction of an outpatient facility at the VA Medical Center in Gainesville, FL, $17.8 million (8.9 million appropriated for FY 1990).

Leases for which funding is requested in the budget but for which authorization is not required are: (1) Hilo, HI, residential facility, $457,200 (funds appropriated for FY 1992); (2) Sacramento, CA, outpatient expansion, $345,000 (funds authorized for FY 1994); (3) Birmingham, AL, parking garage $546,000 (GSA lease); (4) Washington, DC, health care medical education center, $350,000 (GSA lease).

Authorization of Appropriations

Current law: Section 8104(a)(2) of title 38 provides that no funds may be appropriated for any fiscal year, and the Secretary of Veterans Affairs may not obligate or expend funds (other than for advance planning and design), for any major medical facility project or any major medical facility lease, unless funds for that project or lease have been specifically authorized by law.

House bill: Section 102(a) of H.R. 4425 would authorize to be appropriated to the Secretary of Veterans Affairs for fiscal year 1995 (1) $343,800,000 for the authorized major medical facility projects; and (2) $15,800,000 for the authorized major medical facility leases.

Section 102(b) would limit the authorized projects to be carried out using only (1) specifically authorized major construction funds appropriated for fiscal year 1995; (2) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1995 that remain available for obligation; and (3) funds appropriated for Construction, Major Projects, for fiscal year 1995 for a category of activity not specific to a project.

Section 102(c) would limit the project authorized in section 101(c) to be carried out using only (1) funds appropriated as well as funds transferred by the President to the Construction, Major Projects account pursuant to the Emergency Supplemental Appropriations Act of 1994; (2) funds appropriated to the Medical Care Account by the Emergency Supplemental Appropriations Act of 1994 that are transferred by law to the Construction, Major Projects account; (3) funds appropriated to the Construction, Major Projects account for a fiscal year before fiscal year 1994 that remain available for obligation; and (4) funds appropriated for Construction, Major Projects, for fiscal year 1994 for a category of activity not specific to a project.

Senate bill: Section 2(a) of S. 2277 would authorize to be appropriated for fiscal year 1995 (1) $395,000,000 for major medical facility projects; and (2) $15,900,000 for major medical facility leases.

Section 2(b) is substantively identical to the House provision in section 102(b).

Section 2(c) is substantively identical to the House provision in section 102(c).

Comprise agreement: Section 202(a) would authorize to be appropriated to the Secretary of Veterans Affairs for fiscal year 1995

(1) $379,370,000 for the authorized major medical facility projects; and (2) $15,800,000 for the authorized major medical facility leases.

Section 202(b) is identical to House provision section 102(b), and Senate provision section 2(b).

Section 202(c) would limit the projects authorized in section 101(c) to be carried out using only: (1) Funds appropriated as well as funds transferred by the President to the Construction, Major Projects account pursuant to the Emergency Supplemental Appropriations Act of 1994; (2) funds appropriated to the Medical Care Account by the Emergency Supplemental Appropriations Act of 1994 that are transferred by law to the Construction, Major Projects account; (3) funds appropriated to the Construction, Major Projects account; (3) funds appropriated to the Construction, Major Projects account for a fiscal year before fiscal year 1995 that remain available for obligation; and (4) funds appropriated for Construction, Major Projects, for fiscal year 1995 for a category of activity not specific to a project.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Senate concur in amendments of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

CENTER FOR RARE DISEASE RESEARCH IN THE NATIONAL INSTITUTES OF HEALTH

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 714, S. 1203, a bill to establish a center for rare disease research in the National Institutes of Health; that the committee substitute be agreed to; the bill be read a third time and passed and any statements thereon appear in the RECORD at the appropriate place as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office for Rare Disease Research Act of 1994".

SEC. 2. ESTABLISHMENT OF OFFICE FOR RARE DISEASE RESEARCH.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 404F. OFFICE FOR RARE DISEASE RESEARCH.

"(a) ESTABLISHMENT.—There is established within the Office of the Director of the National Institutes of Health an office to be known as the Office for Rare Disease Research (in this section referred to as the 'Office'). The Office shall be headed by a director, who shall be appointed by the Director of the National Institutes of Health.

"(b) PURPOSE.—The purpose of the Office is to promote and coordinate the conduct of research on rare diseases through a strategic research plan and to establish and manage a rare disease research clinical database.

"(c) ADVISORY COUNCIL.—The Secretary shall establish an advisory council for the purpose of providing advice to the director of the Office concerning carrying out the strategic research plan and other duties under this section. Section 222 shall apply to such council to the same extent and in the same manner as such section applies to committees or councils established under such section.

"(d) DUTIES.—In carrying out subsection (b), the director of the Office shall—

"(1) develop a comprehensive plan for the conduct and support of research on rare diseases;

"(2) coordinate and disseminate information among the institutes and the public on rare diseases;

"(3) support research training and encourage the participation of a diversity of individuals in the conduct of rare disease research;

"(4) identify projects or research on rare diseases that should be conducted or supported by the National Institutes of Health;

"(5) develop and maintain central database on current government sponsored clinical research projects for rare diseases;

"(6) determine the need for registries of research subjects and epidemiological studies of rare disease populations; and

"(7) prepare biennial reports on the activities carried out or to be carried out by the Office and submit such reports to the Secretary and the Congress.".

So the bill (S. 1203), as amended, was deemed read the third time and passed.

(The text of the bill will be printed in a future edition of the RECORD.)

PAPERWORK REDUCTION ACT

The text of the bill (S. 560) to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes, as passed by the Senate on October 6, 1994, is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Paperwork Reduction Act of 1994".

SEC. 2. COORDINATION OF FEDERAL INFORMATION POLICY.

Chapter 35 of title 44, United States Code, is amended to read as follows:

"CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

"Sec.
"3501. Purposes.
"3502. Definitions.
"3503. Office of Information and Regulatory Affairs.
"3504. Authority and functions of Director.
"3505. Assignment of tasks and deadlines.
"3506. Federal agency responsibilities.
"3507. Public information collection activities; submission to Director; approval and delegation.
"3508. Determination of necessity for information; hearing.
"3509. Designation of central collection agency.
"3510. Cooperation of agencies in making information available.
"3511. Establishment and operation of Government Information Locator Service.
"3512. Public protection.
"3513. Director review of agency activities; reporting; agency response.
"3514. Responsiveness to Congress.
"3515. Administrative powers.
"3516. Rules and regulations.
"3517. Consultation with other agencies and the public.
"3518. Effect on existing laws and regulations.
"3519. Access to information.
"3520. Authorization of appropriations.

"§ 3501. Purposes

"The purposes of this chapter are to—

"(1) minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government;

"(2) ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government;

"(3) coordinate, integrate, and to the extent practicable and appropriate, make uniform Federal information resources management policies and practices as a means to improve the productivity, efficiency, and effectiveness of Government programs, including the reduction of information collection burdens on the public and the improvement of service delivery to the public;

"(4) improve the quality and use of Federal information to strengthen decisionmaking, accountability, and openness in Government and society;

"(5) minimize the cost to the Federal Government of the creation, collection, maintenance, use, dissemination, and disposition of information;

"(6) strengthen the partnership between the Federal Government and State, local, and tribal governments by minimizing the burden and maximizing the utility of information created, collected, maintained, used, disseminated, and retained by or for the Federal Government;

"(7) provide for the dissemination of public information on a timely basis, on equitable terms, and in a manner that promotes the utility of the information to the public and makes effective use of information technology;

"(8) ensure that the creation, collection, maintenance, use, dissemination, and disposition of information by or for the Federal Government is consistent with applicable laws, including laws relating to—

"(A) privacy and confidentiality, including section 552a of title 5;

"(B) security of information, including the Computer Security Act of 1987 (Public Law 100–235); and

"(C) access to information, including section 552 of title 5;

"(9) ensure the integrity, quality, and utility of the Federal statistical system;

"(10) ensure that information technology is acquired, used, and managed to improve performance of agency missions, including the reduction of information collection burdens on the public; and

"(11) improve the responsibility and accountability of the Office of Management and Budget and all other Federal agencies to Congress and to the public for implementing the information collection review process, information resources management, and related policies and guidelines established under this chapter.

"§ 3502. Definitions

"As used in this chapter—

"(1) the term 'agency' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but does not include—

"(A) the General Accounting Office;

"(B) Federal Election Commission;

"(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

"(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities;

"(2) the term 'burden' means time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency, including the resources expended for—

"(A) reviewing instructions;

"(B) acquiring, installing, and utilizing technology and systems;

"(C) adjusting the existing ways to comply with any previously applicable instructions and requirements;

"(D) searching data sources;

"(E) completing and reviewing the collection of information; and

"(F) transmitting, or otherwise disclosing the information;

"(3) the term 'collection of information' means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

"(A) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States; or

"(B) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes;

"(4) the term 'Director' means the Director of the Office of Management and Budget;

"(5) the term 'independent regulatory agency' means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

"(6) the term 'information resources' means information and related resources, such as personnel, equipment, funds, and information technology;

"(7) the term 'information resources management' means the process of managing information resources to accomplish agency missions and to improve agency performance, including through the reduction of information collection burdens on the public;

"(8) the term 'information system' means a discrete set of information resources and processes, automated or manual, organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information;

"(9) the term 'information technology' has the same meaning as the term 'automatic data processing equipment' as defined by section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2));

"(10) the term 'person' means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, or local government or branch thereof, or a political subdivision of a State, territory, or local government or a branch of a political subdivision;

"(11) the term 'practical utility' means the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion;

"(12) the term 'public information' means any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public; and

"(13) the term 'recordkeeping requirement' means a requirement imposed by or for an agency on persons to maintain specified records.

"§ 3503. Office of Information and Regulatory Affairs

"(a) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

"(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information resources management policy.

"(c) The Administrator and employees of the Office of Information and Regulatory Affairs shall be appointed with special attention to professional qualifications required to administer the functions of the Office described under this chapter. Such qualifications shall include relevant education, work experience, or related professional activities.

"§ 3504. Authority and functions of Director

"(a)(1) The Director shall oversee the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including service delivery to the public. In performing such oversight, the Director shall—

"(A) develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and

"(B) provide direction and oversee—

"(i) the review of the collection of information and the reduction of the information collection burden;

"(ii) agency dissemination of and public access to information;

"(iii) statistical activities;

"(iv) records management activities;

"(v) privacy, confidentiality, security, disclosure, and sharing of information; and

"(vi) the acquisition and use of information technology.

"(2) The authority of the Director under this chapter shall be exercised consistent with applicable law.

"(b) With respect to general information resources management policy, the Director shall—

"(1) develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;

"(2) foster greater sharing, dissemination, and access to public information, including through—

"(A) the use of the Government Information Locator Service; and

"(B) the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;

"(3) initiate and review proposals for changes in legislation, regulations, and agency procedures to improve information resources management practices;

"(4) oversee the development and implementation of best practices in information resources management, including training; and

"(5) oversee agency integration of program and management functions with information resources management functions.

"(c) With respect to the collection of information and the control of paperwork, the Director shall—

"(1) review proposed agency collections of information, and in accordance with section 3508, determine whether the collection of information by or for an agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

"(2) coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement and acquisition and to reduce information collection burdens on the public;

"(3) minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

"(4) maximize the practical utility of and public benefit from information collected by or for the Federal Government; and

"(5) establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information.

"(d) With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to—

"(1) apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and

"(2) promote public access to public information and fulfill the purposes of this chapter, including through the effective use of information technology.

"(e) With respect to statistical policy and coordination, the Director shall—

"(1) coordinate the activities of the Federal statistical system to ensure—

"(A) the efficiency and effectiveness of the system; and

"(B) the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;

"(2) ensure that budget proposals of agencies are consistent with system-wide priorities for maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding;

79-059 O—97 Vol. 140 (Pt. 21) 8

"(3) develop and oversee the implementation of Governmentwide policies, principles, standards, and guidelines concerning—

"(A) statistical collection procedures and methods;

"(B) statistical data classification;

"(C) statistical information presentation and dissemination;

"(D) timely release of statistical data; and

"(E) such statistical data sources as may be required for the administration of Federal programs;

"(4) evaluate statistical program performance and agency compliance with Governmentwide policies, principles, standards and guidelines;

"(5) promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;

"(6) coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;

"(7) appoint a chief statistician who is a trained and experienced professional statistician to carry out the functions described under this subsection;

"(8) establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall—

"(A) be headed by the chief statistician; and

"(B) consist of—

"(i) the heads of the major statistical programs; and

"(ii) representatives of other statistical agencies under rotating membership; and

"(9) provide opportunities for training in statistical policy functions to employees of the Federal Government under which—

"(A) each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and

"(B) all costs of the training shall be paid by the agency requesting training.

"(f) With respect to records management, the Director shall—

"(1) provide advice and assistance to the Archivist of the United States and the Administrator of General Services to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information resources management policies, principles, standards, and guidelines established under this chapter;

"(2) review compliance by agencies with—

"(A) the requirements of chapters 29, 31, and 33 of this title; and

"(B) regulations promulgated by the Archivist of the United States and the Administrator of General Services; and

"(3) oversee the application of records management policies, principles, standards, and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of information systems.

"(g) With respect to privacy and security, the Director shall—

"(1) develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for agencies;

"(2) oversee and coordinate compliance with sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

"(3) require Federal agencies, consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

"(h) With respect to Federal information technology, the Director shall—

"(1) in consultation with the Director of the National Institute of Standards and Technology and the Administrator of General Services—

"(A) develop and oversee the implementation of policies, principles, standards, and guidelines for information technology functions and activities of the Federal Government, including periodic evaluations of major information systems; and

"(B) oversee the development and implementation of standards under section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d));

"(2) monitor the effectiveness of, and compliance with, directives issued under sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759) and review proposed determinations under section 111(e) of such Act;

"(3) coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

"(4) ensure, through the review of agency budget proposals, information resources management plans and other means—

"(A) agency integration of information resources management plans, program plans and budgets for acquisition and use of information technology; and

"(B) the efficiency and effectiveness of inter-agency information technology initiatives to improve agency performance and the accomplishment of agency missions; and

"(5) promote the use of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

"§ 3505. Assignment of tasks and deadlines

"In carrying out the functions under this chapter, the Director shall—

"(1) in consultation with agency heads, set an annual Governmentwide goal for the reduction of information collection burdens by at least five percent, and set annual agency goals to—

"(A) reduce information collection burdens imposed on the public that—

"(i) represent the maximum practicable opportunity in each agency; and

"(ii) are consistent with improving agency management of the process for the review of collections of information established under section 3506(c); and

"(B) improve information resources management in ways that increase the productivity, efficiency and effectiveness of Federal programs, including service delivery to the public;

"(2) with selected agencies and non-Federal entities on a voluntary basis, conduct pilot projects to test alternative policies, practices, regulations, and procedures to fulfill the purposes of this chapter, particularly with regard to minimizing the Federal information collection burden;

"(3) in consultation with the Administrator of General Services, the Director of the National Institute of Standards and Technology, the Archivist of the United States, and the Director of the Office of Personnel Management, develop and maintain a Governmentwide strategic plan for information resources management, that shall include—

"(A) a description of the objectives and the means by which the Federal Government shall apply information resources to improve agency and program performance;

"(B) plans for—

"(i) reducing information burdens on the public, including reducing such burdens through the elimination of duplication and meeting shared data needs with shared resources;

"(ii) enhancing public access to and dissemination of, information, using electronic and other formats; and

"(iii) meeting the information technology needs of the Federal Government in accordance with the requirements of sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759), and the purposes of this chapter; and

"(C) a description of progress in applying information resources management to improve agency performance and the accomplishment of missions; and

"(4) in cooperation with the Administrator of General Services, issue guidelines for the establishment and operation in each agency of a process, as required under section 3506(h)(5) of this chapter, to review major information systems initiatives, including acquisition and use of information technology.

"§ 3506. Federal agency responsibilities

"(a)(1) The head of each agency shall be responsible for—

"(A) carrying out the agency's information resources management activities to improve agency productivity, efficiency, and effectiveness; and

"(B) complying with the requirements of this chapter and related policies established by the Director.

"(2)(A) Except as provided under subparagraph (B), the head of each agency shall designate a senior official who shall report directly to such agency head to carry out the responsibilities of the agency under this chapter.

"(B) The Secretary of the Department of Defense and the Secretary of each military department may each designate a senior official who shall report directly to such Secretary to carry out the responsibilities of the department under this chapter. If more than one official is designated for the military departments, the respective duties of the officials shall be clearly delineated.

"(3) The senior official designated under paragraph (2) shall head an office responsible for ensuring agency compliance with and prompt, efficient, and effective implementation of the information policies and information resources management responsibilities established under this chapter, including the reduction of information collection burdens on the public. The senior official and employees of such office shall be selected with special attention to the professional qualifications required to administer the functions described under this chapter.

"(4) Each agency program official shall be responsible and accountable for information resources assigned to and supporting the programs under such official. In consultation with the senior official designated under paragraph (2) and the agency Chief Financial Officer (or comparable official), each agency program official shall define program information needs and develop strategies, systems, and capabilities to meet those needs.

"(5) The head of each agency shall establish a permanent information resources management steering committee, which shall be chaired by the senior official designated under paragraph (2) and shall include senior program officials and the Chief Financial Officer (or comparable official). Each steering committee shall—

"(A) assist and advise the head of the agency in carrying out information resources management responsibilities of the agency;

"(B) assist and advise the senior official designated under paragraph (2) in the establishment of performance measures for information resources management that relate to program missions;

"(C) select, control, and evaluate all major information system initiatives (including acquisitions of information technology) in accordance with the requirements of subsection (h)(5); and

"(D) identify opportunities to redesign business practices and supporting information systems to improve agency performance.

"(b) With respect to general information resources management, each agency shall—

"(1) develop information systems, processes, and procedures to—

"(A) reduce information collection burdens on the public;

"(B) increase program efficiency and effectiveness; and

"(C) improve the integrity, quality, and utility of information to all users within and outside the agency, including capabilities for ensuring dissemination of public information, public access to government information, and protections for privacy and security;

"(2) in accordance with guidance by the Director, develop and maintain a strategic information resources management plan that shall describe how information resources management activities help accomplish agency missions;

"(3) develop and maintain an ongoing process to—

"(A) ensure that information resources management operations and decisions are integrated with organizational planning, budget, financial management, human resources management, and program decisions;

"(B) develop and maintain an integrated, comprehensive and controlled process of information systems selection, development, and evaluation;

"(C) in cooperation with the agency Chief Financial Officer (or comparable official), develop a full and accurate accounting of information technology expenditures, related expenses, and results; and

"(D) establish goals for improving information resources management's contribution to program productivity, efficiency, and effectiveness, methods for measuring progress towards those goals, and clear roles and responsibilities for achieving those goals;

"(4) in consultation with the Director, the Administrator of General Services, and the Archivist of the United States, maintain a current and complete inventory of the agency's information resources, including directories necessary to fulfill the requirements of section 3511 of this chapter; and

"(5) in consultation with the Director and the Director of the Office of Personnel Management, conduct formal training programs to educate agency program and management officials about information resources management.

"(c) With respect to the collection of information and the control of paperwork, each agency shall—

"(1) establish a process within the office headed by the official designated under subsection (a), that is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved under this chapter, to—

"(A) review each collection of information before submission to the Director for review under this chapter, including—

"(i) an evaluation of the need for the collection of information;

"(ii) a functional description of the information to be collected;

"(iii) a plan for the collection of the information;

"(iv) a specific, objectively supported estimate of burden;

"(v) a test of the collection of information through a pilot program, if appropriate; and

"(vi) a plan for the efficient and effective management and use of the information to be collected, including necessary resources;

"(B) ensure that each information collection—

"(i) is inventoried, displays a control number and, if appropriate, an expiration date;

"(ii) indicates the collection is in accordance with the clearance requirements of section 3507; and

"(iii) contains a statement to inform the person receiving the collection of information—

"(I) the reasons the information is being collected;

"(II) the way such information is to be used;

"(III) an estimate, to the extent practicable, of the burden of the collection; and

"(IV) whether responses to the collection of information are voluntary, required to obtain a benefit, or mandatory; and

"(C) assess the information collection burden of proposed legislation affecting the agency;

"(2)(A) except as provided under subparagraph (B), provide 60-day notice in the Federal Register, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information, to solicit comment to—

"(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

"(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

"(iii) enhance the quality, utility, and clarity of the information to be collected; and

"(iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology; and

"(B) for any proposed collection of information contained in a proposed rule (to be reviewed by the Director under section 3507(d)), provide notice and comment through the notice of proposed rulemaking for the proposed rule and such notice shall have the same purposes specified under subparagraph (A) (i) through (iv); and

"(3) certify (and provide a record supporting such certification, including public comments received by the agency) that each collection of information submitted to the Director for review under section 3507—

"(A) is necessary for the proper performance of the functions of the agency, including that the information has practical utility;

"(B) is not unnecessarily duplicative of information otherwise reasonably accessible to the agency;

"(C) reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined under section 601(6) of title 5, the use of such techniques as—

"(i) establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond;

"(ii) the clarification, consolidation, or simplification of compliance and reporting requirements; or

"(iii) an exemption from coverage of the collection of information, or any part thereof;

"(D) is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond;

"(E) is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond;

"(F) contains the statement required under paragraph (1)(B)(iii);

"(G) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public;

"(H) uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and

"(I) to the maximum extent practicable, uses information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public.

"(d) With respect to information dissemination, each agency shall—

"(1) ensure that the public has timely and equitable access to the agency's public information, including ensuring such access through—

"(A) encouraging a diversity of public and private sources for information based on government public information, and

"(B) agency dissemination of public information in an efficient, effective, and economical manner;

"(2) regularly solicit and consider public input on the agency's information dissemination activities; and

"(3) not, except where specifically authorized by statute—

"(A) establish an exclusive, restricted, or other distribution arrangement that interferes with timely and equitable availability of public information to the public;

"(B) restrict or regulate the use, resale, or redissemination of public information by the public;

"(C) charge fees or royalties for resale or redissemination of public information; or

"(D) establish user fees for public information that exceed the cost of dissemination.

"(e) With respect to statistical policy and coordination, each agency shall—

"(1) ensure the relevance, accuracy, timeliness, integrity, and objectivity of information collected or created for statistical purposes;

"(2) inform respondents fully and accurately about the sponsors, purposes, and uses of statistical surveys and studies;

"(3) protect respondents' privacy and ensure that disclosure policies fully honor pledges of confidentiality;

"(4) observe Federal standards and practices for data collection, analysis, documentation, sharing, and dissemination of information;

"(5) ensure the timely publication of the results of statistical surveys and studies, including information about the quality and limitations of the surveys and studies; and

"(6) make data available to statistical agencies and readily accessible to the public.

"(f) With respect to records management, each agency shall implement and enforce applicable policies and procedures, including requirements for archiving information maintained in electronic format, particularly in the planning, design and operation of information systems.

"(g) With respect to privacy and security, each agency shall—

"(1) implement and enforce applicable policies, procedures, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for the agency;

"(2) assume responsibility and accountability for compliance with and coordinated management of sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

"(3) consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

"(h) With respect to Federal information technology, each agency shall—

"(1) implement and enforce applicable Governmentwide and agency information technology management policies, principles, standards, and guidelines;

"(2) assume responsibility and accountability for any acquisitions made pursuant to a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759);

"(3) promote the use of information technology by the agency to improve the productivity, efficiency, and effectiveness of agency programs, including the reduction of information collection burdens on the public and improved dissemination of public information;

"(4) propose changes in legislation, regulations, and agency procedures to improve information technology practices, including changes that improve the ability of the agency to use technology to reduce burden; and

"(5) establish, and be responsible for, a major information system initiative review process, which shall be developed and implemented by the information resources management steering committee established under subsection (a)(5), consistent with guidelines issued under section 3505(4), and include—

"(A) the review of major information system initiative proposals and projects (including acquisitions of information technology), approval or disapproval of each such initiative, and periodic reviews of the development and implementation of such initiatives, including whether the projected benefits have been achieved;

"(B) the use by the committee of specified evaluative techniques and criteria to—

"(i) assess the economy, efficiency, effectiveness, risks, and priority of system initiatives in relation to mission needs and strategies;

"(ii) estimate and verify life-cycle system initiative costs; and

"(iii) assess system initiative privacy, security, records management, and dissemination and access capabilities;

"(C) the use, as appropriate, of independent cost evaluations of data developed under subparagraph (B); and

"(D) the inclusion of relevant information about approved initiatives in the agency's annual budget request.

"§3507. Public information collection activities; submission to Director; approval and delegation

"(a) An agency shall not conduct or sponsor the collection of information unless in advance of the adoption or revision of the collection of information—

"(1) the agency has—

"(A) conducted the review established under section 3506(c)(1);

"(B) evaluated the public comments received under section 3506(c)(2);

"(C) submitted to the Director the certification required under section 3506(c)(3), the proposed collection of information, copies of pertinent statutory authority, regulations, and other related materials as the Director may specify; and

"(D) published a notice in the Federal Register—

"(i) stating that the agency has made such submission; and

"(ii) setting forth—

"(I) a title for the collection of information;

"(II) a summary of the collection of information;

"(III) a brief description of the need for the information and the proposed use of the information;

"(IV) a description of the likely respondents and proposed frequency of response to the collection of information;

"(V) an estimate of the burden that shall result from the collection of information; and

"(VI) notice that comments may be submitted to the agency and Director;

"(2) the Director has approved the proposed collection of information or approval has been inferred, under the provisions of this section; and

"(3) the agency has obtained from the Director a control number to be displayed upon the collection of information.

"(b) The Director shall provide at least 30 days for public comment prior to making a decision under subsection (c), (d), or (h), except as provided under subsection (j).

"(c)(1) For any proposed collection of information not contained in a proposed rule, the Director shall notify the agency involved of the decision to approve or disapprove the proposed collection of information.

"(2) The Director shall provide the notification under paragraph (1), within 60 days after receipt or publication of the notice under subsection (a)(1)(D), whichever is later.

"(3) If the Director does not notify the agency of a denial or approval within the 60-day period described under paragraph (2)—

"(A) the approval may be inferred;

"(B) a control number shall be assigned without further delay; and

"(C) the agency may collect the information for not more than 2 years.

"(d)(1) For any proposed collection of information contained in a proposed rule—

"(A) as soon as practicable, but no later than the date of publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains a collection of information and any information requested by the Director necessary to make the determination required under this subsection; and

"(B) within 60 days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments pursuant to the standards set forth in section 3508 on the collection of information contained in the proposed rule;

"(2) When a final rule is published in the Federal Register, the agency shall explain—

"(A) how any collection of information contained in the final rule responds to the comments, if any, filed by the Director or the public; or

"(B) the reasons such comments were rejected.

"(3) If the Director has received notice and failed to comment on an agency rule within 60 days after the notice of proposed rulemaking, the Director may not disapprove any collection of information specifically contained in an agency rule.

"(4) No provision in this section shall be construed to prevent the Director, in the Director's discretion—

"(A) from disapproving any collection of information which was not specifically required by an agency rule;

"(B) from disapproving any collection of information contained in an agency rule, if the agency failed to comply with the requirements of paragraph (1) of this subsection;

"(C) from disapproving any collection of information contained in a final agency rule, if the Director finds within 60 days after the publication of the final rule that the agency's response to the Director's comments filed under paragraph (2) of this subsection was unreasonable; or

"(D) from disapproving any collection of information contained in a final rule, if—

"(i) the Director determines that the agency has substantially modified in the final rule the collection of information contained in the proposed rule; and

"(ii) the agency has not given the Director the information required under paragraph (1) with respect to the modified collection of information, at least 60 days before the issuance of the final rule.

"(5) This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.

"(6) The decision by the Director to approve or not act upon a collection of information contained in an agency rule shall not be subject to judicial review.

"(e)(1) Any decision by the Director under subsection (c), (d), (h), or (j) to disapprove a collection of information, or to instruct the agency to make substantive or material change to a collection of information, shall be publicly available and include an explanation of the reasons for such decision.

"(2) Any written communication between the Office of the Director, the Administrator of the Office of Information and Regulatory Affairs, or any employee of the Office of Information and Regulatory Affairs and an agency or person not employed by the Federal Government concerning a proposed collection of information shall be made available to the public.

"(3) This subsection shall not require the disclosure of—

"(A) any information which is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy; or

"(B) any communication relating to a collection of information which has not been

approved under this chapter, the disclosure of which could lead to retaliation or discrimination against the communicator.

"(f)(1) An independent regulatory agency which is administered by 2 or more members of a commission, board, or similar body, may by majority vote void—

"(A) any disapproval by the Director, in whole or in part, of a proposed collection of information of an independent regulatory agency; or

"(B) an exercise of authority under subsection (d) of section 3507 concerning such an agency.

"(2) The agency shall certify each vote to void such disapproval or exercise to the Director, and explain the reasons for such vote. The Director shall without further delay assign a control number to such collection of information, and such vote to void the disapproval or exercise shall be valid for a period of 3 years.

"(g) The Director may not approve a collection of information for a period in excess of 3 years.

"(h)(1) If an agency decides to seek extension of the Director's approval granted for a currently approved collection of information, the agency shall—

"(A) conduct the review established under section 3506(c), including the seeking of comment from the public on the continued need for, and burden imposed by the collection of information; and

"(B) after having made a reasonable effort to seek public comment, but no later than 60 days before the expiration date of the control number assigned by the Director for the currently approved collection of information, submit the collection of information for review and approval under this section, which shall include an explanation of how the agency has used the information that it has collected.

"(2) If under the provisions of this section, the Director disapproves a collection of information contained in an existing rule, or recommends or instructs the agency to make a substantive or material change to a collection of information contained in an existing rule, the Director shall—

"(A) publish an explanation thereof in the Federal Register; and

"(B) instruct the agency to undertake a rulemaking within a reasonable time limited to consideration of changes to the collection of information contained in the rule and thereafter to submit the collection of information for approval or disapproval under this chapter.

"(3) An agency may not make a substantive or material modification to a collection of information after such collection has been approved by the Director, unless the modification has been submitted to the Director for review and approval under this chapter.

"(i)(1) If the Director finds that a senior official of an agency designated under section 3506(a) is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved and has sufficient resources to carry out this responsibility effectively, the Director may, by rule in accordance with the notice and comment provisions of chapter 5 of title 5, United States Code, delegate to such official the authority to approve proposed collections of information in specific program areas, for specific purposes, or for all agency purposes.

"(2) A delegation by the Director under this section shall not preclude the Director from reviewing individual collections of information if the Director determines that circumstances warrant such a review. The Director shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Director, any official to whom approval authority has been delegated under this section shall comply fully with the rules and regulations promulgated by the Director.

"(j)(1) The agency head may request the Director to authorize collection of information prior to expiration of time periods established under this chapter, if an agency head determines that—

"(A) a collection of information—

"(i) is needed prior to the expiration of such time periods; and

"(ii) is essential to the mission of the agency; and

"(B) the agency cannot reasonably comply with the provisions of this chapter within such time periods because—

"(i) public harm is reasonably likely to result if normal clearance procedures are followed; or

"(ii) an unanticipated event has occurred and the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information related to the event or is reasonably likely to cause a statutory or court-ordered deadline to be missed.

"(2) The Director shall approve or disapprove any such authorization request within the time requested by the agency head and, if approved, shall assign the collection of information a control number. Any collection of information conducted under this subsection may be conducted without compliance with the provisions of this chapter for a maximum of 90 days after the date on which the Director received the request to authorize such collection.

"§ 3508. Determination of necessity for information; hearing

"Before approving a proposed collection of information, the Director shall determine whether the collection of information by the agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility. Before making a determination the Director may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent that the Director determines that the collection of information by an agency is unnecessary for the proper performance of the functions of the agency, for any reason, the agency may not engage in the collection of information.

"§ 3509. Designation of central collection agency

"The Director may designate a central collection agency to obtain information for two or more agencies if the Director determines that the needs of such agencies for information will be adequately served by a single collection agency, and such sharing of data is not inconsistent with applicable law. In such cases the Director shall prescribe (with reference to the collection of information) the duties and functions of the collection agency so designated and of the agencies for which it is to act as agent (including reimbursement for costs). While the designation is in effect, an agency covered by the designation may not obtain for itself information for the agency which is the duty of the collection agency to obtain. The Director may modify the designation from time to time as circumstances require. The authority to designate under this section is subject to the provisions of section 3507(f) of this chapter.

"§ 3510. Cooperation of agencies in making information available

"(a) The Director may direct an agency to make available to another agency, or an agency may make available to another agency, information obtained by a collection of information if the disclosure is not inconsistent with applicable law.

"(b)(1) If information obtained by an agency is released by that agency to another agency, all the provisions of law (including penalties which relate to the unlawful disclosure of information) apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information.

"(2) The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

"§ 3511. Establishment and operation of Government Information Locator Service

"In order to assist agencies and the public in locating information and to promote information sharing and equitable access by the public, the Director shall—

"(1) cause to be established and maintained a distributed agency-based electronic Government Information Locator Service (hereafter in this section referred to as the 'Service'), which shall identify the major information systems, holdings, and dissemination products of each agency;

"(2) require each agency to establish and maintain an agency information locator service as a component of, and to support the establishment and operation of the Service;

"(3) in cooperation with the Archivist of the United States, the Administrator of General Services, the Public Printer, and the Librarian of Congress, establish an interagency committee to advise the Secretary of Commerce on the development of technical standards for the Service to ensure compatibility, promote information sharing, and uniform access by the public;

"(4) consider public access and other user needs in the establishment and operation of the Service;

"(5) ensure the security and integrity of the Service, including measures to ensure that only information which is intended to be disclosed to the public is disclosed through the Service; and

"(6) periodically review the development and effectiveness of the Service and make recommendations for improvement, including other mechanisms for improving public access to Federal agency public information.

"§ 3512. Public protection

"Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to maintain, provide, or disclose information to or for any agency or person if the applicable collection of information—

"(1) was made after December 31, 1981; and

"(2)(A) does not display a valid control number assigned by the Director; or

"(B) fails to state that such collection is not subject to this chapter.

"§ 3513. Director review of agency activities; reporting; agency response

"(a) In consultation with the Administrator of General Services, the Archivist of

the United States, the Director of the National Institute of Standards and Technology, and the Director of the Office of Personnel Management, the Director shall periodically review selected agency information resources management activities to ascertain the efficiency and effectiveness of such activities to improve agency performance and the accomplishment of agency missions.

"(b) Each agency having an activity reviewed under subsection (a) shall, within 60 days after receipt of a report on the review, provide a written plan to the Director describing steps (including milestones) to—

"(1) be taken to address information resources management problems identified in the report; and

"(2) improve agency performance and the accomplishment of agency missions.

"§ 3514. Responsiveness to Congress

"(a)(1) The Director shall—

"(A) keep the Congress and congressional committees fully and currently informed of the major activities under this chapter; and

"(B) submit a report on such activities to the President of the Senate and the Speaker of the House of Representatives annually and at such other times as the Director determines necessary.

"(2) The Director shall include in any such report a description of the extent to which agencies have—

"(A) reduced information collection burdens on the public, including—

"(i) a summary of accomplishments and planned initiatives to reduce collection of information burdens;

"(ii) a list of all violations of this chapter and of any rules, guidelines, policies, and procedures issued pursuant to this chapter; and

"(iii) a list of any increase in the collection of information burden, including the authority for each such collection;

"(B) improved the quality and utility of statistical information;

"(C) improved public access to Government information; and

"(D) improved program performance and the accomplishment of agency missions through information resources management.

"(b) The preparation of any report required by this section shall be based on performance results reported by the agencies and shall not increase the collection of information burden on persons outside the Federal Government.

"§ 3515. Administrative powers

"Upon the request of the Director, each agency (other than an independent regulatory agency) shall, to the extent practicable, make its services, personnel, and facilities available to the Director for the performance of functions under this chapter.

"§ 3516. Rules and regulations

"The Director shall promulgate rules, regulations, or procedures necessary to exercise the authority provided by this chapter.

"§ 3517. Consultation with other agencies and the public

"(a) In developing information resources management policies, plans, rules, regulations, procedures, and guidelines and in reviewing collections of information, the Director shall provide interested agencies and persons early and meaningful opportunity to comment.

"(b) Any person may request the Director to review any collection of information conducted by or for an agency to determine, if, under this chapter, the person shall maintain, provide, or disclose the information to or for the agency. Unless the request is frivolous, the Director shall, in coordination with the agency responsible for the collection of information—

"(1) respond to the request within 60 days after receiving the request, unless such period is extended by the Director to a specified date and the person making the request is given notice of such extension; and

"(2) take appropriate remedial action, if necessary.

"§ 3518. Effect on existing laws and regulations

"(a) Except as otherwise provided in this chapter, the authority of an agency under any other law to prescribe policies, rules, regulations, and procedures for Federal information resources management activities is subject to the authority of the Director under this chapter.

"(b) Nothing in this chapter shall be deemed to affect or reduce the authority of the Secretary of Commerce or the Director of the Office of Management and Budget pursuant to Reorganization Plan No. 1 of 1977 (as amended) and Executive order, relating to telecommunications and information policy, procurement and management of telecommunications and information systems, spectrum use, and related matters.

"(c)(1) Except as provided in paragraph (2), this chapter shall not apply to the collection of information—

"(A) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter;

"(B) during the conduct of—

"(i) a civil action to which the United States or any official or agency thereof is a party; or

"(ii) an administrative action or investigation involving an agency against specific individuals or entities;

"(C) by compulsory process pursuant to the Antitrust Civil Process Act and section 13 of the Federal Trade Commission Improvements Act of 1980; or

"(D) during the conduct of intelligence activities as defined in section 4–206 of Executive Order No. 12036, issued January 24, 1978, or successor orders, or during the conduct of cryptologic activities that are communications security activities.

"(2) This chapter applies to the collection of information during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1)) undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry.

"(d) Nothing in this chapter shall be interpreted as increasing or decreasing the authority conferred by Public Law 89–306 on the Administrator of the General Services Administration, the Secretary of Commerce, or the Director of the Office of Management and Budget.

"(e) Nothing in this chapter shall be interpreted as increasing or decreasing the authority of the President, the Office of Management and Budget or the Director thereof, under the laws of the United States, with respect to the substantive policies and programs of departments, agencies and offices, including the substantive authority of any Federal agency to enforce the civil rights laws.

"§ 3519. Access to information

"Under the conditions and procedures prescribed in section 716 of title 31, the Director and personnel in the Office of Information and Regulatory Affairs shall furnish such information as the Comptroller General may require for the discharge of the responsibilities of the Comptroller General. For the purpose of obtaining such information, the Comptroller General or representatives thereof shall have access to all books, documents, papers and records, regardless of form or format, of the Office.

"§ 3520. Authorization of appropriations

"(a) Subject to subsection (b), there are authorized to be appropriated to the Office of Information and Regulatory Affairs to carry out the provisions of this chapter, and for no other purpose, $8,000,000 for each of the fiscal years 1995, 1996, 1997, 1998, and 1999.

"(b)(1) No funds may be appropriated pursuant to subsection (a) unless such funds are appropriated in an appropriation Act (or continuing resolution) which separately and expressly states the amount appropriated pursuant to subsection (a) of this section.

"(2) No funds are authorized to be appropriated to the Office of Information and Regulatory Affairs, or to any other officer or administrative unit of the Office of Management and Budget, to carry out the provisions of this chapter, or to carry out any function under this chapter, for any fiscal year pursuant to any provision of law other than subsection (a) of this section.".

SEC. 3. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall take effect on March 31, 1995.

NURSING EDUCATION CONSOLIDATION AND REAUTHORIZATION ACT

The text of the bill (S. 2433) to amend title VIII of the Public Health Service Act to consolidate and reauthorize nursing education programs under such title, and for other purposes, as passed by the Senate on October 6, 1994, is as follows:

S. 2433

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nursing Education Consolidation and Reauthorization Act of 1994".

SEC. 2. PURPOSE.

It is the purpose of this Act to restructure the nurse education authorities of title VIII of the Public Health Service Act to permit a comprehensive, flexible, and effective approach to Federal support for nursing workforce development.

SEC. 3. AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.

Title VIII of the Public Health Service Act (42 U.S.C. 296k et seq.) is amended—

(1) by striking the title heading and all that follows except for subparts II and III of part B and section 855; and inserting the following:

"TITLE VIII—NURSING WORKFORCE DEVELOPMENT";

(2) in subpart II of part B, by striking the subpart heading and inserting the following:

"PART E—STUDENT LOANS

"Subpart I—General Program";

(3) by redesignating subpart III as subpart II;

(4) by striking section 837;

(5) in section 846, by striking subsection (d) and inserting the following new subsection:

"(d) BREACH OF AGREEMENTS FOR OBLIGATED SERVICE.—

"(1) IN GENERAL.—In the case of any program under this section under which an individual makes an agreement to provide health services for a period of time in accordance with such program in consideration of receiving an award of Federal funds regarding education as a nurse (including an award for the repayment of loans), the following applies if the agreement provides that this subsection is applicable:

"(A) In the case of a program under this section that makes an award of Federal funds for attending an accredited program of nursing (in this subsection referred to as a 'nursing program'), the individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual—

"(i) fails to maintain an acceptable level of academic standing in the nursing program (as indicated by the program in accordance with requirements established by the Secretary);

"(ii) is dismissed from the nursing program for disciplinary reasons; or

"(iii) voluntarily terminates the nursing program.

"(B) The individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual fails to provide health services in accordance with the program under this section for the period of time applicable under the program.

"(2) WAIVER OR SUSPENSION OF LIABILITY.—In the case of an individual or health facility making an agreement for purposes of paragraph (1), the Secretary shall provide for the waiver or suspension of liability under such paragraph if compliance by the individual or the health facility, as the case may be, with the agreements involved is impossible, or would involve extreme hardship to the individual or facility, and if enforcement of the agreements with respect to the individual or facility would be unconscionable.

"(3) DATE CERTAIN FOR RECOVERY.—Subject to paragraph (2), any amount that the Federal Government is entitled to recover under paragraph (1) shall be paid to the United States not later than the expiration of the 3-year period beginning on the date the United States becomes so entitled.

"(4) AVAILABILITY.—Amounts recovered under paragraph (1) with respect to a program under this section shall be available for the purposes of such program, and shall remain available for such purposes until expended.";

(6) by inserting after the title heading the following new parts:

"PART A—GENERAL PROVISIONS

"SEC. 801. DEFINITIONS.

"As used in this title:

"(1) ELIGIBLE ENTITIES.—The term 'eligible entities' means schools of nursing, nursing centers, State or local governments, and other public or nonprofit private entities determined appropriate by the Secretary that submit to the Secretary an application in accordance with section 802.

"(2) SCHOOL OF NURSING.—The term 'school of nursing' means a collegiate, associate degree, or diploma school of nursing in a State.

"(3) COLLEGIATE SCHOOL OF NURSING.—The term 'collegiate school of nursing' means a department, division, or other administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and related subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, and including advanced training related to such program of education provided by such school, but only if such program, or such unit, college or university is accredited.

"(4) ASSOCIATE DEGREE SCHOOL OF NURSING.—The term 'associate degree school of nursing' means a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively a two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree, but only if such program, or such unit, college, or university is accredited.

"(5) DIPLOMA SCHOOL OF NURSING.—The term 'diploma school of nursing' means a school affiliated with a hospital or university, or an independent school, which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that such program has been satisfactorily completed, but only if such program, or such affiliated school or such hospital or university or such independent school is accredited.

"(6) ACCREDITED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'accredited' when applied to any program of nurse education means a program accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education and when applied to a hospital, school, college, or university (or a unit thereof) means a hospital, school, college, or university (or a unit thereof) which is accredited by a recognized body or bodies, or by a State agency, approved for such purpose by the Secretary of Education. For the purpose of this paragraph, the Secretary of Education shall publish a list of recognized accrediting bodies, and of State agencies, which the Secretary of Education determines to be reliable authority as to the quality of education offered.

"(B) NEW PROGRAMS.—A new school of nursing that, by reason of an insufficient period of operation, is not, at the time of the submission of an application for a grant or contract under this title, eligible for accreditation by such a recognized body or bodies or State agency, shall be deemed accredited for purposes of this title if the Secretary of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of students of the first entering class in such school.

"(7) NONPROFIT.—The term 'nonprofit' as applied to any school, agency, organization, or institution means one which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(8) STATE.—The term 'State' means a State, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

"SEC. 802. APPLICATION.

"(a) IN GENERAL.—To be eligible to receive a grant or contract under this title, an eligible entity shall prepare and submit to the Secretary an application that meets the requirements of this section, at such time, in such manner, and containing such information as the Secretary may require.

"(b) PLAN.—An application submitted under this section shall contain the plan of the applicant for carrying out a project with amounts received under this title. Such plan shall be consistent with relevant Federal, State, or regional program plans.

"(c) PERFORMANCE OUTCOME STANDARDS.—An application submitted under this section shall contain a specification by the applicant entity of performance outcome standards that the project to be funded under the grant or contract will be measured against. Such standards shall address relevant national nursing needs that the project will meet. The recipient of a grant or contract under this section shall meet the standards set forth in the grant or contract application.

"(d) LINKAGES.—An application submitted under this section shall contain a description of the linkages with relevant educational and health care entities, including training programs for other health professionals as appropriate, that the project to be funded under the grant or contract will establish.

"SEC. 803. USE OF FUNDS.

"(a) IN GENERAL.—Amounts provided under a grant or contract awarded under this title may be used for training program development and support, faculty development, model demonstrations, trainee support including tuition, books, program fees and reasonable living expenses during the period of training, technical assistance, workforce analysis, and dissemination of information, as appropriate to meet recognized nursing objectives, in accordance with this title.

"(b) MAINTENANCE OF EFFORT.—With respect to activities for which a grant awarded under this title is to be expended, the entity shall agree to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the entity for the fiscal year preceding the fiscal year for which the entity receives such a grant.

"SEC. 804. MATCHING REQUIREMENT.

"The Secretary may require that an entity that applies for a grant or contract under this title provide non-Federal matching funds, as appropriate, to ensure the institutional commitment of the entity to the projects funded under the grant. Such non-Federal matching funds may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

"SEC. 805. PREFERENCE.

"In awarding grants or contracts under this title, the Secretary shall give preference to applicants with projects that will substantially benefit rural or underserved populations.

"SEC. 806. GENERALLY APPLICABLE PROVISIONS.

"(a) AWARDING OF GRANTS AND CONTRACTS.—The Secretary shall ensure that grants and contracts under this title are awarded on a competitive basis to carry out innovative demonstration projects or provide for strategic workforce supplementation activities as needed to meet national nursing service goals and in accordance with this title.

"(b) INFORMATION REQUIREMENTS.—Recipients of grants and contracts under this title

shall meet information requirements as specified by the Secretary.

"(c) TRAINING PROGRAMS.—Training programs conducted with amounts received under this title shall meet applicable accreditation and quality standards.

"(d) DURATION OF ASSISTANCE.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of an award to an entity of a grant, cooperative agreement, or contract under this title, the period during which payments are made to the entity under the award may not exceed 5 years. The provision of payments under the award shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This paragraph may not be construed as limiting the number of awards under the program involved that may be made to the entity.

"(2) LIMITATION.—In the case of an award to an entity of a grant, cooperative agreement, or contract under this title, paragraph (1) shall apply only to the extent not inconsistent with any other provision of this title that relates to the period during which payments may be made under the award.

"(e) PEER REVIEW REGARDING CERTAIN PROGRAMS.—Each application for a grant under this title, except advanced nurse traineeship grants under section 811(a)(2), shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval. Each peer review group under this subsection shall be composed principally of individuals who are not officers or employees of the Federal Government. This subsection shall be carried out by the Secretary acting through the Administrator of the Health Resources and Services Administration.

"SEC. 807. NATIONAL ADVISORY COUNCIL ON NURSE EDUCATION AND PRACTICE.

"(a) ESTABLISHMENT.—There is hereby established a National Advisory Council on Nurse Education and Practice (in this section referred to as the 'Council'), consisting of the Secretary or the delegate of the Secretary (who shall be an ex officio member and shall serve as the Chairperson), and 15 members appointed by the Secretary without regard to the Federal civil service laws, of which—

"(1) 2 shall be selected from full-time students enrolled in schools of nursing;

"(2) 3 shall be selected from the general public;

"(3) 2 shall be selected from practicing professional nurses; and

"(4) 8 shall be selected from among the leading authorities in the various fields of nursing, higher, and secondary education, and from representatives of hospitals and other institutions and organizations which provide nursing services.

A majority of the members shall be nurses. The student-members of the Council shall be appointed for terms of one year and shall be eligible for reappointment to the Council.

"(b) DUTIES.—The Council shall advise the Secretary in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including the range of issues relating to nurse supply, education and practice improvement.

"(c) FUNDING.—Amounts appropriated under this title may be utilized by the Secretary to support the nurse education and practice activities of the Council.

"SEC. 808. TECHNICAL ASSISTANCE.

"Funds appropriated under this title may be used by the Secretary to provide technical assistance in relation to any of the authorities under this title.

"SEC. 809. RECOVERY FOR CONSTRUCTION ASSISTANCE.

"(a) IN GENERAL.—If at any time within 20 years (or within such shorter period as the Secretary may prescribe by regulation for an interim facility) after the completion of construction of a facility with respect to which funds have been paid under subpart I of part A (as such subpart was in effect on September 30, 1985)—

"(1) the owner of the facility ceases to be a public or nonprofit school,

"(2) the facility ceases to be used for the training purposes for which it was constructed, or

"(3) the facility is used for sectarian instruction or as a place for religious worship, the United States shall be entitled to recover from the owner of the facility the base amount prescribed by subsection (c)(1) plus the interest (if any) prescribed by subsection (c)(2).

"(b) NOTICE OF CHANGE IN STATUS.—The owner of a facility which ceases to be a public or nonprofit school as described in paragraph (1) of subsection (a), or the owner of a facility the use of which changes as described in paragraph (2) or (3) of such subsection shall provide the Secretary written notice of such cessation or change of use within 10 days after the date on which such cessation or change of use occurs or within 30 days after the date of enactment of the Health Professions Training Assistance Act of 1985, whichever is later.

"(c) AMOUNT OF RECOVERY.—

"(1) BASE AMOUNT.—The base amount that the United States is entitled to recover under subsection (a) is the amount bearing the same ratio to the then value (as determined by the agreement of the parties or in an action brought in the district court of the United States for the district in which the facility is situated) of the facility as the amount of the Federal participation bore to the cost of the construction.

"(2) INTEREST.—

"(A) IN GENERAL.—The interest that the United States is entitled to recover under subsection (a) is the interest for the period (if any) described in subparagraph (B) at a rate (determined by the Secretary) based on the average of the bond equivalent rates of 91-day Treasury bills auctioned during such period.

"(B) TIME PERIOD.—The period referred to in subparagraph (A) is the period beginning—

"(i) if notice is provided as prescribed by subsection (b), 191 days after the date on which the owner of the facility ceases to be a public or nonprofit school as described in paragraph (1) of subsection (a), or 191 days after the date on which the use of the facility changes as described in paragraph (2) or (3) of such subsection, or

"(ii) if notice is not provided as prescribed by subsection (b), 11 days after the date on which such cessation or change of use occurs,

and ending on the date the amount the United States is entitled to recover if collected.

"(d) WAIVER OF RIGHTS.—The Secretary may waive the recovery rights of the United States under subsection (a)(2) with respect to a facility (under such conditions as the Secretary may establish by regulation) if the Secretary determines that there is good cause for waiving such rights.

"(e) LIMITATION ON LIENS.—The right of recovery of the United States under subsection (a) shall not, prior to judgment, constitute a lien on any facility.

"PART B—NURSE PRACTITIONERS, NURSE MIDWIVES, AND OTHER ADVANCED PRACTICE NURSES

"SEC. 811. ADVANCED PRACTICE NURSING GRANTS.

"(a) IN GENERAL.—The Secretary may award grants to and enter into contracts with eligible entities to meet the costs of—

"(1) projects that support the enhancement of advanced practice nursing education and practice; and

"(2) traineeships for individuals in advanced practice nursing programs.

"(b) DEFINITION OF ADVANCED PRACTICE NURSES.—For purposes of this section, the term 'advanced practice nurses' means nurses trained in advanced degree programs including individuals in combined R.N./Master's degree programs, post-nursing master's certificate programs, or, in the case of nurse midwives or nurse anesthetists, in certificate programs that received funding under this title on the date that is one day prior to the date of enactment of this section, to serve as nurse practitioners, nurse midwives, nurse anesthetists, nurse educators, or public health nurses, or in other nurse specialties determined by the secretary to require advanced education.

"(c) AUTHORIZED NURSE PRACTITIONER AND NURSE-MIDWIFERY PROGRAMS.—

"(1) IN GENERAL.—Nurse practitioner and nurse midwifery programs eligible for support under this section are educational programs for registered nurses (irrespective of the type of school of nursing in which the nurses received their training) that—

"(A) meet guidelines prescribed by the Secretary in accordance with paragraph (2); and

"(B) have as their objective the education of nurses who will upon completion of their studies in such programs, be qualified to effectively provide primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities and other health care institutions.

"(2) GUIDELINES.—After consultation with appropriate educational organizations and professional nursing and medical organizations, the Secretary shall prescribe guidelines for programs described in paragraph (1). Such guidelines shall, as a minimum, require that such a program—

"(A) extend for at least one academic year and consist of—

"(i) supervised clinical practice directed toward preparing nurses to deliver primary health care; and

"(ii) at least four months (in the aggregate) of classroom instruction that is so directed; and

"(B) have an enrollment of not less than six full-time equivalent students.

"(d) OTHER AUTHORIZED EDUCATIONAL PROGRAMS.—The Secretary shall prescribe guidelines as appropriate for other advanced practice nurse education programs eligible for support under this section.

"(e) TRAINEESHIPS.—

"(1) IN GENERAL.—The Secretary may not award a grant to an applicant under subsection (a) unless the applicant involved agrees that traineeships provided with the grant will pay all or part of the costs of—

"(A) the tuition, books, and fees of the program of advanced nursing practice with respect to which the traineeship is provided; and

"(B) the reasonable living expenses of the individual during the period for which the traineeship is provided.

"(2) DOCTORAL PROGRAMS.—The Secretary may not obligate more than 10 percent of the

traineeships under subsection (a) for individuals in doctorate degree programs.

"(3) SPECIAL CONSIDERATION.—In making awards of grants and contracts under subsection (a)(2), the Secretary shall give special consideration to an eligible entity that agrees to expend the award to train advanced practice nurses who will practice in health professional shortage areas designated under section 332.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.

"(2) SET ASIDES.—Of the amount appropriated under paragraph (1) for a fiscal year—

"(A) not less than 60 percent of such amount shall be made available for projects to enhance the training and practice of nurse practitioners and nurse midwives; and

"(B) not less than 6 percent of such amounts shall be made available for projects to enhance the training and practice of nurse anesthetists.

"PART C—INCREASING NURSING WORKFORCE DIVERSITY

"SEC. 821. WORKFORCE DIVERSITY GRANTS.

"(a) IN GENERAL.—The Secretary may award grants to and enter into contracts with eligible entities to meet the costs of special projects to increase nursing education opportunities for individuals who are from disadvantaged racial and ethnic backgrounds underrepresented among registered nurses by providing student scholarships or stipends, pre-entry preparation, and retention activities.

"(b) GUIDANCE.—In carrying out subsection (a), the Secretary shall take into consideration the recommendations of the First and Second Invitational Congresses for Minority Nurse Leaders on 'Caring for the Emerging Majority,' in 1992 and 1993, and consult with nursing associations including the American Nurses Association, the National League for Nursing, the American Association of Colleges of Nursing, the Black Nurses Association, the Association of Hispanic Nurses, the Association of Asian American and Pacific Islander Nurses, the National Nurses Association, the Native American Indian and Alaskan Nurses Association.

"(c) REQUIRED INFORMATION AND CONDITIONS FOR AWARD RECIPIENTS.—

"(1) IN GENERAL.—Recipients of awards under this section may be required, where requested, to report to the Secretary concerning the annual admission, retention, and graduation rates for ethnic and racial minorities in the school or schools involved in the projects.

"(2) FALLING RATES.—If any of the rates reported under paragraph (1) fall below the average of the two previous years, the grant or contract recipient shall provide the Secretary with plans for immediately improving such rates.

"(3) INELIGIBILITY.—A recipient described in paragraph (2) shall be ineligible for continued funding under this section if the plan of the recipient fails to improve the rates within the 1-year period beginning on the date such plan is implemented.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.

"PART D—STRENGTHENING CAPACITY FOR BASIC NURSE EDUCATION AND PRACTICE

"SEC. 831. BASIC NURSE EDUCATION AND PRACTICE GRANTS.

"(a) IN GENERAL.—The Secretary may award grants to and enter into contracts with eligible entities for projects to strengthen capacity for basic nurse education and practice.

"(b) PRIORITY AREAS.—In awarding grants or contracts under this section the Secretary shall give priority to entities that will use amounts provided under such a grant or contract to enhance the education mix and utilization of the basic nursing workforce by strengthening programs that provide basic nurse education for purposes of—

"(1) improving nursing services in schools and other community settings;

"(2) providing care for underserved populations and other high-risk groups such as the elderly, individuals with HIV-AIDS, substance abusers, homeless, and battered women;

"(3) providing case management, quality improvement, delegation and supervision, other skills needed under new health care systems;

"(4) developing cultural competencies among nurses;

"(5) providing emergency health services;

"(6) promoting career mobility for nursing personnel in a variety of training settings and cross training or specialty training among diverse population groups; or

"(7) other priority areas as determined by the Secretary.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $12,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997."; and

(7) by redesignating section 855 as section 810, and transferring such section so as to appear after section 809 (as added by the amendment made by paragraph (6)).

SEC. 4. SAVINGS PROVISION AND TECHNICAL AMENDMENTS.

(a) SAVINGS PROVISION.—In the case of any authority for making awards of grants or contracts that is terminated by the amendment made by section 3, the Secretary of Health and Human Services may, notwithstanding the termination of the authority, continue in effect any grant or contract made under the authority that is in effect on the day before the date of the enactment of this Act, subject to the duration of any such grant or contract not exceeding the period determined by the Secretary in first approving such financial assistance, or in approving the most recent request made (before the date of such enactment) for continuation of such assistance, as the case may be.

(b) CLINICAL RESEARCHERS.—Paragraph (3) of section 487E(a) of the Public Health Service Act (42 U.S.C. 288-5(a)(3)) is amended to read as follows:

"(3) APPLICABILITY OF CERTAIN PROVISIONS REGARDING OBLIGATED SERVICE.—With respect to the National Health Service Corps loan repayment program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with this section, apply to the program established in subsection (a) in the same manner and to the same extent as such provisions apply to the National Health Service Corps loan repayment programs.".

(c) TECHNICAL AMENDMENTS.—Section 839 of such Act (42 U.S.C. 297e) is amended—

(1) in subsection (a)—

(A) by striking the matter preceding paragraph (1) and inserting the following:

"(a) If a school terminates a loan fund established under an agreement pursuant to section 835(b), or if the Secretary for good cause terminates the agreement with the school, there shall be a capital distribution as follows:"; and

(B) in paragraph (1), by striking "at the close of September 30, 1999," and inserting "on the date of termination of the fund"; and

(2) in subsection (b), to read as follows:

"(b) If a capital distribution is made under subsection (a), the school involved shall, after such capital distribution, pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school in payment of principal or interest on loans made from the loan fund established under section 835(b) as determined by the Secretary under subsection (a).".

SEC. 5. EFFECTIVE DATE.

This Act shall take effect on October 1, 1994, or the date of enactment of this Act, whichever is later.

YEAR OF THE GIRL CHILD

The text of the joint resolution (S.J. Res. 188) to designate 1995 the "Year of the Girl Child," as passed by the Senate on October 6, 1994, is as follows:

S.J. RES. 188

Whereas girls are the most neglected, deprived, and mistreated resource in the world;

Whereas girls throughout the world are frequently condemned to a cycle of poverty, illiteracy, unwanted pregnancy, and poor health;

Whereas it is not uncommon for girls in certain regions of the world to become pregnant at the onset of puberty, and to continue to become pregnant thereafter, damaging their health and increasing the chances that they will suffer complications during pregnancy;

Whereas girls in developing countries are fed less, withdrawn from school earlier, forced into hard labor sooner, and given less medical care than boys in those same countries;

Whereas numerous studies indicate that girls are disadvantaged by the perception that they are temporary members of a family, and by the belief that boys will become the main financial source for the family and, therefore, are more deserving of scarce family resources;

Whereas parents of girls in some regions of the developing world frequently choose to resort to infanticide, rather than drain family resources to raise girls;

Whereas girls in the United States and in other countries are exploited and victimized by sexual abuse and child prostitution;

Whereas the most recent study of child sexual abuse in the United States shows that, of the cases reported, 23 percent of the victims were males and 77 percent were females;

Whereas, by any measure, including test scores, curriculum, or teacher-student interaction, girls in the United States receive an unequal education;

Whereas studies indicate that in developing countries where girls have as little as 4 to 6 years of formal education there is a 20 percent decline in infant deaths;

Whereas girls with at least a seventh grade education have half as many pregnancies as girls with less education;

Whereas the World Health Organization estimates that improved education for girls, and improved family planning services for women, would reduce maternal deaths by 15 to 33 percent; and

Whereas the World Fertility Survey indicates that the age of a female at marriage increases with the number of years she has spent in school, and that with as little as 7 years of education, a female is more likely to marry at 22 than at 17: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1995 is designated the "Year of the Girl Child". The President is authorized and requested to direct all diplomatic personnel of the United States, and the Secretaries of Education and Health and Human Services, to encourage at every appropriate opportunity—

(1) the opening of educational opportunities to girls;

(2) gender equality in health care; and

(3) gender equality in all phases of family and community life.

NATIONAL SILVER HAIRED CONGRESS

The text of the concurrent resolution (S. Con. Res. 66) to recognize and encourage the convening of a National Silver Haired Congress, as agreed to by the Senate on October 6, 1994, is as follows:

S. CON. RES. 66

Whereas many States have encouraged and facilitated the creation of senior citizen legislation and advocacy bodies;

Whereas in creating such bodies such States have provided to many older Americans the opportunity to express concerns, promote appropriate interests, and advance the common good by influencing the legislation and actions of State government; and

Whereas a National Silver Haired Congress, with representatives from each State, would provide a national forum for a nonpartisan evaluation of grassroots solutions to concerns shared by an increasing number of older Americans: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby recognizes and encourages the convening of an annual National Silver Haired Congress in the District of Columbia.

OFFICE OF GOVERNMENT ETHICS AUTHORIZATION

The text of the bill (S. 1413) to amend the Ethics in Government Act of 1978, as amended, to extend the authorization of appropriations for the Office of Government Ethics for 8 years, and for other purposes, as passed by the Senate on October 6, 1994, is as follows:

S. 1413

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Government Ethics Authorization Act of 1994".

SEC. 2. GIFT ACCEPTANCE AUTHORITY.

Section 403 of the Ethics in Government Act of 1978 (5 U.S.C. App. 5) is amended by—

(1) inserting "(a)" before "Upon the request"; and

(2) adding at the end thereof the following:

"(b)(1) The Director is authorized to accept and utilize on behalf of the United States, any gift, donation, bequest, or devise of money, use of facilities, personal property, or services for the purpose of aiding or facilitating the work of the Office of Government Ethics.

"(2) No gift may be accepted—

"(A) that attaches conditions inconsistent with applicable laws or regulations; or

"(B) that is conditioned upon or will require the expenditure of appropriated funds that are not available to the Office of Government Ethics.

"(3) The Director shall establish written rules setting forth the criteria to be used in determining whether the acceptance of contributions of money, services, use of facilities, or personal property under this subsection would reflect unfavorably upon the ability of the Office of Government Ethics or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs.".

SEC. 3. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.

The text of section 405 of the Ethics in Government Act of 1978 (5 U.S.C. App. 5) is amended to read as follows: "There are authorized to be appropriated to carry out the provisions of this title and for no other purpose, not to exceed $14,000,000 for fiscal year 1995 and for each of the next 7 fiscal years thereafter.".

SEC. 4. ASSISTANCE FROM OTHER AGENCIES.

Section 403(a) of the Ethics in Government Act of 1978 (5 U.S.C. App. 5), as designated by section 2, is amended—

(1) in paragraph (1) by striking "under this Act; and" and inserting "of the Office of Government Ethics; and"; and

(2) in paragraph (2) by striking "duties." and inserting "duties under this Act or any other Act.".

SEC. 5. LIMITATION ON POSTEMPLOYMENT RESTRICTIONS.

Section 207(j) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(7) POLITICAL PARTIES AND CAMPAIGN COMMITTEES.—(A) Except as provided in subparagraph (B), the restrictions contained in subsections (c), (d), and (e) shall not apply to a communication or appearance made solely on behalf of a candidate in his or her capacity as a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party.

"(B) Subparagraph (A) shall not apply to—

"(i) any communication to, or appearance before, the Federal Election Commission by a former officer or employee of the Federal Election Commission; or

"(ii) a communication or appearance made by a person who is subject to the restrictions contained in subsections (c), (d), or (e) if, at the time of the communication or appearance, the person is employed by a person or entity other than—

"(I) a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party; or

"(II) a person or entity who represents, aids, or advises only persons or entities described in subclause (I).

"(C) For purposes of this paragraph—

"(i) the term 'candidate' means any person who seeks nomination for election, or election, to Federal or State office or who has authorized others to explore on his or her behalf the possibility of seeking nomination for election, or election, to Federal or State office;

"(ii) the term 'authorized committee' means any political committee designated in writing by a candidate as authorized to receive contributions or make expenditures to promote the nomination for election, or the election, of such candidate, or to explore the possibility of seeking nomination for election, or the election, of such candidate, except that a political committee that receives contributions or makes expenditures to promote more than 1 candidate may not be designated as an authorized committee for purposes of subparagraph (A);

"(iii) the term 'national committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level;

"(iv) the term 'national Federal campaign committee' means an organization that, by virtue of the bylaws of a political party, is established primarily for the purpose of providing assistance, at the national level, to candidates nominated by that party for election to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

"(v) the term 'State committee' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level;

"(vi) the term 'political party' means an association, committee, or organization that nominates a candidate for election to any Federal or State elected office whose name appears on the election ballot as the candidate of such association, committee, or organization; and

"(vii) the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

SEC. 6. REPEAL AND CONFORMING AMENDMENTS.

(a) REPEAL OF DISPLAY REQUIREMENT.—The Act entitled "An Act to provide for the display of the Code of Ethics for Government Service", approved July 3, 1980 (Public Law 96-303; 5 U.S.C. 7301 note) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) FDIA.—Section 12(f)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1822 (f)(3)) is amended by striking ", with the concurrence of the Office of Government Ethics,".

(2) ETHICS IN GOVERNMENT ACT OF 1978.—(A) The heading for section 401 of the Ethics in Government Act of 1978 is amended to read as follows:

"ESTABLISHMENT; APPOINTMENT OF DIRECTOR".

(B) Section 408 is amended by striking "March 31" and inserting "April 30".

SEC. 7. EFFECTIVE DATE.

This Act shall take effect on October 1, 1994, except section 5 shall take effect and apply to communications or appearances made on and after the date of enactment of this Act.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION TECHNOLOGY INVESTMENT ACT

The text of the bill (S. 1881) to establish and implement a technology investment policy for aeronautical and

space activities of the National Aeronautics and Space Administration, and for other purposes, as passed by the Senate on October 6, 1994, is as follows:

S. 1881

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Aeronautics and Space Administration Technology Investment Act of 1994".

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) Federal investment in research and technology development can enhance the competitiveness of United States industry in global markets.

(2) Industry and government partnerships in the development of technologies increase the effectiveness of Federal investment in the United States economy.

(3) Ongoing defense reductions impact the aerospace industrial base and require greater effort by the National Aeronautics and Space Administration to ensure technological advancements in support of its missions as well as in support of competitiveness.

(4) Increased contribution to the health of the United States economy by the National Aeronautics and Space Administration is important to the long-term support of civilian aeronautics and space activities.

(5) Investments in research and development at the National Aeronautics and Space Administration can be made to enhance the competitiveness of United States industry, as well as to promote development of technologies for government and commercial aeronautics and space missions.

(6) The National Aeronautics and Space Administration directs a large portion of its budget toward the procurement of goods and services for its aeronautical and space missions and can use such procurement to advance technology development in industry and academia.

SEC. 3. TECHNOLOGY INVESTMENT POLICY.

It is the policy of the United States that—

(1) improving the competitive capabilities of United States industry in conjunction with implementing aeronautics and space missions shall be a fundamental goal of the National Aeronautics and Space Administration;

(2) the Administrator of the National Aeronautics and Space Administration (hereinafter referred to as the "Administrator"), in planning for and implementing national programs in aeronautics and space, shall advocate technology development designed to foster competitiveness of United States industry in global markets;

(3) the investment in technology by the National Aeronautics and Space Administration shall be coordinated closely with investment of other Federal agencies, the States, and local governments;

(4) technology investments shall be identified in concert with United States industry; and

(5) the establishment of industry-led consortia, alliances, or other entities shall be encouraged to enhance opportunities for United States industry to develop and advance technologies.

TITLE I—ROLE OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION IN TECHNOLOGY INVESTMENT

SEC. 101. AMENDMENTS TO NATIONAL AERONAUTICS AND SPACE ACT OF 1958.

Section 102 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended—

(1) by striking subsection (e) and inserting the following:

"(e) The aeronautical and space activities of the United States shall be conducted so as to contribute materially to the economic growth, competitiveness, and productivity of the Nation.";

(2) by striking subsection (f) and by redesignating subsections (g) and (h) as subsections (f) and (g), respectively; and

(3) in subsection (g), as so redesignated, by striking "(f), and (g)" and inserting "and (f)".

SEC. 102. TECHNOLOGY DEVELOPMENT AND COMMERCIALIZATION GOALS.

The Administrator shall require that, to the maximum extent practicable, aeronautical and space projects of the National Aeronautics and Space Administration—

(1) incorporate a technology plan that fosters technological advances of value to both the mission and the economy and reduces the life cycle costs of such projects;

(2) promote commercial technology applications;

(3) measure and evaluate technology development and the potential for commercialization; and

(4) seek the involvement of United States industry.

SEC. 103. INDUSTRY TECHNOLOGY PROGRAM.

(a) PURPOSE; CRITERIA.—The Administrator shall establish a competitive program under which the Administrator may fund research and development projects proposed by industry-led consortia, alliances, or other entities, for the purpose of developing new technologies. In selecting projects to be funded under this section, the Administrator shall weigh and consider—

(1) each project's scientific and technical merit;

(2) the potential of the project to advance mission needs of the National Aeronautics and Space Administration;

(3) each project's potential to advance technologies that enhance the competitiveness of United States industry in global markets; and

(4) such other criteria as the Administrator considers appropriate to carry out the purposes of this section.

(b) COST-SHARING.—The Administrator shall ensure that the amount of the funds provided by the Federal Government under this section for a project does not exceed the total amount provided by non-Federal participants for that project.

(c) FINANCING MECHANISMS.—In funding the technology projects selected under this section, the Administrator is encouraged—

(1) to make greater use of the authority of the National Aeronautics and Space Administration under section 203(c)(5) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c)(5)) especially when applied to non-aerospace firms; and

(2) to enter into innovative procurement, financing, and management arrangements, consistent with existing statutes.

(d) COORDINATION WITH FEDERAL AGENCIES.—In carrying out this section, the Administrator shall consult with the Secretaries of Commerce, Defense, Energy, and Transportation and with such other Federal agency heads as the Administrator considers appropriate.

(e) AUTHORIZATION.—There are authorized to be appropriated to the Administrator such sums as may be necessary to carry out the provisions of this section. Sums appropriated under this section shall remain available until expended.

SEC. 104. CONDITIONS ON TECHNOLOGY INVESTMENT; ECONOMIC BENEFIT.

In funding technology programs and activities under this title, the Administrator shall ensure that the principal economic benefits accrue to the economy of the United States. The Administrator may consider such specific criteria as appropriate, and in developing such criteria, shall consult with appropriate Federal agency heads.

SEC. 105. ROLE OF PROCUREMENT IN TECHNOLOGY INVESTMENT.

The Administrator, in meeting aeronautical and space mission needs, shall coordinate and direct resources of the National Aeronautics and Space Administration in the area of procurement to—

(1) advance state-of-the-art technologies;

(2) assess and procure, where appropriate, commercially available technologies from the marketplace;

(3) use performance incentives; and

(4) reduce the paperwork requirements associated with procurement.

SEC. 106. COORDINATION WITH OTHER FEDERAL PROGRAMS.

(a) TECHNOLOGY PROGRAMS AND TECHNOLOGY TRANSFER PROGRAMS.—To ensure a consistent Federal investment policy and to preclude multiple awards for a single proposal, the Administrator shall ensure that the technology investment activities established under this title are coordinated closely with existing and future—

(1) Federal technology programs such as the Technology Reinvestment Program of the Advanced Research Projects Agency and the Advanced Technology Program of the National Institute of Standards and Technology; and

(2) Federal technology transfer programs and activities established to promote and advocate the use of technologies developed in the Federal laboratories.

(b) IDENTIFICATION OF FUNDING RECEIVED FROM OTHER AGENCIES.—The Administrator shall identify, as part of the annual budget submission to Congress, all funding received by the National Aeronautics and Space Administration from other Federal agencies for technology investment and development, including funds from programs listed in (a)(1) above.

SEC. 107. INTERAGENCY TECHNOLOGY INITIATIVES.

As part of the National Aeronautics and Space Administration's annual budget submission to Congress, the Administrator shall identify funding requirements, project milestones, and 5-year budget projections, for the portion undertaken by the National Aeronautics and Space Administration of each interagency technology project.

SEC. 108. COORDINATION WITH OTHER NASA PROGRAMS.

(a) SMALL BUSINESS INNOVATION RESEARCH.—The Administrator shall coordinate the technology investment activities under this title with the Small Business Innovation Research activities of the National Aeronautics and Space Administration to ensure the effectiveness of funding to small businesses, to the maximum extent permitted by law.

(b) INDEPENDENT RESEARCH AND DEVELOPMENT FUNDS.—The Administrator shall identify all funds provided to contractors of the National Aeronautics and Space Administration for activities commonly referred to as

"Independent Research and Development" and coordinate such funds with the technology investment activities under this title.

(c) TECHNOLOGY TRANSFER AND COMMERCIAL PROGRAMS.—The Administrator shall coordinate the activities of ongoing and future technology transfer, innovation, and commercial programs of the National Aeronautics and Space Administration with the technology investment activities under this title.

SEC. 109. PERSONNEL INCENTIVES.

To encourage the personnel of the National Aeronautics and Space Administration to pursue technology innovation and development, the Administrator shall provide personnel incentives, including—

(1) promotions and within-grade increases;

(2) bonuses and cash awards under the inventions and contributions system and senior executive service; and

(3) paid leave, sabbaticals, or intergovernmental personnel transfers to other Federal agencies or the private sector to pursue technology innovation and development, as the Administrator deems appropriate.

SEC. 110. ANNUAL REPORT TO CONGRESS.

The Administrator shall assess the technology investment activities established under this title and shall submit a report to Congress on the results of such assessment of activities. The report shall accompany the annual budget submission to Congress.

SEC. 111. APPLICATION OF ANTITRUST LAWS.

Nothing in this title shall be construed to create an immunity from any civil or criminal action under any Federal or State antitrust law, or to alter or restrict in any manner the applicability of any Federal or State antitrust law.

SEC. 112. DEFINITIONS.

For the purposes of this title, the term—

(1) "Federal laboratory" has the meaning given such term in section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6)).

(2) "United States" means the several States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

TITLE II—NATIONAL AERONAUTICS FACILITIES

SEC. 201. FINDINGS.

The Congress finds and declares the following:

(1) Aerospace technologies contribute substantially to the balance of trade and the competitiveness of United States industry.

(2) The international market share of the United States aerospace industry has eroded steadily due to competition from foreign consortia that receive substantial direct subsidies from their governments.

(3) The United States aerospace industry continues to be impacted negatively by the reduced investment in national defense.

(4) The national civil and military aeronautics facilities of the United States are aging and, with few exceptions, cannot be modified to simulate adequately the flight conditions that will be required for highly productive aircraft design and development.

(5) Inadequate domestic facilities force the United States aerospace industry to use the aeronautics facilities of foreign countries, increasing the likelihood that technologies will be transferred to competing foreign industries.

SEC. 202. POLICY.

It is the policy of the United States that—

(1) Federal investment in domestic aerospace technologies shall be a priority of the United States to safeguard the international market share of the United States aerospace industry;

(2) maintaining world class aeronautics facilities in the United States shall be a major element of Federal investment in aerospace research and development;

(3) the National Aeronautics and Space Administration shall work closely with industry to identify and address aeronautics technology and facility issues; and

(4) industry and government cost-sharing for facilities construction and use shall be investigated to achieve aeronautics research and technology goals within a constrained Federal budget.

SEC. 203. WORLDWIDE FACILITIES ASSESSMENT.

The President shall conduct an assessment of all aeronautics facilities in the United States and in other countries and report to Congress the results of this assessment at the time the fiscal year 1996 budget is submitted. The assessment shall include—

(1) identification of all existing and planned aeronautics research and development facilities in the United States and in other countries;

(2) analysis of the capabilities of each aeronautics facility that impact aeronautical research and technology objectives of the United States Government and domestic industries; and

(3) determination of the current use and plans for use of foreign aeronautics facilities for research and technology activities of the United States Government and domestic industries.

SEC. 204. AERONAUTICS FACILITIES STRATEGY.

(a) STRATEGY.—The President or his designees shall work closely with domestic industries to coordinate, develop, and implement a strategy for Federal investment in aeronautics research and technology and aeronautics facilities. This strategy shall establish—

(1) priorities for Federal investment in aeronautics facilities;

(2) a facilities implementation schedule to meet research and technology project milestones and aerospace industry market requirements;

(3) the projected cost of constructing and operating new facilities; and

(4) options and recommendations to provide funding (including cost-sharing and risk-sharing with industries and among Federal agencies and innovative procurement, financing, or management arrangements) for the construction of new aeronautics facilities and for the operation of new aeronautics facilities.

(b) DEADLINE.—The strategy required by subsection (a), and budget requirements associated with implementing such strategy, shall accompany the fiscal year 1996 budget submission to Congress.

TITLE III—COMMERCIAL SPACE LAUNCH AMENDMENTS

SEC. 301. COMMERCIAL REENTRY VEHICLES.

Chapter 701 of title 49, United States Code, is amended—

(1) in the table of sections—

(A) by amending the item relating to section 70104 to read as follows:

"70104. Restrictions on launches, operations, and reentries.";

(B) by amending the item relating to section 70108 to read as follows:

"70108. Prohibition, suspension, and end of launches, operation of launch sites, and reentries.";

(C) by amending the item relating to section 70109 to read as follows:

"70109. Preemption of scheduled launches or reentries.";

and

(D) by adding at the end the following new item:

"70120. Report to Congress.";

(2) in section 70102—

(A) by inserting "from Earth" after "and any payload" in paragraph (3);

(B) by redesignating paragraphs (10) through (12) as paragraphs (12) through (14), respectively; and

(C) by inserting after paragraph (9) the following new paragraphs:

"(10) 'reenter' and 'reentry' mean to return purposefully, or attempt to return, a reentry vehicle and payload, if any, from Earth orbit or outer space to Earth.

"(11) 'reentry vehicle' means any vehicle designed to return from Earth orbit or outer space to Earth substantially intact.";

(3) in section 70104—

(A) by amending the section designation and heading to read as follows:

"§ 70104. Restrictions on launches, operations, and reentries";

(B) by inserting ", or reenter a reentry vehicle," after "operate a launch site" each place it appears in subsection (a);

(C) by inserting "or reentry" after "launch or operation" in subsection (a)(3) and (4);

(D) in subsection (b)—

(i) by striking "launch license" and inserting "license";

(ii) by inserting "or reenter" after "may launch"; and

(iii) by inserting "or reentering" after "related to launching"; and

(E) in subsection (c)—

(i) by amending the subsection heading to read as follows: "PREVENTING LAUNCHES OR REENTRIES.—";

(ii) by inserting "or reentry" after "prevent the launch"; and

(iii) by inserting "or reentry" after "decides the launch";

(4) in section 70105—

(A) by inserting ", or reentry of a reentry vehicle," after "operation of a launch site" in subsection (b)(1); and

(B) by striking "or operation" and inserting ", operation, or reentry" in subsection (b)(2)(A);

(5) in section 70106(a)—

(A) by inserting "or reentry site" after "observer at a launch site"; and

(B) by inserting "or reentry vehicle" after "assemble a launch vehicle";

(6) in section 70108—

(A) by amending the section designation and heading to read as follows:

"§ 70108. Prohibition, suspension, and end of launches, operation of launch site, and reentries";

and

(B) in subsection (a)—

(i) by inserting ", or reentry of a reentry vehicle," after "operation of a launch site"; and

(ii) by inserting "or reentry" after "launch or operation";

(7) in section 70109—

(A) by amending the section designation and heading to read as follows:

"§ 70109. Preemption of scheduled launches or reentries";

(B) in subsection (a)—

(i) by inserting "or reentry" after "ensure that a launch";

(ii) by inserting ", reentry site," after "United States Government launch site";

(iii) by inserting "or reentry date commitment" after "launch date commitment";

(iv) by inserting "or reentry" after "obtained for a launch";

(v) by inserting ", reentry site," after "access to a launch site";

(vi) by inserting ", or services related to a reentry," after "amount for launch services"; and

(vii) by inserting "or reentry" after "the scheduled launch"; and

(C) in subsection (c), by inserting "or reentry" after "prompt launching";

(8) in section 70110—

(A) by inserting "or reentry" after "prevent the launch" in subsection (a)(2); and

(B) by inserting ", or reentry of a reentry vehicle," after "operation of a launch site" in subsection (a)(3)(B);

(9) in section 70112—

(A) by inserting "or reentry" after "one launch" in subsection (a)(3);

(B) by inserting "or reentry" after "launch services" in subsection (a)(4);

(C) by inserting "or reentry" after "launch services" each place it appears in subsection (b);

(D) by inserting "OR REENTRIES" after "LAUNCHES" in the heading for subsection (e); and

(E) by inserting "or reentry" after "launch site" in subsection (e);

(10) in section 70113 (a)(1) and (d) (1) and (2), by inserting "or reentry" after "one launch" each place it appears;

(11) in section 70115(b)(1)(D)(i)—

(A) by inserting "reentry site," after "launch site,"; and

(B) by inserting "or reentry vehicle" after "site of a launch vehicle";

(12) in section 70117—

(A) by inserting "or reentry a reentry vehicle" after "operate a launch site" in subsection (a);

(B) by inserting "or reentry" after "approval of a space launch" in subsection (d);

(C) in subsection (f)—

(i) by inserting "OR REENTRY" after "LAUNCH" in the subsection heading;

(ii) by inserting ", reentry vehicle," after "A launch vehicle";

(iii) by inserting "or reentered" after "that is launched"; and

(iv) by inserting "or reentry" after "the launch"; and

(D) in subsection (g)—

(i) by inserting "reentry of a reentry vehicle," after "or launch site," in paragraph (1); and

(ii) by inserting "reentry," after "launch," in paragraph (2);

(13) in section 70119, by inserting the following after paragraph (2):

"There are authorized to be appropriated to the Secretary of Transportation such amounts as may be necessary to carry out this chapter for fiscal year 1995."; and

(14) by adding at the end the following new section:

"§ 70120. Report to Congress

"The Secretary of Transportation shall submit to Congress an annual report to accompany the President's budget request that—

"(1) describes all activities undertaken under this chapter, including a description of the process for the application for and approval of licenses under this chapter and recommendations for legislation that may further commercial launches and reentries; and

"(2) reviews the performance of the regulatory activities and the effectiveness of the Office of Commercial Space Transportation.".

SEC. 302. LICENSE APPLICATIONS.

(a) IN GENERAL.—Section 70105 of title 49, United States Code, is amended—

(1) in subsection (a), by striking "receiving an application" both places it appears and inserting "accepting an application in accordance with subsection (b)(2)(D)";

(2) by striking "and" at the end of subsection (b)(2)(B);

(3) by striking the period at the end of subsection (b)(2)(C) and inserting "; and"; and

(4) by adding at the end of subsection (b)(2)(C) the following new subparagraph:

"(D) regulations establishing criteria for accepting an application for a license under this chapter.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect upon the effective date of final regulations issued pursuant to section 70105(b)(2)(D) of title 49, United States Code, as added by subsection (a)(4).

SEC. 303. PROHIBITION ON SPACE ADVERTISING.

(a) DEFINITION.—Section 70102 of title 49, United States Code, is amended by inserting after paragraph (14), as redesignated by section 301(2)(B) of this title, the following new paragraph:

"(15) 'space advertising' means advertising in outer space that is capable of being seen by a human being on the surface of the Earth without the aid of a telescope or other technological device.".

(b) PROHIBITION.—Chapter 701 of title 49, United States Code, is amended by inserting after section 70109 the following new section:

"§ 70109a. Prohibition on space advertising

"(a) PROHIBITION.—Notwithstanding the provisions of this chapter or any other provision of law—

"(1) the Secretary shall not—

"(A) issue or transfer a license under this chapter; or

"(B) waive the license requirements of this chapter;

for the launch of a payload containing any material to be used for the purposes of space advertising; and

"(2) no holder of a license under this chapter, on or after the date of enactment of the National Aeronautics and Space Administration Technology Investment Act of 1994, shall launch a payload containing any material to be used for purposes of space advertising.

"(b) CIVIL PENALTIES.—Any person who violates the provisions of subsection (a)(2) shall—

"(1) be subject to a civil penalty, not to exceed $30,000,000 which shall be assessed by the Secretary; and

"(2) not be issued a license under this chapter for a period of 2 years from the date of such violation, or, in the case of multiple violations, from the date of the most recent violation.".

(c) NEGOTIATION WITH FOREIGN SPACE LAUNCHING NATIONS.—

(1) The President is requested to negotiate with foreign launching nations for the purpose of reaching an agreement or agreements that prohibit the use of outer space for advertising purposes.

(2) It is the sense of Congress that the President should take such action as is appropriate and feasible to enforce the terms of any agreement to prohibit the use of outer space for advertising purposes.

(3) As used in this subsection, the term "foreign launching nation" means a nation—

(A) which launches, or procures the launching of, a payload into outer space; or

(B) from whose territory or facility a payload is launched into outer space.

(d) CLERICAL AMENDMENT.—The table of sections for chapter 701 of title 49, United States Code, is amended by inserting the following after the item relating to section 70109:

"70109a. Prohibition on space advertising".

INDIAN CHILD PROTECTION FAMILY VIOLENCE PREVENTION ACT

The text of the bill (S. 2075) to amend the Indian Child Protection and Family Violence Prevention Act to reauthorize and improve program under the Act, as passed by the Senate on October 6, 1994, is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Indian Child Protection and Family Violence Prevention Act Amendments of 1994".

(b) REFERENCES.—Whenever in this Act an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a provision of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3201 et seq.).

SEC. 2. FINDINGS AND PURPOSE.

Section 402(1) (25 U.S.C. 3201(1)) is amended—

(1) by striking "and" at the end of subparagraph (F); and

(2) by adding at the end the following new subparagraph:

"(G) it is necessary to address the scope of family violence in order to break the cycle of intrafamily child abuse and neglect; and".

SEC. 3. REAUTHORIZATION AND IMPROVEMENT OF INDIAN CHILD PROTECTION AND VIOLENCE PREVENTION PROGRAMS.

(a) DEFINITION.—Section 403 (25 U.S.C. 3202) is amended—

(1) by striking "and" at the end of paragraph (17);

(2) by striking the period at the end of paragraph (18) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(19) 'Director' means the Director of the Indian Health Service of the Department of Health and Human Services.".

(b) CENTRAL REGISTER.—Section 405 (25 U.S.C. 3204) is amended—

(1) in subsection (c), by striking ", together with recommendations and draft legislation to implement such regulations,"; and

(2) by adding at the end the following new subsections:

"(d) If the Secretary establishes in the Bureau of Indian Affairs a Central Register described in the study conducted under this section, the Central Register shall, if feasible, be connected to existing tribal, Federal, or State central registries.

"(e)(1) The Secretary of the Interior may establish a grant program to award grants to Indian tribes that submit an application that is approved by the Secretary to establish, operate, and maintain a central registry system for the tribe that contains information regarding child abuse with respect to the tribe.

"(2) An application submitted under paragraph (1) shall—

"(A) be in such form as the Secretary may prescribe; and

"(B) specify the nature of the central registry proposed by the applicant.

"(3) Each tribe that receives a grant under paragraph (1) shall furnish the Secretary with such information as the Secretary may require to evaluate the implementation of the central registry and ensure that the grant funds are expended for the purpose for which the grant was made.

"(4) There are authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out this subsection.".

(c) PROVISION OF RECORDS AND INFORMATION TO TRIBES.—Section 406 (25 U.S.C. 3205) is amended—

(1) in the first sentence, by striking "may" and inserting "shall";

(2) by inserting after the first sentence, the following new sentence: "Federal law enforcement agencies that investigate incidents of child abuse in Indian country shall provide information and records to Indian tribal law enforcement agencies requiring such information and records in order to fulfill the duties of such tribes under this Act."; and

(3) in the last sentence—

(A) by striking "governments" and inserting "agencies"; and

(B) by striking "entities" and inserting "agencies".

(d) MEDICAL EXAMINATIONS IN CONNECTION WITH CHILD ABUSE REPORTS.—Section 407 (25 U.S.C. 3206) is amended by adding at the end the following new subsection:

"(e) MEDICAL EXAMINATIONS IN CONNECTION WITH CHILD ABUSE REPORTS.—

"(1) IN GENERAL.—As soon as practicable after the date of enactment of this subsection, the Secretary, acting through the Service, shall develop and publish suggested guidelines for physicians employed by the Service concerning the appropriate use of a medical examination in an investigation of a report of child abuse in Indian country.

"(2) CONTENT OF GUIDELINES.—The guidelines developed by the Secretary shall provide for protocols that—

"(A) ensure against unnecessary and intrusive medical examinations; and

"(B) provide guidance for physicians in treating children who are subject to child abuse in Indian country.".

(e) CHARACTER.—

(1) CHARACTER INVESTIGATIONS.—Section 408 (25 U.S.C. 3207) is amended—

(A) in subsection (a)(3), by inserting "with the participation of Indian tribes," before "prescribe regulations";

(B) in subsection (c)(1), by inserting "including, at a minimum, an inquiry into the previous employment, residential, and academic history of the individual who is employed or being considered for employment" after "Indian children"; and

(C) by adding at the end the following new subsection:

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 1995 through 2005.".

(2) ISSUANCE OF MINIMUM CHARACTER STANDARDS.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Health and Human Services shall—

(A) publish in the Federal Register regulations containing the minimum standards of character that are required under section 408(a)(3) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3207(a)(3)); and

(B) provide a copy of the regulations containing such minimum standards to each Indian tribe.

(f) INDIAN CHILD ABUSE TREATMENT GRANT PROGRAM.—

(1) ADMINISTRATIVE RESPONSIBILITY.—Section 409(a) (25 U.S.C. 3208 (a)) is amended—

(A) by striking "and in cooperation with the Bureau"; and

(B) by striking "intertribal" and inserting "inter-tribal".

(2) TREATMENT CONCEPTS.—Section 409(b) (25 U.S.C. 3208(b)) is amended by adding at the end the following new paragraph:

"(3) Nothing in the criteria referred to in paragraph (2) may be construed to limit the ability of an Indian tribe or an inter-tribal consortium to provide culturally relevant child abuse treatment concepts that are consistent with tribal values and customs.".

(3) ELIMINATION OF MAXIMUM GRANT AMOUNT.—Section 409 (25 U.S.C. 3208) is amended—

(A) by striking subsection (c); and

(B) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(4) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Subsection (d) of section 409, as redesignated by paragraph (3)(B), is amended by striking "each of the fiscal years 1992, 1993, 1994, and 1995" and inserting "each of fiscal years 1995 through 2005".

(5) CLERICAL AMENDMENT.—Subsection (d) of section 409 (as so redesignated), as amended by paragraph (3), is further amended by striking "there is hereby" and inserting the following: "AUTHORIZATION OF APPROPRIATIONS.—There are".

(g) INDIAN FAMILY VIOLENCE TREATMENT GRANT PROGRAM.—The Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3201 et seq.) is amended—

(1) by redesignating sections 410 through 412 as sections 411 through 413, respectively; and

(2) by inserting after section 409 the following new section:

"SEC. 410. INDIAN FAMILY VIOLENCE TREATMENT GRANT PROGRAM.

"(a) ESTABLISHMENT OF GRANT PROGRAM.—The Secretary of Health and Human Services, acting through the Indian Health Service, shall establish a Family Violence Grant Program. Such Program shall provide grants to any Indian tribe or inter-tribal consortium that submits an application that is approved by the Secretary, for the establishment on Indian reservations of treatment programs for Indians who have been victims of family violence (including Indians who have been victims of elder abuse).

"(b) GRANT APPLICATIONS.—

"(1) IN GENERAL.—An Indian tribe or inter-tribal consortium may submit to the Secretary of Health and Human Services an application for a grant under subsection (a).

"(2) APPLICATION CONTENT.—An application submitted under paragraph (1) shall—

"(A) be in such form as the Secretary of Health and Human Services may prescribe; and

"(B) specify—

"(i) the nature of the program that the applicant proposes to carry out, and the extent to which family violence (including elder abuse) will be addressed in the program;

"(ii) the data and information on which the proposed program is based;

"(iii) the extent to which the proposed program would use or incorporate existing services that are available on the Indian reservation; and

"(iv) the specific treatment concepts to be used under the program.

"(c) GRANT ADMINISTRATION AND FINAL REPORT.—Each recipient of a grant made under subsection (a) shall—

"(1) furnish the Secretary of Health and Human Services with such information as the Secretary may require to—

"(A) evaluate the program for which the grant is made; and

"(B) ensure that the funds provided under the grant are expended for the purposes for which the grant was made; and

"(2) submit to the Secretary of Health and Human Services on the termination of the period of the grant, a final report that shall include such information as such Secretary may require.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Health and Human Services to carry out this section $4,000,000 for each of fiscal years 1995 through 2005.".

(h) INDIAN CHILD RESOURCE AND FAMILY SERVICES CENTERS.—

(1) ADMINISTRATIVE RESPONSIBILITY.—Section 411 (as redesignated by subsection (g)(1)) is amended—

(A) in subsection (a), by striking "The Secretary" and inserting "The Director";

(B) in subsection (b)—

(i) by striking "The Secretary and the Secretary of Health and Human Services shall" and inserting "The Secretary and the Director may"; and

(ii) by adding at the end the following new sentence: "In making a determination whether to enter into a Memorandum of Agreement with the Secretary pursuant to this subsection, the Director shall take into consideration whether the Indian tribes within an area to be served by the Director have contracted for social service programs or rely primarily on the Bureau for the direct provision of child abuse and family violence counseling services.";

(C) in subsection (d)(2)—

(i) by inserting "including" after "family violence"; and

(ii) by inserting "and provide incentives for Indians pursuing college degrees in social work" after "trainees";

(D) in subsection (d)(5), by inserting "in consultation with the appropriate official of the Bureau," before "develop policies";

(E) in subsection (e), by adding at the end the following new flush sentence:

"In each area served by a school of the Bureau, an employee of the Office of Indian Education shall serve on the multidisciplinary team established for the area pursuant to this section.";

(F) in subsection (f)—

(i) by striking "The Secretary, in consultation with the Secretary of Health and Human Services, shall establish," and inserting "The Director, or the Director and the Secretary (acting jointly in accordance with any Memorandum of Agreement entered into under subsection (b)), shall establish,"; and

(ii) by striking "the Secretary" in the second sentence and inserting "the Director"; and

(G) in the second sentence of subsection (g), by inserting "pursuant to such Act" after "contract".

(2) CENTER SERVICE AREAS.—Subsection (a) of section 411 (as redesignated by subsection (g)(1), and as amended by paragraph (1)(A)) is further amended by striking "each area office of the Bureau" and inserting "each area of the Service".

(3) CENTER ADVISORY BOARDS.—Section 411 (as redesignated by subsection (g)(1), and as amended by paragraph (1)) is further amended—

(A) in subsection (f)—

(i) by striking "an area office of the Bureau" in the second sentence and inserting "an area of the Service"; and

(ii) by adding at the end the following new sentence: "The advisory board shall provide such assistance in accordance with the provisions of the Memorandum of Agreement, if any, entered into under subsection (b) of this section."; and

(B) in the second sentence of subsection (g), by striking "an area office of the Bureau" and inserting "an area of the Service".

(4) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Subsection (h) of section 411 (as redesignated by subsection (g)(1)) is amended by striking "each of the fiscal years 1992, 1993, 1994, and 1995" and inserting "each of fiscal years 1995 through 2005".

(5) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the Secretary of the Interior shall transfer any funds available to the Department of the Interior on the date of the enactment of this Act for the purposes of carrying out the functions of the Indian Child Resource and Family Services Centers to the Secretary of Health and Human Services for the purposes of carrying out such functions.

(i) INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION.—

(1) ADMINISTRATIVE RESPONSIBILITY.—Section 412 (as redesignated by subsection (g)(1)) is amended—

(A) by striking "Secretary" each place it appears and inserting "Director"; and

(B) in subsection (a), by striking "the Bureau" and inserting in lieu thereof "the Service".

(2) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Subsection (i) of section 412 (as redesignated by subsection (g)(1)) is amended by striking "each of the fiscal years 1992, 1993, 1994, and 1995" and inserting "each of fiscal years 1995 through 2005".

(3) MISCELLANEOUS AMENDMENTS.—Section 412 (as redesignated by subsection (g)(1), and as amended by paragraph (1)) is further amended—

(A) in subsection (b), by striking "Indian Self-Determination Act" and inserting "Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)";

(B) in subsection (d)(3)—

(i) in the matter preceding subparagraph (A), by inserting "and family violence" after "multidisciplinary child abuse";

(ii) in subparagraph (A), by inserting "and family violence" after "child abuse"; and

(iii) in subparagraph (B)—

(I) by inserting "and family violence" after "child abuse"; and

(II) by striking "child victim" and inserting "victim";

(C) in subsection (d)(4), by inserting "and family violence" after "child protection";

(D) by striking "(f) SECRETARIAL REGULATIONS; BASE SUPPORT FUNDING.—" and inserting the following:

"(e) COMPETITIVE GRANTS.—"; and

(E) in subsection (e) (as so redesignated)—

(i) in paragraph (1), by striking ", and promulgate by regulations, a formula which establishes base support funding" and inserting "a competitive grant program";

(ii) by striking paragraph (2), and inserting the following new paragraph:

"(2)(A) In awarding each competitive grant for a program referred to in paragraph (1), the Director shall consider—

"(i) with respect to the applicant, and among other criteria, the degree of need, preexisting resources; and

"(ii) if feasible, the potential of the grant in facilitating the development on a regional level of intertribal cooperative programs.

"(B) In developing regulations for the competitive grant program established under this subsection, the Secretary of Health and Human Services, acting through the Director, shall develop, in consultation with Indian tribes, appropriate caseload standards and staffing requirements that account for the resources and needs of Indian tribes and tribal organizations. ";

(iii) in paragraph (3)—

(I) in the matter preceding subparagraph (A), by striking "development of the base support funding formula" and inserting "in awarding grants under this subsection"; and

(II) in subparagraph (A), by inserting before the semicolon the following: ", including any projected regional development of intertribal programs, if feasible"; and

(iv) in paragraph (4), by striking "formula established" and inserting "grants awarded".

(4) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the Secretary of the Interior shall transfer any funds available to the Department of the Interior, on the date of the enactment of this Act for the purposes of carrying out the Indian Child Protection and Family Violence Prevention Program established under section 412 of the Indian Child Protection and Family Violence Prevention Act (as redesignated by subsection (g)(1)), to the Secretary of Health and Human Services for the purposes of carrying out such program.

(j) RESPONSIBILITY FOR ANNUAL REPORT.—Section 413 (as redesignated by subsection (g)(1)) is amended by striking "Secretary" and inserting "Director".

(k) CONFORMING AMENDMENTS.—Section 407(c) (25 U.S.C. 3206) is amended—

(1) by striking "411" and inserting "412"; and

(2) by striking "410" and inserting "411".

BASE CLOSURE AND COMMUNITY REDEVELOPMENT AND HOMELESS ASSISTANCE ACT

The text of the bill (S. 2534) to revise and improve the process for disposing of buildings and property at military installations under the base closure laws, as passed by the Senate on October 6, 1994, is as follows:

S. 2534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may cited as the "Base Closure Community Redevelopment and Homeless Assistance Act of 1994".

SEC. 2. DISPOSAL OF BUILDINGS AND PROPERTY AT MILITARY INSTALLATIONS APPROVED FOR CLOSURE.

(a) IN GENERAL.—Section 2905(b) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7)(A) Determinations of the use to assist the homeless of buildings and property located at installations approved for closure under this part after the date of the enactment of this paragraph shall be determined under this paragraph rather than paragraph (6).

"(B)(i) Not later than the date on which the Secretary of Defense completes the final determinations referred to in paragraph (5) relating to the use or transferability of any portion of an installation covered by this paragraph, the Secretary shall—

"(I) identify the buildings and property at the installation for which the Department of Defense has a use, for which another department or agency of the Federal Government has identified a use, or of which another department or agency will accept a transfer;

"(II) take such actions as are necessary to identify any building or property at the installation not identified under subclause (I) that is excess property or surplus property;

"(III) submit to the Secretary of Housing and Urban Development and to the redevelopment authority for the installation (or the chief executive officer of the State in which the installation is located if there is no redevelopment authority for the installation at the completion of the determination described in the stem of this sentence) information on any building or property that is identified under subclause (II); and

"(IV) publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information on the buildings and property identified under subclause (II).

"(ii) Upon the recognition of a redevelopment authority for an installation covered by this paragraph, the Secretary of Defense shall publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information on the redevelopment authority.

"(C)(i) State and local governments, representatives of the homeless, and other interested parties located in the communities in the vicinity of an installation covered by this paragraph shall submit to the redevelopment authority for the installation a notice of the interest, if any, of such governments, representatives, and parties in the buildings or property, or any portion thereof, at the installation that are identified under subparagraph (B)(i)(II). A notice of interest under this clause shall describe the need of the government, representative, or party concerned for the buildings or property covered by the notice.

"(ii) The redevelopment authority for an installation shall assist the governments, representatives, and parties referred to in clause (i) in evaluating buildings and property at the installation for purposes of this subparagraph.

"(iii) In providing assistance under clause (ii), a redevelopment authority shall—

"(I) consult with representatives of the homeless in the communities in the vicinity of the installation concerned; and

"(II) undertake outreach efforts to provide information on the buildings and property to representatives of the homeless, and to other persons or entities interested in assisting the homeless, in such communities.

"(iv) It is the sense of Congress that redevelopment authorities should begin to conduct outreach efforts under clause (iii)(II) with respect to an installation as soon as is practicable after the date of approval of closure of the installation.

"(D)(i) State and local governments, representatives of the homeless, and other interested parties shall submit a notice of interest to a redevelopment authority under subparagraph (C) not later than the date specified for such notice by the redevelopment authority.

"(ii) The date specified under clause (i) shall be—

"(I) in the case of an installation for which a redevelopment authority has been recognized as of the date of the completion of the

determinations referred to in paragraph (5), not earlier than 3 months and not later than 6 months after that date; and

"(II) in the case of an installation for which a redevelopment authority is not recognized as of such date, not earlier than 3 months and not later than 6 months after the date of the recognition of a redevelopment authority for the installation.

"(iii) Upon specifying a date for an installation under this subparagraph, the redevelopment authority for the installation shall—

"(I) publish the date specified in a newspaper of general circulation in the communities in the vicinity of the installation concerned; and

"(II) notify the Secretary of Defense of the date.

"(E)(i) In submitting to a redevelopment authority under subparagraph (C) a notice of interest in the use of buildings or property at an installation to assist the homeless, a representative of the homeless shall submit the following:

"(I) A description of the homeless assistance program that the representative proposes to carry out at the installation.

"(II) An assessment of the need for the program.

"(III) A description of the extent to which the program is or will be coordinated with other homeless assistance programs in the communities in the vicinity of the installation.

"(IV) A description of the buildings and property at the installation that are necessary in order to carry out the program.

"(V) A description of the financial plan, the organization, and the organizational capacity of the representative to carry out the program.

"(VI) An assessment of the time required in order to commence carrying out the program.

"(ii) A redevelopment authority may not release to the public any information submitted to the redevelopment authority under clause (i)(V) without the consent of the representative of the homeless concerned unless such release is authorized under Federal law and under the law of the State and communities in which the installation concerned is located.

"(F)(i) The redevelopment authority for each installation covered by this paragraph shall prepare a redevelopment plan for the installation. The redevelopment authority shall, in preparing the plan, consider the interests in the use to assist the homeless of the buildings and property at the installation that are expressed in the notices submitted to the redevelopment authority under subparagraph (C).

"(ii)(I) In connection with a redevelopment plan for an installation, a redevelopment authority and representatives of the homeless shall prepare legally binding agreements that provide for the use to assist the homeless of buildings and property, resources, and assistance on or off the installation. The implementation of such agreements shall be contingent upon the approval of the redevelopment plan by the Secretary of Housing and Urban Development under subparagraph (H) or (J).

"(II) Agreements under this clause shall provide for the reversion to the redevelopment authority concerned, or to such other entity or entities as the agreements shall provide, of buildings and property that are made available under this paragraph for use to assist the homeless in the event that such buildings and property cease being used for that purpose.

"(iii) A redevelopment authority shall provide opportunity for public comment on a redevelopment plan before submission of the plan to the Secretary of Defense and the Secretary of Housing and Urban Development under subparagraph (G).

"(iv) A redevelopment authority shall complete preparation of a redevelopment plan for an installation and submit the plan under subparagraph (G) not later than 9 months after the date specified by the redevelopment authority for the installation under subparagraph (D).

"(G)(i) Upon completion of a redevelopment plan under subparagraph (F), a redevelopment authority shall submit an application containing the plan to the Secretary of Defense and to the Secretary of Housing and Urban Development.

"(ii) A redevelopment authority shall include in an application under clause (i) the following:

"(I) A copy of the redevelopment plan, including a summary of any public comments on the plan received by the redevelopment authority under subparagraph (F)(iii).

"(II) A copy of each notice of interest of use of buildings and property to assist the homeless that was submitted to the redevelopment authority under subparagraph (C), together with a description of the manner, if any, in which the plan addresses the interest expressed in each such notice and, if the plan does not address such an interest, an explanation why the plan does not address the interest.

"(III) A summary of the outreach undertaken by the redevelopment authority under subparagraph (C)(iii)(II) in preparing the plan.

"(IV) A statement identifying the representatives of the homeless and the homeless assistance planning boards, if any, with which the redevelopment authority consulted in preparing the plan, and the results of such consultations.

"(V) An assessment of the manner in which the redevelopment plan balances the expressed needs of the homeless and the need of the communities in the vicinity of the installation for economic redevelopment and other development.

"(VI) Copies of the agreements that the redevelopment authority proposes to enter into under subparagraph (F)(ii).

"(H)(i) Not later than 60 days after receiving a redevelopment plan under subparagraph (G), the Secretary of Housing and Urban Development shall complete a review of the plan. The purpose of the review is to determine whether the plan, with respect to the expressed interest and requests of representatives of the homeless—

"(I) takes into consideration the size and nature of the homeless population in the communities in the vicinity of the installation, the availability of existing services in such communities to meet the needs of the homeless in such communities, and the suitability of the buildings and property covered by the plan for the use and needs of the homeless in such communities;

"(II) takes into consideration any economic impact of the homeless assistance under the plan on the communities in the vicinity of the installation;

"(III) balances in an appropriate manner the needs of the communities in the vicinity of the installation for economic redevelopment and other development with the needs of the homeless in such communities;

"(IV) was developed in consultation with representatives of the homeless and the homeless assistance planning boards, if any, in the communities in the vicinity of the installation; and

"(V) specifies the manner in which buildings and property, resources, and assistance on or off the installation will be made available for homeless assistance purposes.

"(ii) It is the sense of Congress that the Secretary of Housing and Urban Development shall, in completing the review of a plan under this subparagraph, take into consideration and be receptive to the predominant views on the plan of the communities in the vicinity of the installation covered by the plan.

"(iii) The Secretary of Housing and Urban Development may engage in negotiations and consultations with a redevelopment authority before or during the course of a review under clause (i) with a view toward resolving any preliminary determination of the Secretary that a redevelopment plan does not meet a requirement set forth in that clause. The redevelopment authority may modify the redevelopment plan as a result of such negotiations and consultations.

"(iv) Upon completion of a review of a redevelopment plan under clause (i), the Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under that clause.

"(v) If the Secretary of Housing and Urban Development determines as a result of such a review that a redevelopment plan does not meet the requirements set forth in clause (i), a notice under clause (iv) shall include—

"(I) an explanation of that determination; and

"(II) a statement of the actions that the redevelopment authority must undertake in order to address that determination.

"(I)(i) Upon receipt of a notice under subparagraph (H)(iv) of a determination that a redevelopment plan does not meet a requirement set forth in subparagraph (H)(i), a redevelopment authority shall have the opportunity to—

"(I) revise the plan in order to address the determination; and

"(II) submit the revised plan to the Secretary of Housing and Urban Development.

"(ii) A redevelopment authority shall submit a revised plan under this subparagraph to the Secretary of Housing and Urban Development, if at all, not later than 90 days after the date on which the redevelopment authority receives the notice referred to in clause (i).

"(J)(i) Not later than 30 days after receiving a revised redevelopment plan under subparagraph (I), the Secretary of Housing and Urban Development shall review the revised plan and determine if the plan meets the requirements set forth in subparagraph (H)(i).

"(ii) The Secretary of Housing and Urban Development shall notify the Secretary of Defense and the redevelopment authority concerned of the determination of the Secretary of Housing and Urban Development under this subparagraph.

"(K) Upon receipt of a notice under subparagraph (H)(vi) or (J)(ii) of the determination of the Secretary of Housing and Urban Development that a redevelopment plan for an installation meets the requirements set forth in subparagraph (H)(i), the Secretary of Defense shall dispose of the buildings and property located at the installation that are identified in the plan as available for use to assist the homeless in accordance with the provisions of the plan. The Secretary of Defense may dispose of such buildings or property directly to the representatives of the

homeless concerned or to the redevelopment authority concerned. The Secretary of Defense shall dispose of the buildings and property under this subparagraph without consideration.

"(L)(i) If the Secretary of Housing and Urban Development determines under subparagraph (J) that a revised redevelopment plan for an installation does not meet the requirements set forth in subparagraph (H)(i), or if no revised plan is so submitted, that Secretary shall—

"(I) review the original redevelopment plan submitted to that Secretary under subparagraph (G), including the notice or notices of representatives of the homeless referred to in clause (ii)(II) of that subparagraph;

"(II) consult with the representatives referred to in subclause (I), if any, for purposes of evaluating the continuing interest of such representatives in the use of buildings or property at the installation to assist the homeless;

"(III) request that each such representative submit to that Secretary the items described in clause (ii); and

"(IV) based on the actions of that Secretary under subclauses (I) and (II), and on any information obtained by that Secretary as a result of such actions, indicate to the Secretary of Defense the buildings and property at the installation that meet the requirements set forth in subparagraph (H)(i).

"(ii) The Secretary of Housing and Urban Development may request under clause (i)(III) that a representative of the homeless submit to that Secretary the following:

"(I) A description of the program of such representative to assist the homeless.

"(II) A description of the manner in which the buildings and property that the representative proposes to use for such purpose will assist the homeless.

"(III) Such information as that Secretary requires in order to determine the financial capacity of the representative to carry out the program and to ensure that the program will be carried out in compliance with Federal environmental law and Federal law against discrimination.

"(IV) A certification that police services, fire protection services, and water and sewer services available in the communities in the vicinity of the installation concerned are adequate for the program.

"(iii) The Secretary of Housing and Urban Development shall indicate to the Secretary of Defense and to the redevelopment authority concerned the buildings and property at an installation under clause (i)(IV) to be disposed of not later than 90 days after the date of a receipt of a revised plan for the installation under subparagraph (J).

"(iv) The Secretary of Defense shall dispose of the buildings and property at an installation referred to in clause (iii) to entities indicated by the Secretary of Housing and Urban Development or by transfer to the redevelopment authority concerned for transfer to such entities. Such disposal shall be in accordance with the indications of the Secretary of Housing and Urban Development under clause (i)(IV). Such disposal shall be without consideration.

"(M)(i) In the event of the disposal of buildings and property of an installation pursuant to subparagraph (K), the redevelopment authority for the installation shall be responsible for the implementation of and compliance with agreements under the redevelopment plan described in that subparagraph for the installation.

"(ii) If a building or property reverts to a redevelopment authority under such an agreement, the redevelopment authority shall take appropriate actions to secure, to the maximum extent practicable, the utilization of the building or property by other homeless representatives to assist the homeless. A redevelopment authority may not be required to utilize the building or property to assist the homeless.

"(N) The Secretary of Defense may postpone or extend any deadline provided for under this paragraph in the case of an installation covered by this paragraph for such period as the Secretary considers appropriate if the Secretary determines that such postponement is in the interests of the communities affected by the closure of the installation. The Secretary shall make such determinations in consultation with the redevelopment authority concerned and, in the case of deadlines provided for under this paragraph with respect to the Secretary of Housing and Urban Development, in consultation with the Secretary of Housing and Urban Development.

"(O) For purposes of this paragraph, the term 'communities in the vicinity of the installation', in the case of an installation, means the communities that constitute the political jurisdictions (other than the State in which the installation is located) that comprise the redevelopment authority for the installation.".

(b) DEFINITION.—Section 2910 of such Act is amended by adding at the end the following:

"(10) The term 'representative of the homeless' has the meaning given such term in section 501(h)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(h)(4)).".

(c) CONFORMING AMENDMENT TO 1990 BASE CLOSURE ACT.—Section 2905(b)(6)(A) of such Act is amended by adding at the end the following: "For procedures relating to the use to assist the homeless of buildings and property at installations closed under this part after the date of the enactment of this sentence, see paragraph (7).".

(d) CONFORMING AMENDMENT TO MCKINNEY ACT.—Section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection (h):

"(h) APPLICABILITY TO PROPERTY UNDER BASE CLOSURE PROCESS.—(1) The provisions of this section shall not apply to buildings and property at military installations that are approved for closure under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) after the date of the enactment of this subsection.

"(2) For provisions relating to the use to assist the homeless of buildings and property located at certain military installations approved for closure under such Act, or under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note), before such date, see section 2(e) of Base Closure Community Redevelopment and Homeless Assistance Act of 1994.".

(e) APPLICABILITY TO INSTALLATIONS APPROVED FOR CLOSURE BEFORE ENACTMENT OF ACT.—(1)(A) Notwithstanding any provision of the 1988 base closure Act or the 1990 base closure Act, as such provision was in effect on the day before the date of the enactment of this Act, and subject to subparagraphs (B) and (C), the use to assist the homeless of building and property at military installations approved for closure under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before such date shall be determined in accordance with the provisions of paragraph (7) of section 2905(b) of the 1990 base closure Act, as amended by subsection (a), in lieu of the provisions of the 1988 base closure Act or the 1990 base closure Act that would otherwise apply to the installations.

(B)(i) The provisions of such paragraph (7) shall apply to an installation referred to in subparagraph (A) only if the redevelopment authority for the installation submits a request to the Secretary of Defense not later than 60 days after the date of the enactment of this Act.

(ii) In the case of an installation for which no redevelopment authority exists on the date of the enactment of this Act, the chief executive officer of the State in which the installation is located shall submit the request referred to in clause (i) and act as the redevelopment authority for the installation.

(C) The provisions of such paragraph (7) shall not apply to any buildings or property at an installation referred to in subparagraph (A) for which the redevelopment authority submits a request referred to in subparagraph (B) within the time specified in such subparagraph (B) if the buildings or property, as the case may be, have been transferred or leased for use to assist the homeless under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before the date of the enactment of this Act.

(2) For purposes of the application of such paragraph (7) to the buildings and property at an installation, the date on which the Secretary receives a request with respect to the installation under paragraph (1) shall be treated as the date on which the Secretary of Defense completes the final determination referred to in subparagraph (B) of such paragraph (7).

(3) Upon receipt under paragraph (1)(B) of a timely request with respect to an installation, the Secretary of Defense shall publish in the Federal Register and in a newspaper of general circulation in the communities in the vicinity of the installation information describing the redevelopment authority for the installation.

(4)(A) The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall not, during the 60-day period beginning on the date of the enactment of this Act, carry out with respect to any military installation approved for closure under the 1988 base closure Act or the 1990 base closure Act before such date any action required of such Secretaries under the 1988 base closure Act or the 1990 base closure Act, as the case may be, or under section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411).

(B)(i) Upon receipt under paragraph (1)(A) of a timely request with respect to an installation, the Secretary of Defense shall notify the Secretary of Housing and Urban Development and the Secretary of Health and Human Services that the disposal of buildings and property at the installation shall be determined under such paragraph (7) in accordance with this subsection.

(ii) Upon receipt of a notice with respect to an installation under this subparagraph, the requirements, if any, of the Secretary of Housing and Urban Development and the Secretary of Health and Human Services with respect to the installation under the provisions of law referred to in subparagraph (A) shall terminate.

(iii) Upon receipt of a notice with respect to an installation under this subparagraph, the Secretary of Health and Human Services shall notify each representative of the homeless that submitted to that Secretary an application to use buildings or property at the installation to assist the homeless under the 1988 base closure Act or the 1990 base closure Act, as the case may be, that the use of buildings and property at the installation to assist the homeless shall be determined under such paragraph (7) in accordance with this subsection.

(5)(A) In preparing a redevelopment plan for buildings and property at an installation covered by such paragraph (7) by reason of this subsection, the redevelopment authority concerned shall—

(A) consider and address specifically any applications for use of such buildings and property to assist the homeless that were received by the Secretary of Health and Human Services under the 1988 base closure Act or the 1990 base closure Act, as the case may be, before the date of the enactment of this Act and are pending with that Secretary on that date; and

(B) in the case of any application by representatives of the homeless that was approved by the Secretary of Health and Human Services before the date of enactment of this Act, ensure that the plan adequately addresses the needs of the homeless identified in the application by providing such representatives of the homeless with—

(i) properties, on or off the installation, that are substantially equivalent to the properties covered by the application;

(ii) sufficient funding to secure such substantially equivalent properties;

(iii) services and activities that meet the needs identified in the application; or

(iv) a combination of the properties, funding, and services and activities described in clause (i), (ii), and (iii).

(6) In the case of an installation to which the provisions of such paragraph (7) apply by reason of this subsection, the date specified by the redevelopment authority for the installation under subparagraph (D) of such paragraph (7) shall be not less than 1 month and not more than 6 months after the date of the submittal of the request with respect to the installation under paragraph (1)(B).

(7) For purposes of this subsection:

(A) The term "1988 base closure Act" means title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

(B) The term "1990 base closure Act" means the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(f) CLARIFYING AMENDMENTS TO BASE CLOSURE ACTS.—(1) Section 204(b)(6)(F)(i) of the Defense Authorization Amendments and Base Closure Act and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended by inserting "and buildings and property referred to in subparagraph (B)(ii) which have not been identified as suitable for use to assist the homeless under subparagraph (C)," after "subparagraph (D),".

(2) Section 2905(b)(6)(F)(i) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by inserting "and buildings and property referred to in subparagraph (B)(ii) which have not been identified as suitable for use to assist the homeless under subparagraph (C)," after "subparagraph (D),".

RECOGNITION OF RADIO AMATEURS

The text of the joint resolution (S.J. Res. 90) to recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy, as passed by the Senate on October 6, 1994, is as follows:

S.J. RES. 90

Whereas Congress has expressed its determination in section 1 of the Communications Act of 1934 (47 U.S.C. 151) to promote safety of life and property through the use of radio communication;

Whereas Congress, in section 7 of the Communications Act of 1934 (47 U.S.C. 157), established a policy to encourage the provision of new technologies and services;

Whereas Congress, in section 3 of the Communications Act of 1934, defined radio stations to include amateur stations operated by persons interested in radio technique without pecuniary interest;

Whereas the Federal Communications Commission has created an effective regulatory framework through which the amateur radio service has been able to achieve the goals of the service;

Whereas these regulations, set forth in part 97 of title 47 of the Code of Federal Regulations clarify and extend the purposes of the amateur radio service as a—

(1) voluntary noncommercial communication service, particularly with respect to providing emergency communications;

(2) contributing service to the advancement of the telecommunications infrastructure;

(3) service which encourages improvement of an individual's technical and operating skills;

(4) service providing a national reservoir of trained operators, technicians and electronics experts; and

(5) service enhancing international good will;

Whereas Congress finds that members of the amateur radio service community have provided invaluable emergency communications services following such disasters as Hurricanes Hugo, Andrew, and Iniki, the Mt. St. Helens eruption, the Loma Prieta earthquake, tornadoes, floods, wildfires, and industrial accidents in great number and variety across the Nation; and

Whereas Congress finds that the amateur radio service has made a contribution to our Nation's communications by its crafting, in 1961, of the first Earth satellite licensed by the Federal Communications Commission, by its proof-of-concept for search and rescue satellites, by its continued exploration of the low Earth orbit in particular pointing the way to commercial use thereof in the 1990s, by its pioneering of communications using reflections from meteor trails, a technique now used for certain government and commercial communications, and by its leading role in development of low-cost, practical data transmission by radio which increasingly is being put to extensive use in, for instance, the land mobile service: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND DECLARATIONS OF CONGRESS.

Congress finds and declares that—

(1) radio amateurs are hereby commended for their contributions to technical progress in electronics, and for their emergency radio communications in times of disaster;

(2) the Federal Communications Commission is urged to continue and enhance the development of the amateur radio service as a public benefit by adopting rules and regulations which encourage the use of new technologies within the amateur radio service; and

(3) reasonable accommodation should be made for the effective operation of amateur radio from residences, private vehicles and public areas, and that regulation at all levels of government should facilitate and encourage amateur radio operation as a public benefit.

UNITED NEGRO COLLEGE FUND WEEK

The text of the joint resolution (S.J. Res. 181) to designate the week of May 8, 1994, through May 14, 1994, as "United Negro College Fund Week", as passed by the Senate on October 6, 1994, is as follows:

S.J. RES. 181

Whereas in 1943, Dr. Frederick D. Patterson of the Tuskegee Institute convened the first meeting to consider the feasibility of a united appeal on behalf of historically black private colleges and universities;

Whereas on May 13, 1944, the organizing meeting of the United Negro College Fund was held at the Waldorf-Astoria Hotel in New York City;

Whereas Atlanta University, Bethune-Cookman College, Clark College, Dillard University, Fisk University, Gammon Theological Seminary, Morehouse College, Spelman College, and the Tuskegee Institute were the founding member institutions of the United Negro College Fund;

Whereas the initial combined campaign of the United Negro College Fund raised $760,000;

Whereas through the year 1993, the 41 member institutions of the United Negro College Fund now enroll more than 55,000 students, have shared more than $58,000,000, and have raised more than $889,000,000 for the 50th Annual Campaign, and more than $190,000,000 for the United Negro College Fund Capital Campaign 2000; and

Whereas the United Negro College Fund continues to provide students quality academic instruction in a positive learning environment and assist as the mission of the Federal Government to promote equal opportunity in higher education: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the week of May 8, 1994, through May 14, 1994, is designated "United Negro College Fund Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate programs, ceremonies, and activities;

(2) Congress salutes and acknowledges the United Negro College Fund, the president of the United Negro College Fund, William H. Gray, III, and the presidents, faculties, staff, and trustees of the 41 member institutions of the United Negro College Fund for their vigorous and persistent efforts in support of equal opportunity in higher education, and commends the students who benefit from the United Negro College Fund for their pursuit of academic excellence; and

(3) this joint resolution may be cited as the "United Negro College Fund 50th Anniversary Resolution".

NATIONAL HEALTH INFORMATION MANAGEMENT WEEK

The text of the joint resolution (S.J. Res. 208) to designate the week of November 6, 1994, through November 12, 1994, as "National Health Information Management Week", as passed by the Senate on October 6, 1994, is as follows:

S.J. RES. 208

Whereas accurate, timely, and complete medical records and related health information play a vital role in planning and providing quality health care for the citizens of the United States, beginning at birth and continuing throughout their lives;

Whereas there is an escalating public concern about the quality, appropriateness, and effectiveness of health care, and, to provide public accountability, specific skills in evaluating and reporting the results of that care are required;

Whereas equitable third-party reimbursement for health care is dependent upon health information that is collected, analyzed, classified, verified, and disseminated;

Whereas computer technology is changing the character of health information, requiring proficiency in designing systems, controlling comprehensive database, managing computer networks and related technology while regulating access to the data, and maintaining the security and confidentiality of individual patient information;

Whereas there is an increasing public awareness of patient rights including the right of patients to access their own medical information;

Whereas protecting the confidentiality of patient-identifiable health data is an important consideration in the contemporary health care environment;

Whereas the health care industry's needs, requirements, and use of health information is changing rapidly, and the rate of change will continue to escalate in the future as new technology is utilized and new health care reform policies are promulgated; and

Whereas the members of the American Health Information Management Association are America's health information leaders, with demonstrated commitment to and expertise in health information management, including balancing patients' rights and confidentiality of health information with legitimate uses of data, serving as an advocate for the patients' right to access their own records, preserving the confidentiality and security of patient data, valuing the quality of health information as evidenced by its integrity, accuracy, consistency, reliability, and validity, valuing the quality of health information as evidenced by its impact on the quality of health care delivery, investigating and applying new technology to advance the management of health information, and developing the computer based-patient record: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 6, 1994, through November 12, 1994, is designated "National Health Information Management Week", and the President is authorized and requested to issue a proclamation calling upon the citizens of the United States to observe that week with appropriate ceremonies and activities.

NATIONAL MILITARY FAMILIES RECOGNITION DAY

The text of the joint resolution (S.J. Res. 209) designating November 21, 1994, as "National Military Families Recognition Day", as passed by the Senate on October 6, 1994, is as follows:

S.J. RES. 209

Whereas the Congress recognizes and supports the Department of Defense policies to recruit, train, equip, retain, and field a military force that is capable of preserving peace and protecting the vital interests of the United States and its allies;

Wheras military families shoulder the responsibility of providing emotional support for their service members;

Whereas, in times of war and military action, military families have demonstrated their patriotism through their steadfast support and commitment to the Nation;

Whereas the emotional and mental readiness of the United States military personnel around the world is tied to the well-being and satisfaction of their families;

Whereas the quality of life that the Armed Forces provide to military families is a key factor in the retention of military personnel;

Whereas the people of the United States are truly indebted to military families for facing adversities, including extended separations from their service members, frequent household moves due to reassignments, and restrictions on their employment and educational opportunities;

Whereas 75 percent of officers and 57 percent of enlisted personnel in the Armed Forces are married;

Whereas families of active duty military personnel (including individuals other than spouses and children) comprise more than one-half of the active duty community of the Armed Forces, and spouses and children of members of the reserve component of the Armed Forces in paid status comprise more than one-half of the individuals constituting the reserve component of the Armed Forces community;

Whereas hundreds of thousands of spouses, children, and other dependents living abroad with members of the Armed Forces face financial hardship and feelings of cultural isolation;

Whereas the significantly reduced global military tensions following the end of the Cold War have resulted in a downsizing of the national defense and a refocusing of national priorities on strengthening the American economy and increasing competitiveness in the global marketplace;

Whereas the Congress is grateful for the sacrifices of military families and is committed to assisting the service members and their families who undergo the transition from active duty to civilian life; and

Whereas military families are devoted to the overall mission of the Department of Defense and have supported the role of the United States as the military leader and protector of the Free World: Now, therefore, be it

Resolved by the Senate and House Representatives of the United States of America in Congress assembled, That November 21, 1994, is designated as "National Military Families Recognition Day" in appreciation of the commitment and devotion of present and former military families and the sacrifices that such families have made on behalf of the Nation and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

NATIONAL MAMMOGRAPHY DAY

The text of the joint resolution (S.J. Res. 220) to designate October 19, 1994, as "National Mammography Day" as passed by the Senate on October 6, 1994, is as follows:

S.J. RES. 220

Whereas, according to the American Cancer Society, 182,000 women will be diagnosed with breast cancer in 1994, and 46,000 women will die from this disease;

Whereas, in the decade of the 1990's, it is estimated that about two million women will be diagnosed with breast cancer, resulting in nearly 500,000 deaths;

Whereas the risk of breast cancer increases with age, with 50 percent of the breast cancer cases occurring in women over age 65;

Whereas 80 percent of women who get breast cancer have no family history of the disease;

Whereas mammograms, when operated professionally at an accredited facility, can provide a safe and quick diagnosis;

Whereas experts agree that mammography is the best method of early detection of breast cancer, and early detection is the key to saving lives; and

Whereas mammograms can reveal the presence of small cancers up to two years before regular clinical breast examinations or breast self-examinations (BSE), saving as many as a third more lives; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 19, 1994, be designated as "National Mammography Day," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate, on October 7, 1994, during the recess of the Senate, received a message from the House of Representatives announcing that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 21) A bill to designate certain lands in the California Desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes.

The message also announced that the Speaker has signed the following bills and joint resolution:

S. 2170. An act to provide a more effective, efficient, and responsive Government.

S. 2406. An act to amend title 17, United States Code, relating to the definition of a local service area of a primary transmitter, and for other purposes.

H.R. 1520. An act to amend the Petroleum Marketing Practices Act.

H.R. 2826. An act to provide for an investigation of the whereabouts of the United States citizens and others who have been missing from Cyprus since 1974.

H.R. 2902. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to reauthorize the annual Federal payment to the District of Columbia for fiscal year 1996, and for other purposes.

H.R. 3485. An act to authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1995 and 1996.

H.R. 4308. An act to authorize appropriations to assist in carrying out the North American Wetlands Conservation Act for fiscal years 1995 through 1998, and for other purposes.

H.R. 4653. An act to settle Indian land claims within the State of Connecticut, and for other purposes.

H.J. Res. 401. Joint resolution designating the months of March 1995 and March 1996 as "Irish-American Heritage Month".

H.J. Res. 417. Joint resolution providing for temporary extension of the application of the final paragraph of section 10 of the Railway Labor Act with respect to the dispute between the Soo Line Railroad Company and certain of its employees.

MESSAGES FROM THE HOUSE

At 11:45 a.m., message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill; in which it requests the concurrence of the Senate:

H.R. 4842. An act to specify the terms of contracts entered into by the United States and Indian tribal organizations under the Indian Self-Determination and Education Assistance Act, and for other purposes.

H.R. 5200. An act to resolve the 107th meridian boundary dispute between the Crow Indian Tribe and the United States.

The message also announced that the House has passed the following bills and joint resolutions; each without amendment:

S. 340. An act to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes.

S. 2534. An act to revise and improve the process for disposing of buildings and property at military installations under the base closure laws.

S.J. Res. 90. Joint resolution to recognize the achievements of radio amateurs, and to establish support for such amateurs as national policy.

S.J. Res. 221. Joint resolution to express the sense of the Congress in commemoration of the 75th anniversary of Grand Canyon National Park.

The message further announced that the House has agreed to the following concurrent resolutions; in which it requests the concurrence of the Senate:

H. Con. Res. 292. Concurrent resolution providing for the printing of a collection of statements made in tribute to the late Speaker of the House of Representatives, Thomas P. "Tip" O'Neill, Jr.

H. Con. Res. 293. Concurrent resolution providing for the printing of the book entitled "History of the United States House of Representatives".

H. Con. Res. 299. Concurrent resolution authorizing the printing of the book entitled "Hispanic Americans in Congress".

H. Con. Res. 313. Concurrent resolution providing for a technical correction in the enrollment of S. 21.

The message also announced that the House has passed the bill (S. 784) to amend the Federal Food, Drug and Cosmetic Act to establish standards with respect to dietary supplements, and for other purposes, with an amendment; in which it requests the concurrence of the Senate.

The message further announced that the House has passed the joint resolution (S.J. Res. 227) to approve the location of a Thomas Paine Memorial, with amendments; in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 4709) to make certain technical corrections, and for other purposes.

At 3:26 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 4867) to authorize appropriations for high-speed rail transportation, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

At 4:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills; in which it requests the concurrence of the Senate:

H.R. 3344. An act for the relief of Lloyd B. Gamble.

H.R. 3917. An act for the relief of Arthur A. Carron, Jr.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 1927) to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

The message further announced that the House agrees to the amendments of the Senate to the bill (H.R. 3313) to amend title 38, United States Code, to improve health care services of the Department of Veterans Affairs relating to women veterans, to extend and expand authority for the Secretary of Veterans Affairs to provide priority health care to veterans who were exposed to ionizing radiation or to Agent Orange, to expand the scope of services that may be provided to veterans through Vet Centers, and for other purposes, with amendments; in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 3664) to direct the Secretary of the Interior to transfer certain national fish hatcheries, with an amendment; in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to H. Res. 577 stating that the bill of the Senate (S. 1216) to resolve the 107th Meridian boundary dispute between the Crow Indian Tribe, the Northern Cheyenne Indian Tribe, and the United States and various other issues pertaining to the Crow Indian Reservation, in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

ENROLLED JOINT RESOLUTION SIGNED

At 5:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

S.J. Res. 221. Joint resolution to express the sense of the Congress in commemoration of the 75th anniversary of Grand Canyon National Park.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. BYRD).

MESSAGES FROM THE HOUSE

At 6:26 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill; in which it requests the concurrence of the Senate:

H.R. 5231. An Act to provide for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior.

The message also announced that the House has passed the following bill; without amendment:

S. 455. An act to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 1348) to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor in the State of Connecticut, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4950) to extend the authorities of the Overseas Private Investment Corporation.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1569) to amend the Public Health Service Act to establish, reauthorize and revise provisions to improve the health of individuals from disadvantaged backgrounds, and for other purposes.

At 10:02 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolutions, in which it request the concurrence of the Senate:

H.R. 934. An act to amend title 28, United States Code, relating to jurisdictional immunities of the Federal Republic of Germany, to grant jurisdiction to the courts of the United States in certain cases involving acts of genocide occurring against United States nationals during World War II in the predecessor states of the Federal Republic of German, or in any territories or areas occupied, annexed, or otherwise controlled by those states.

H.R. 4522. An act to amend the Communications Act of 1934 to extend the authorization of appropriations of the Federal Communications Commission, and for other purposes.

H.R. 4852. An act to provide congressional approval of a governing international fishery agreement, to authorize appropriations for the Coast Guard for fiscal year 1995, and for other purposes.

H.R. 4946. An act to establish the Midewin National Tallgrass Prairie in the State of Illinois, and for other purposes.

H.R. 5164. An act to provide for the enrollment of individuals enrolled in a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision in the Federal Employees Health Benefits Program.

H.R. 5179. An act to amend title 5, United States Code, to strengthen child support enforcement orders through the garnishment of amounts payable to Federal employees, and for other purposes.

H.R. 5220. An act to provide for the acceptance by the Secretary of Education of applications submitted by the local educational agency serving the Window Rock Unified School District, Window Rock, Arizona, under section 3 of the Act of September 30, 1950 (Public Law 874, 81st Congress) for fiscal years 1994 and 1995.

H.R. 5243. An act to amend the Public Works and Economic Development Act of 1965 to reauthorize economic development programs, and for other programs.

H.R. 5244. An act to amend title 38, United States Code, to revise and improve veterans' benefits programs, and for other purposes.

H.R. 5245. An act to provide for the extension of certain programs relating to housing and community development, and for other purposes.

H.R. 5246. An act to amend the Foreign Assistance Act of 1961 to make certain corrections relating to international narcotics control activities, and for other purposes.

H.J. Res. 184. Joint resolution designating the weekend of October 15–16, 1994, as "Small Towns and Townships Weekend".

H.J. Res. 411. Joint resolution designating October 29, 1994, as "National Firefighters Day".

H.J. Res. 413. Joint resolution designating November 1, 1994, as "National Family Literacy Day".

H.J. Res. 425. Joint resolution providing for the convening of the First Session of the One Hundred Fourth Congress.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 2384. An act to extend the deadlines applicable to certain hydroelectric projects under the Federal Power Act, and for other purposes.

The message further announced that the House has passed the following bills, each with amendments, in which it requests the concurrence of the Senate:

S. 2073. An act to designate the United States courthouse that is scheduled to be constructed in Concord, New Hampshire, as the "Warren B. Rudman United States Courthouse", and for other purposes.

S. 2100. An act to provide for rural development, multiple-use management, expenditures under the Knutson-Vandenburg Act of 1930, and ecosystem-based management of certain forest lands, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the amendment of the House to the amendment of the Senate to the bill (H.R. 783) to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization.

The message further announced that the House agrees to the amendment of the Senate to the amendments of the House to the bill (S. 2372) to reauthorize for three years the Commission on Civil Rights, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 14. Concurrent Resolution expressing the sense of Congress with respect to certain regulations of the Occupational Safety and Health Administration.

H. Con. Res. 35. Concurrent resolution recognizing Belleville, New Jersey, as the birthplace of the industrial revolution in the United States.

H. Con. Res. 314. Concurrent resolution providing for the printing of a collection of statements made in tribute to Representative Jamie L. Whitten.

H. Con. Res. 315. Concurrent resolution providing for an adjournment or recess of the two Houses.

The message further announced that the House has passed the following bills and joint resolutions, each without amendments:

S. 2395. An act to designate the United States Federal Building and Courthouse in Detroit, Michigan, as the "Theodore Levin Federal Building and Courthouse", and for other purposes.

S. 2407. An act to make improvements in the operation and administration of the Federal courts, and for other purposes.

S. 2466. An act to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively and for other purposes.

S.J. Res. 220. Joint resolution to designate October 19, 1994, as "National Mammography Day".

S.J. Res. 229. Joint resolution regarding United States policy toward Haiti.

At 10:47 p.m. a message from the House of Representatives, delivered by Mr. Hays, announced that the House has passed the following bill; in which it requests the concurrence of the Senate:

H.R. 4497. An act to award a congressional gold medal to Rabbi Menachem Mendel Schneerson.

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 4278. An act to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act.

H.R. 4379. An act to amend the Farm Credit Act of 1971 to enhance the ability of the banks for cooperatives to finance agricultural exports, and for other purposes.

H.R. 4950. An act to extend the authorities of the Overseas Private Investment Corporation, and for other purposes.

At 12:22 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills; in which it requests the concurrence of the Senate:

H.R. 5252. An act to amend the Social Security Act and related Act to make miscellaneous and technical amendments, and for other purposes.

H.R. 5248. An act to require States to consider adopting mandatory, comprehensive, Statewide one-call notification systems to protect natural gas and hazardous liquid pipelines and all other underground facilities from being damaged by any excavations, and for other purposes.

The message also announced that the House has passed the following bill, with amendments; in which it requests the concurrence of the Senate:

S. 2345. An act to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes.

The message further announced that the House disagrees to the Senate amendment to the bill (H.R. 5123) to make a technical correction to an act preempting State economic regulation of motor carriers.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 4598) to direct the Secretary of the Interior to make technical corrections to maps relating to the Coastal Barrier Resources System, and to authorize appropriations to carry out the Coastal Barrier Resources Act.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on October 7, 1994, she had presented to the President of the United States, the following enrolled bills and joint resolution:

S. 2170. An act to provide a more effective, efficient, and responsive Government.

S. 2406. An act to amend title 17, United States Code, relating to the definition of a local service area of a primary transmitter, and for other purposes.

S.J. Res. 221. Joint resolution to express the sense of the Congress in commemoration of the 75th anniversary of Grand Canyon National Park.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3381. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act, case number 90–5; to the Committee on Appropriations.

EC–3382. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a report of a violation of the Antideficiency Act, case number 92–7; to the Committee on Appropriations.

EC–3383. A communication from the Chief of the Programs and Legislative Division (Office of Legislative Liaison), Department of the Air Force, transmitting, pursuant to law, notice relative to a contract that will continue for a period exceeding ten years; to the Committee on Armed Services.

EC–3384. A communication from the Chief of the Programs and Legislative Division (Office of Legislative Liaison), Department of the Air Force, transmitting, pursuant to law, notice relative to a contract that will continue for a period exceeding ten years; to the Committee on Armed Services.

EC–3385. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of a determination relative to the Export-Import Bank and the People's Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC–3386. A communication from the Executive Director of the Thrift Depositor Protection Oversight Board and the Deputy and Acting Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, a report of the unaudited financial statements for the period January 1 through June 30, 1994; to the Committee on Banking, Housing, and Urban Affairs.

EC–3387. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report to Congress on direct spending or receipts legislation within five days of enactment; to the Committee on the Budget.

EC–3388. A communication from the Administrator of the Federal Aviation Adminstration, transmitting, pursuant to law, the report relative to the Traffic Alert and Collision Avoidance System; to the Committee on Commerce, Science, and Transportation.

EC–3389. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report entitled "Relative Cost of Shipbuilding"; to the Committee on Commerce, Science, and Transportation.

EC–3390. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report entitled "Transportation Security"; to the Committee on Commerce, Science, and Transportation.

EC–3391. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report relative to the Earth's upper atmosphere; to the Committee on Commerce, Science, and Transportation.

EC–3392. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the inventory of all Government-owned uranium or uranium equivalents; to the Committee on Energy and Natural Resources.

EC–3393. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the Compact of Free Association with the Republic of Palau; to the Committee on Energy and Natural Resources.

EC–3394. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation to approve the location of the World War II Memorial; to the Committee on Energy and Natural Resources.

EC–3395. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report entitled "Nuclear Waste: Comprehensive Review of the Disposal Program Is Needed"; to the Committee on Energy and Natural Resources.

EC–3396. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on Medicare for fiscal year 1992; to the Committee on Finance.

EC–3397. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, the report on the impact of the Andean Trade Preference Act for calendar year 1993 ; to the Committee on Finance.

EC–3398. A communication from the Chairman of the U.S. International Trade Commission, transmitting, pursuant to law, the report on the impact of the Caribbean Basin Economic Recovery Act for calendar year 1993; to the Committee on Finance.

EC–3399. A communication from the U.S. Commissioner, Delaware River Basin Commission, transmitting, pursuant to law, the report of the internal control requirements; to the Committee on Governmental Affairs.

EC–3400. A communication from the U.S. Commissioner, Susquehanna River Basin Commission, transmitting, pursuant to law, the report of the internal control requirements; to the Committee on Governmental Affairs.

EC–3401. A communication from the Manager (Human Resources), Western Farm Credit Bank, transmitting, pursuant to law, the annual report and audited financial statement for calendar year 1993; to the Committee on Governmental Affairs.

EC–3402. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, the report of the Opinion and Recommended Decision on Remand; to the Committee on Governmental Affairs.

EC–3403. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the Indian Civil Service Retirement Act; to the Committee on Indian Affairs.

EC–3404. A communication from the Secretary of Housing and Urban Development, transmitting, a draft of proposed legislation entitled "The Native American Financial Services Organization Act of 1994"; to the Committee on Indian Affairs.

EC–3405. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, the report on the Airmen and Aircraft Registry System; to the Committee on Commerce, Science, and Transportation.

EC–3406. A communication from the Chair of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the annual report for fiscal year 1993; to the Committee on Energy and Natural Resources.

EC–3407. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on coal combustion/desulfurization byproducts; to the Committee on Energy and Natural Resources.

EC–3408. A communication from the Secretary of Energy, transmitting, pursuant to law, the report for the Strategic Petroleum Reserve for the period April 1 through June 30, 1994; to the Committee on Energy and Natural Resources.

EC–3409. A communication from the Secretary of Energy, transmitting, pursuant to law, the report entitled "Clean Energy Demonstration Project"; to the Committee on Energy and Natural Resources.

EC–3410. A communication from the Secretary of the Interior, transmitting, a draft of proposed legislation to approve the location of the Thomas Paine Memorial; to the Committee on Energy and Natural Resources.

EC–3411. A communication from the Administrator of the Environmental Protection Agency and the Secretary of Transportation, transmitting, pursuant to law, the report entitled "Nitrogen Oxide Emissions and Their Control From Uninstalled Aircraft Engines in Enclosed Test Cells"; to the Committee on Environment and Public Works.

EC–3412. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of a Presidential determination relative to the emigration laws and policies of the Russian Federation; to the Committee on Finance.

EC–3413. A communication from the Attorney General, transmitting, pursuant to law, the report on the Young American Medals for Bravery and Service for calendar year 1992; to the Committee on the Judiciary.

EC–3414. A communication from the General Counsel of the Department of Commerce, transmitting, a draft of proposed legislation entitled "The Patent Application Publication Act of 1994"; to the Committee on the Judiciary.

EC–3415. A communication from the Director of Communications (Legislative Affairs), Equal Employment Opportunity Commission, transmitting, pursuant to law, the report on the operations of the Office of General Counsel for fiscal year 1993; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–646. A petition from a citizen of the State of Texas relative to the regulation of minerals and natural resources; to the Committee on the Judiciary.

POM–647. A resolution adopted by the Senate of the Commonwealth of Kentucky; to the Committee on Governmental Affairs.

"SENATE RESOLUTION 32

"Whereas, the Tenth Amendment to the Constitution of the United States of America reads as follows:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."; and

"Whereas, the Tenth Amendment defines the total scope of federal power as being that specifically granted by the Constitution of the United States of America and no more; and

"Whereas, the scope of power defined by the Tenth Amendment means that the federal government was created by the states specifically to be an agent of the states; and

"Whereas, today, in 1994, the states are treated as agents of the federal government; and

"Whereas, numerous resolutions have been forwarded to the federal government by the General Assembly of the Commonwealth of Kentucky without any response or result from the Congress or the federal government; and

"Whereas, many federal mandates are directly in violation of the Tenth Amendment to the Constitution of the United States of America; and

"Whereas, the United States Supreme Court has ruled in *New York* v. *United States*, 112 S. Ct. 2408 (1992), that Congress simply may not commandeer the legislative and regulatory processes of the states; and

"Whereas, a number of proposals from previous administrations and some now pending from the present administration and from the Congress may further violate the Tenth Amendment to the Constitution of the United States of America: Now, therefore, be it

"*Resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:*

"Section 1. That the Commonwealth of Kentucky hereby claims sovereignty under the Tenth Amendment to the Constitution of the United States of America over all powers not otherwise enumerated and granted to the federal government by the Constitution of the United States of America.

"Section 2. That this serve as Notice and Demand to the federal government, as our agent, to cease and desist, effective immediately, issuing mandates to the states that are beyond the scope of its constitutionally-delegated powers.

"Section 3. That the Clerk of the Senate is directed to send copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, the Speaker of the House and President of the Senate of each state's legislature of the United States of America, and Kentucky's Congressional delegation."

REPORTS OF COMMITTEES

The following reports of committee were submitted:

By Mr. PRYOR from the Special Committee on Aging:

Special report entitled "Developments in Aging: 1993," volumes 1 and 2 (Rept. No. 103–403).

By Mr. PELL, from the Committee on Foreign Relations.

Report to accompany the bill (S. 2475) to authorize assistance to promote the peaceful resolution of conflicts in Africa (Rept. No. 103–404).

By Mr. BIDEN, from the Committee on the Judiciary:

Report to accompany the bill (S. 2272) to amend chapter 28 of title 35, United States Code, to provide a defense to patent infringement based on prior use by certain persons, and for other purposes (Rept. No. 103–405).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 2023. A bill to provide for the transfer of certain real property to the General Services Administration and for other purposes (Rept. No. 103–406).

By Mr. BIDEN, from the Committee on the Judiciary:

Report to accompany the bill (S. 1485) to extend certain satellite carrier compulsory licenses, and for other purposes (Rept. No. 103–407).

By Mr. GLENN, from the Committee on Governmental Affairs:

Special report entitled "Corruption In Professional Boxing" (Rept. No. 103–408).

By Mr. INOUYE, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2150. A bill to establish a Native Hawaiian housing program (Rept. No. 103–409).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 1946. A bill to provide for the repurchase of land taken by eminent domain, by Native American organizations, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEE

The following reports of committee were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Report to accompany the nomination of Robert A. Pastor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Panama (Exec. Report. No. 103–39).

Nominee: Robert A. Pastor.

Post: Ambassador to the Republic of Panama.

Contributions, amount, date, donee:

1. Self and spouse: Robert and Margaret Pastor:

$50—1/20/90—Ben Jones for Congress.
$50—6/10/90—Ben Jones for Congress.
$45—8/22/90—Democratic National Committee.
$50—9/27/90—Ben Jones for Congress.
$40—10/2/90—Democratic National Committee.
$25—7/2/91—Democratic National Committee.
$80—12/19/91—DNC Federal Account.
$40—3/23/92—Worley for Congress.
$200—5/26/92—Clinton for President.
$100—7/2/92—Democractic National Committee.
$300—7/21/92—Clinton for President.
$100—7/23/92—Solarz for Congress.
$200—8/31/92—Solarz for Congress.
$200—9/30/92—Steinberg for Congress.
$100—9/30/92—Fowler for Senate.
$1,000—10/12/92—Clinton-Gore Compliance Fund.
$100—10/12/92—George Democratic Victory Fund.
$100—6/16/93—Georgia Democratic Fund.

2. Children and spouses: Tiffin Margaret, Robert Kiplin, none.

3. Parents: Norman and Ruth Pastor, none.

4. Grandparents: Mr. and Mrs. Abraham Pastor, deceased; Mr. and Mrs. Bernard Kagan, deceased.

5. Brothers and spouses:

Bruce and Joyce Pastor:

$500—6/89—John Kerry for Senate.
$100—2/90—John Kerry for Senate.
$250—10/90—John Kerry for Senate.
$250—2/90—Chet Atkins for Congress.
$50—10/90—Barney Frank for Congress.
$100—9/92—Democratic National Committee.
$100—10/92—Ed Markey for Congress.
$250—4/93—Edward Kennedy for Senate.

Donald Pastor:

$50—1990—Gerry Studds for Congress.
$100—1992—Bill Clinton for President.
$100—1992—Gerry Studds for Congress.
$100—1992—Barney Frank for Congress.
$100—1993—Edward Kennedy for Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SPECTER (for himself, Ms. MOSELEY-BRAUN, and Mr. WOFFORD):

S. 2535. A bill to promote a new urban agenda, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DANFORTH (for himself, Ms. MOSELEY-BRAUN, and Mr. DOMENICI):

S. 2536. A bill to encourage the furnishing of health care services to low-income individuals by exempting health care professionals from liability for negligence for health care services provided without charge, except in cases of gross negligence or willful misconduct, and for other purposes; read the first time.

By Mr. DANFORTH:

S. 2537. A bill to regulate interstate commerce by providing uniform principles to address the multiple imposition of punitive damages, and for other purposes; to the Committee on the Judiciary.

By Mr. KERRY (for himself, Mr. STEVENS, and Mr. MURKOWSKI):

S. 2538. A bill to amend the Magnuson Fishery Conservation and Management Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2539. A bill to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HARKIN:

S. 2540. A bill to amend the Internal Revenue Code of 1986 to provide for taxpayer empowerment, and for other purposes; to the Committee on Finance.

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 2541. A bill to amend the Age Discrimination in Employment Act of 1967 to protect elected judges against discrimination based on age; to the Committee on Labor and Human Resources.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2542. A bill to require the Secretary of the Interior to carry out an expedited negotiated settlement of the land rights of the owners of patented and unpatented mining claims within Denali National Parks, Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BOREN:

S. 2543. A bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974, the Federal Land Policy and Management Act of 1976, the National Wildlife Refuge System Administration Act of

1966, the National Indian Forest Resources Management Act, and title 10, United States Code, to strengthen the protection of native biodiversity, to designate special areas where extractive logging is prohibited, to place restraints upon clearcutting and certain other cutting practices on the forests of the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRAIG:

S. 2544. A bill to amend the Fair Labor Standards Act of 1938 to adjust the maximum hour exemption for agricultural employees, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. FEINGOLD:

S. 2545. A bill to provide for home community-based services for individuals with disabilities; read the first time.

By Mr. FORD:

S. 2546. A bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMON:

S. 2547. A bill to amend title I of the Employee Retirement Income Security Act of 1974, to improve enforcement of such title by adding certain provisions with respect to the auditing of employee benefit plans, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DODD (for himself and Mr. D'AMATO):

S. 2548. A bill to amend the Federal Deposit Insurance Act to exclude certain bank products from the definition of a deposit; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEVIN (for himself, Mr. DURENBERGER, Mr. GRAHAM, Mr. BINGAMAN, Mr. KOHL, and Mr. FEINGOLD):

S. 2549. A bill to amend the National Trails System Act to expand Federal authority relating to land acquisition for the majority of the trails, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. PRYOR:

S. 2550. A bill to provide for the sale of certain lands of the University of Arkansas; considered and passed.

By Mr. HEFLIN:

S. 2551. A bill to prohibit the duplication of benefits; considered and passed.

By Mr. ROTH:

S. 2552. A bill to amend the Internal Revenue Code of 1986 to deny the earned income credit to illegal aliens and to prevent fraudulent claims for the earned income credit; to the Committee on Finance.

By Mrs. BOXER:

S. 2553. A bill to amend the Endangered Species Act of 1973 to authorize the Secretary of the Interior to enter into cooperative agreements with States and political subdivisions of States to provide assistance for habitat acquisition to carry out conservation plans, and for other purposes; to the Committee on Environment and Public Works.

By Mr. PELL:

S. 2554. A bill to establish the position of United States Special Envoy for Tibet, and for other purposes; to the Committee on Foreign Relations. .

By Mr. DECONCINI:

S. 2555. A bill to establish Cooperative Units of Research in Infectious Diseases [CURID] to evaluate the potential etiology of chronic inflammatory diseases with emphasis upon arthritis and chronic lung disease; to the Committee on Labor and Human Resources.

By Mr. DANFORTH:

S. 2556. A bill to provide for the portability of validly executed advance directives, to provide patients with a better understanding of their health care choices, and to promote study of the quality of care for the gravely or terminally ill or injured, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER (for himself, Mr. CHAFEE, Mr. COHEN, Mr. COVERDELL, Mr. DANFORTH, Mr. DECONCINI, Mr. GORTON, Mr. GRAMM, Mr. HARKIN, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. KOHL, Mr. LAUTENBERG, Mr. MATHEWS, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. PRESSLER, Mr. SHELBY, Mr. SIMON, Mr. STEVENS, Mr. WARNER, and Mr. WOFFORD):

S. Res. 277. A resolution expressing the sense of the Senate that the Schindler Project should be recognized for its efforts to educate high school seniors about the lessons of the Holocaust and the application of those lessons to contemporary society; to the Committee on Labor and Human Resources.

By Mr. ROBB:

S. Res. 278. A resolution relating to Pakistan; to the Committee on Foreign Relations.

By Mr. ROTH:

S. Res. 279. A resolution to state the sense of the Senate concerning the Government of Japan recognizing American college and university branch campuses in Japan as American Institutions of higher learning; to the Committee on Foreign Relations.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 280. A resolution extending the provisions of Senate Resolution 149 of the One Hundred Third Congress, First Session, relating to the Senate Arms Control Observer Group.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 281. A resolution to authorize testimony by an employee of the Senate and to authorize representation by the Senate Legal Counsel; considered and agreed to.

S. Res. 282. A resolution to direct the Senate Legal Counsel to represent the Office of Senate Fair Employment Practices, and to authorize the Office of the Sergeant at Arms of the United States Senate to intervene and be represented by its counsel of choice in Rhonda Farmer v. Office of Senate Fair Employment Practices, No. 94-6005 (Fed. Cir.); considered and agreed to.

By Mr. BYRD:

S. Res. 283. A resolution relating to the Capitol Preservation Commission; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SPECTER (for himself, Ms. MOSELEY-BRAUN, and Mr. WOFFORD):

S. 2535. A bill to promote a new urban agenda, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

NEW URBAN AGENDA ACT OF 1994

Mr. SPECTER. Madam President, I have asked for 15 minutes this morning in morning business to talk about two subjects. First, to offer a resolution acknowledging the efforts of the Schindler Project to educate high school seniors about the horrors of Nazism and the Holocaust against Jewry and to enable our youth to bring those lessons to bear on contemporary society. And also to offer legislation entitled "The New Urban Agenda Act of 1994."

The legislation which I am proposing today is an effort to deal with the problems of the cities of America. It follows recommendations made by the distinguished mayor of Philadelphia, Edward G. Rendell, who worked on these issues in collaboration with the mayors and the League of Cities. Working with Mayor Rendell, we have fashioned this legislation which we are proposing at this time so that our colleagues in the Senate and those in the House, as well, will be in a position to study this legislation in the course of the several months between now and the 104th Congress when we will be reintroducing it and pressing it.

I offer this legislation on behalf of the distinguished Senator from Illinois, Senator CAROL MOSELEY-BRAUN. It will be introduced contemporaneously in the House of Representatives today by Congressman CHRISTOPHER SHAYS of Connecticut.

Madam President, the cities are in urgent need of assistance. The thrust of this legislation is to help the cities of America without the expenditure of Federal Funds but in very carefully targeted ways where existing Federal funds are spent on purchases or on establishment of Federal facilities or on foreign aid funds which should be redeemed in cities and in a variety of other ways without impacting on the Federal budget and without spending more Federal money in light of the very grave restraints there are on the deficit and on the national debt.

This legislation is being introduced, Madam President, as part of a larger legislative program which I have authored and which I intend to introduce to try to help the cities.

It may well be, Madam President, that America has given up on its cities. That is a stark statement but it is one which I believe may be true; that America has given up on its cities. There are many who do not know of city life, who are far removed from the cities and would not be expected to have any key interest in what goes on in the big cities of America.

I cite my own boyhood experience illustratively: Born in Wichita, KS, raised in Russell, KS, a small town of 5,000 people on the plains of Kansas, where there is not much knowledge of what goes on in Philadelphia, PA, my home, or the big cities in your State of

California, Los Angeles, San Francisco, or Chicago.

Those big cities are alien to people in much of America. But there is a growing understanding that the problems of America are created, or at least the small towns are very much affected, by the problems of the big cities.

If you take the Bloods and the Crips gangs from Los Angeles, CA, they are all over America. They are in Lancaster, PA, in Des Moines, IA, and all over America. If you take a town like Williamsport, PA, there is an influx from the criminal element from New York City and Philadelphia; if you take Midwestern towns, from Chicago, from Denver, from the big cities.

The cities are causing an enormous amount of problems for a wide variety of reasons which I cannot cover in the course of these brief few moments that I have allotted to me this morning.

In the cities themselves, there is really an attitude of despair, an attitude of grimness. The metropolitan areas, the suburban areas significantly bypass the problems of the cities, as well.

There are corridors coming into Philadelphia on the Schuylkill Expressway, or on the rapid transit, to save passage from the suburbs into the city, for major financial and commercial centers, banks, insurance companies, brokerage houses, and law firms.

The only time, other than the business day would be, perhaps, to come in for the baseball game when there are baseball, football or basketball games, or the opera. And there are blinders, without really focusing on the problems of the major cities. And that picture is duplicated around the country.

I believe there are ways to assist the cities. Mayor Rendell has come up with this legislative package which has a great many good ideas. One of the elements is to require that a percentage of Government purchases will be directed into distressed urban areas, enterprise zones or empowerment zones. Foreign aid funds ought to be redeemed in a certain percentage, 15 percent, in those zones. When the Federal Government seeks to expand facilities, build new centers, precedence—priority should be given for the location of those facilities in the urban areas.

There should be a recommitment to the Historical Rehabilitation Tax Credit, which produce an enormous number of jobs. The relatively small losses in taxes would be more than offset by the jobs which would be created, people taken off of the welfare rolls and put on the payrolls—additional city taxes, State taxes, and Federal taxes.

I might say parenthetically, Madam President, the Office of Management and Budget, I think, needs a revision of its analysis of economic impact to credit those gains as well as always to figure the costs when the budget implications are considered.

The cities ought to be relieved of the unfunded Federal mandates. On this subject I take my hat off to my distinguished colleague, Senator DIRK KEMPTHORNE, who has pending legislation, a major bill which was tied up on the Senate floor last night. But we really ought to stop a practice coming out of Washington, DC, of telling everyone else what to do and telling them to pay for it. That goes for cities; it goes for States. It it is a matter which the Federal Government thinks ought to be attended to, then we really ought to find the funding sources for it. If it is worthwhile doing we ought to find a way to pay for it. We ought not to impose those mandates on cities or States without their acquiescence.

This legislation has provisions for housing block grants, to allow local governments to use the funds as they see it, without all the Federal red tape.

Also, a curious provision on arbitrage costs. The law now requires taxes to be paid on interest earned in excess of the interest which is paid. I shall not delve into that except to say it is complicated and it costs more money to administer than it gains for the Federal Government in taxes.

Another provision exempts municipalities under certain appropriate circumstances for limitations for obligations on waste cleanup, where there would not be any impact on the obligation of others to have the cleanup—those who caused it—but would enable the municipality to take over land which is now not being used and to put it to productive use.

This legislation, I think would be a very significant first step in helping the cities help themselves.

Madam President, I have sought recognition to express my concern with the plight of our Nation's cities and Washington's apparent increasing neglect of them. To commence an effort to turn this situation around, I am introducing legislation today that will begin to force us to address the continuing decay and decline of our Nation's cities, and to do so without the use of massive Federal outlays. If we are to really address the very serious issues that we face—jobs, teenage pregnancy, welfare reform, and other pressing issues—we cannot give up on our cities. In my judgment, the revitalization of our cities is critical to our domestic peace and international prosperity.

I commend the mayor of Philadelphia, Edward Rendell, for his efforts to revitalize America's cities and his proposal called a New Urban Agenda, which is the basis for much of this legislation. I also want to make mention of my colleague in the House of Representatives who is very familiar with the plight of urban America and who will be introducing companion legislation in the House: Congressman CHRISTOPHER SHAYS of Connecticut. Representative SHAYS is cochairman of the House urban caucus, and has introduced a legislative package called the Urban Marshall Plan containing eight different bills designed to combat the decay of our cities.

As a Philadelphia resident, I have firsthand knowledge of the growing problems that plague our cities. I have long supported a variety of programs to assist our cities such as increased funding for community development block grants and legislation to establish enterprise and empowerment zones. To encourage similar efforts, in April of this year I took the opportunity as a U.S. Senator to host my Republican colleagues on a visit to explore urban problems in my hometown. We talked with people who want to obtain work, but opportunities are few; we saw a crumbling infrastructure and its impact on residents and businesses; we were reminded of the devastating effect that the loss of inner city businesses and jobs has had on our neighborhoods in America's cities.

Historically, cities have been the center of commerce and culture. Surrounding communities have relied on a thriving, growing economy in our metropolitan areas to provide jobs and opportunities. Over the past several decades, however, America's cities have struggled with the loss or exodus of businesses and industry. The resultant tax base shrinkage causes enormous budget problems for city governments. Across the country, cities such as New York, Los Angeles, and the District of Columbia have experienced the flight of major industries to the suburbs.

As a result, city residents who remain are faced with dwindling opportunities leading to welfare dependence and unemployment assistance. The Federal Government has attempted to revitalize our ailing urban infrastructure by providing Federal funding for transit and sewer systems, roads and bridges. Federal assistance for urban areas, however, has become increasingly scarce as we grapple with the Nation's deficit and debt. Therefore, we must find alternatives to reinvigorate our Nation's cities so they can once again be economically productive areas providing promising opportunities for residents and neighboring areas.

The New Urban Agenda legislation encompasses six initiatives that, if passed, would help to revitalize American cities through the use of tax incentives and the easing of Federal regulations.

First, recognizing that the Federal Government is the Nation's largest purchaser of goods and services, this legislation would require that no less than 15 percent of Government purchases be made from businesses and industries within designated urban empowerment zones and enterprise communities. Similarly, it would require that not less than 15 percent of

foreign aid funds be redeemed through purchases of products manufactured in urban empowerment zones and enterprise communities. I presented this idea to Treasury Secretary Bentsen at a March 22, 1994, Foreign Operations Subcommittee on Appropriations hearing. The Secretary responded favorably.

I have also written to several mayors across the country regarding this concept. By letter dated July 28, 1994, Miami Mayor Stephen P. Clark responded:

> Miami's selection as a procurement center for foreign aid would be a natural complement to our status as the Business Capital of the Americas.

Miami has a wide range of businesses, such as high-technology firms and medical equipment manufacturers that would benefit from this provision. And by letter dated April 6, 1994, Harrisburg, Pennsylvania Mayor Stephen R. Reed wrote:

> Many of our existing businesses would no doubt seize upon the opportunity to broaden their market by engaging in export activity triggered by foreign aid vouchers * * *. Therefore, in brief, we believe the voucher proposal has considerable merit and that this city would benefit from the same.

I ask unanimous consent that an executive summary and a copy of my letter and the letters from Mayor Clark and Mayor Reed be included in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered. [See exhibit 1.]

Mr. SPECTER. To further enhance job opportunities within our urban centers, this legislation contains Mayor Rendell's recommendation that manufacturing technology outreach centers called for in the National Competitiveness Act be located in the urban zones. These proposals do not require new expenditures of Federal funds. Instead, these proposals would require that a minimum amount of existing Government procurement and foreign aid monies be used to spur economic activity within urban areas.

The second major provision of this bill would commit the Federal Government to play an active role in restoring the economic health of our cities by encouraging the location, or relocation, of Federal facilities in urban areas. To accomplish this, all Federal agencies would be required to prepare and submit to the President an urban impact statement detailing the impact that relocation or downsizing decisions would have on the affected city. Presidential approval would be required to place a Federal facility outside an urban area, or to downsize a city based agency.

The third critical component of this bill would revive and expand Federal tax incentives that were eliminated or restricted in the Tax Reform Act of 1986. These provisions offer meaningful incentives to business to invest in our cities. I am calling for the restoration of the historic rehabilitation tax credit which support inner city revitalization projects. According to information provided by Mayor Rendell, there were 8,640 construction jobs involved in 356 projects in Philadelphia from 1978 to 1985 stimulated by the historic rehabilitation tax credit. In Chicago, 302 projects prior to 1985 generated $524 million in investment and created 20,695 jobs. In St. Louis, 849 projects generated $653 million in investment and created 27,735 jobs. Nationally, according to National Park Service estimates for the 16 years before the 1986 Act, the historic rehabilitation tax credit stimulated $16 billion in private investment for the rehabilitation of 24,656 buildings and the creation of 125,306 homes which included 23,377 low- and moderate-income housing units. The enactment of the Tax Act of 1986, and the drastic limitations placed on the utilization of the historic rehabilitation tax credit, dramatically reduced the pool of private investment capital available for rehabilitation projects. In Philadelphia, projects dropped from 356 to 11 by 1988 from 1985 levels. During the same period, investments dropped 46 percent in Illinois and 92 percent in St. Louis.

Another tool, is to expand authorization of commercial industrial development bonds. Under the Tax Reform Act of 1986 authorization for commercial industrial bonds was permitted to expire. Consequently, private investment in cities declined. For instance, according to Mayor Rendell, from 1986—the last year commercial development bonds were permitted—to 1987, the total number of city supported projects in Philadelphia was reduced by more than half. Industrial development or private activity bonds encourage private investment by allowing, under certain circumstances, tax-exempt status for projects where more than 10 percent of the bond proceeds are used for private business purposes. The availability of tax-exempt commercial industrial development bonds will encourage private investment in cities, in particular in the construction of sports, convention and trade show facilities; free standing parking facilities owned and operated by the private sector; air and water pollution facilities owned and operated by the private sector, and industrial parks. The bill I am introducing would allow this. It would also increase the small issue exemption, which means a way to help finance private activity in the building of manufacturing facilities, from $10 million to $50 million to allow increased private investment in our cities.

Finally, a minor change in the Federal Tax Code related to arbitrage rebates on municipal bond interest earnings could free additional capital for infrastructure and economic development by cities. Currently, municipalities are required to rebate to the Federal Government any arbitrage—a financial term meaning interest earned in excess of interest paid on the debt—earned from the issuance of tax-free municipal bonds. Furthermore, I am informed that compliance, or the cost for consultants to perform the complicated rebate calculations, is actually costing municipalities more than the actual rebate owed to the government.

A fourth element of this bill is the elimination of unfunded Federal mandates. I am a cosponsor of legislation, S. 993, introduced by my colleague from Idaho, Senator KEMPTHORNE, that would eliminate unfunded Federal mandates. The language of S. 993 as introduced is written into this legislation. In Senator KEMPTHORNE's home State of Idaho, the city of Boise had to cover over $3 million for eight mandates in fiscal year 1993, according to a report done by the accounting firm of Price Waterhouse for the U.S. Conference of Mayors. I am informed that six Pennsylvania cities: Allentown, Altoona, Philadelphia, Pittsburgh, Wilkes-Barre, and York faced 10 unfunded Federal mandates that cost them a collective total of $17 million for fiscal year 1993. In Philadelphia alone, it will cost city taxpayers approximately $140 million to comply with the worthwhile goals of the Americans with Disabilities Act [ADA]. This is three times the amount the city budgeted for street resurfacing and reconstruction in fiscal year 1994.

All over the country the story is the same. In California, a total of 54 cities had to cover a grand total $948.3 million in unfunded Federal mandates, with Los Angeles paying almost $582 million, according to the report done for the Conference of Mayors. In Texas, 27 cities had to cover $316 million in unfunded mandates, with Houston covering $154 million. New York State had nine cities working to find $517 million and New York City was $475 million of that total. Illinois, in fiscal year 1993, had 22 cities facing a total of $88 million, with Chicago comprising $70 million of that number.

Individual cities are facing incredible financial burdens from unfunded Federal mandates as the Conference of Mayor's report shows. Atlanta, GA had to pay for nine unfunded Federal mandates—totaling almost $50 million—taking much needed funds from infrastructure projects, an overburdened criminal justice system, and housing programs. Phoenix, AZ has had to raise consumer's sewage and water rates to cover the costs of unfunded Federal mandates, almost $36 million, along with curtailing most of the city's service departments. The release from Federal mandates would allow Houston, TX to allocate $154 million more for

the maintenance of city property and public safety. The U.S. Conference of Mayors report presents similar facts on 314 cities. It is critical that as legislators we financially back the laws we write, or otherwise provide the appropriate assistance so that municipalities can comply.

A fifth provision of this legislation provides needed reforms to regulations concerning affordable housing. This legislation changes the section 8 rental subsidies—from 15 to 50 percent—to provide increased assistance for renters in urban areas, and to make Federal dollars go further. There is also language in the bill to study streamlining Federal housing program assistance to urban areas into block grant form so that municipal agencies can better serve local residents. Finally, I have improved the circumstances of public housing tenants by encouraging the location of newly built units on the lots of demolished older housing and allowing the original residents to move into the new units. This provision will contribute to community stability and promote urban renewal.

Lastly, the development of urban areas can be accelerated by being more realistic on environmental factors on urban land. Provisions in this legislation will encourage the redevelopment of industrial sites by cities, without fear of incurring liability as "potentially liable parties" under Superfund laws, by providing a "governmental exception." This measure also contains a provision for a pilot powerplant designed to burn solid waste and create inexpensive energy for energy intensive industries. Such a plant will create jobs and help provide a solution for cities to deal with their treatment of waste.

Mr. President, this effort to help our cities is good public policy. I am introducing this bill at this time so that my colleagues have an opportunity to review and consider it between Congresses. I urge the input of my colleagues on this pressing matter. The plight of our cities is of extreme concern to me. During the 104th Congress I intend to press ahead with this and other legislation with the ultimate goal of restoring the former vitality of our cities which can only help make our country stronger and more competitive.

I ask unanimous consent to place additional material in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXHIBIT 1

EXECUTIVE SUMMARY OF SENATOR SPECTER'S NEW URBAN AGENDA ACT OF 1944

A. Promotes Urban Economic Development through Empowerment and Enterprise Zones. Requires a portion of federal and foreign aid purchases, (not less than 15 percent) and commits the government to purchase recycled products, from businesses operating in the urban zones. The proposed Manufacturing Technology Outreach centers would also be located in the zones. Legislation to implement these centers, the National Competitiveness Act (S. 4/H.R. 820), is currently in conference.

B. Locating/Relocating Federal Facilities in Distressed Urban Areas. Requires an urban impact statement, with Presidential approval, that details the impact on cities of agency downsizing or relocation. Under the bill, a "distressed urban area" follows HUD's definition, namely any city having a population of more than 100,000.

C. Revives and Expands Federal Tax Incentives. Expands the Historic Rehabilitation Tax Credit reduced in 1986. It would restore the issuance of tax-free industrial development bonds, and would allow cities to keep arbitrage earned from the issuance of tax-free municipal bonds. Currently, local governments are required to rebate to the federal government arbitrage earned from the issuance of tax-free municipal bonds, and often spend more on compliance than on the actual rebate.

D. Eliminate Unfunded Federal Mandates. Incorporates languages of S. 993. Six Pennsylvania cities faced 10 mandates that cost them a total of $17 million in FY93; for instance it will cost Philadelphia $140 million to comply with the ADA in FY94. In FY93, California had 54 cities covering $948.3 million in unfunded mandates, with Los Angeles paying almost $582 million. Texas had 27 cities facing a $316 million shortfall with Houston paying $154 million. New York had 9 cities paying $517 million with New York City making up $475 million of the total. Illinois had 22 cities covering $88 million with Chicago comprising $70 million of that number.

E. Lifts Federal Restrictions on Community-Based Housing Development. The Section 8 rent subsidies allocated to specific affordable housing developments would be raised from 15 percent to 50 percent. To boosts the efficiency of regional housing authorities, a study would be done to streamline current and future housing programs into "block grants." The bill would also allow the reconstruction of new units on demolished sites, and relocate the original tenants to the newly constructed units.

F. Address Urban Environmental Challenges. Promotes the ability of cities to redevelop contaminated industrial sites, and order a study to find a speedier remediation process for those sites that would qualify. The bill also establishes a pilot power plant designed to give energy intensive industry a place to dispose solid waste and get inexpensive electricity. This provision would provide a pilot for the development of a comprehensive national strategic energy intensive industry initiative.

U.S. SENATE,
Washington, DC, March 29, 1994.

Hon. STEPHEN R. REED,
Mayor, Harrisburg, PA.

DEAR STEPHEN, I was interested to read in the Washington Post on March 20, 1994, of Philadelphia Mayor Rendell's interest in requiring some amount of foreign aid to be issued in vouchers "redeemable only in distressed cities." I raised this idea with Secretary of Treasury Bentsen at a hearing before the Foreign Operations Subcommittee on Appropriations on Tuesday, March 22, 1994. I agree that we must look for innovative ways to make cities attractive investment opportunities for the businesses of the future. Foreign aid vouchers could play an effective role in accomplishing this objective.

In order to flesh out this foreign aid proposal in more detail, I am interested in your views on whether this would be an effective tool in attracting investment capital to cities. If you could have someone on your staff help us identify which business activities and services in Harrisburg could be useful in extending foreign assistance, I would be very appreciative. This information will help me in pursuing this idea in my capacity as a member of the Foreign Operations Subcommittee.

I look forward to working with you on this important matter. Please have your staff contact Morrie Ruffin (202 224-9016) of my staff with any information that could be useful in this endeavor.

Sincerely,

ARLEN SPECTER.

U.S. SENATE,
Washington, DC, March 31, 1994.

Hon. STEVE CLARK,
Mayor, Miami, FL.

DEAR MAYOR CLARK: I was interested to read in the *Washington Post* on March 20, 1994, of Philadelphia Mayor Rendell's interest in requiring some amount of foreign aid to be issued in vouchers "redeemable only in distressed cities." I raised this idea with Secretary of Treasury Bentsen at a hearing before the Foreign Operations Subcommittee on Appropriations on Tuesday, March 22, 1994. I agree that we must look for innovative ways to make cities attractive investment opportunities for the businesses of the future. Foreign aid vouchers could play an effective role in accomplishing this objective.

In order to flesh out this foreign aid proposal in more detail, I am interested in your views on whether this would be an effective tool in attracting investment capital to cities. If you could have someone on your staff help us identify which business activities and services in Harrisburg could be useful in extending foreign assistance, I would be very appreciative. This information will help me in pursuing this idea in my capacity as a member of the Foreign Operations Subcommittee.

I look forward to working with you on this important matter. Please have your staff contact Morrie Ruffin (202 224-9016) of my staff with any information that could be useful in this endeavor.

My best.

Sincerely,

ARLEN SPECTER.

OFFICE OF THE MAYOR,
THE CITY OF HARRISBURG,
Harrisburg, PA, April 6, 1994.

Hon. ARLEN SPECTER,
Washington, DC.

DEAR SENATOR SPECTER: This is to acknowledge and thank you for your correspondence, which I was pleased to receive on April 4, 1994, regarding the suggestion by the Mayor of Philadelphia that a portion of foreign aid be issued in the form of vouchers that would be redeemable only in distressed cities.

The concept has considerable merit and we would support such. The key to such a voucher provision having a measurable and nearly immediate impact in urban communities would be for a proper and clearly stated definition of the words "distressed cities." At a minimum, such a definition should stipulate that eligible cities would be those with 15% or more of its households living at or below the Federal poverty income level.

I suspect that most cities would be able to benefit by such a voucher program. It would redirect investment, development and growth forces into such cities since foreign aid vouchers would represent a far less speculative venture and, in some cases, a literally guaranteed opportunity.

In the case of the City of Harrisburg, there are few areas of products and services which could not be provided. Many of our existing businesses would no doubt seize upon the opportunity to broaden their market by engaging in export activity triggered by foreign aid vouchers. Our infrastructure is sufficient to also accommodate additional growth of existing and new businesses and industries.

Therefore, in brief, we believe the voucher proposal has considerable merit and that this City would benefit from the same.

I appreciate your affording us this opportunity to express an opinion on the subject.

With warmest personal regards, I am

Yours sincerely,

STEPHEN R. REED,
Mayor.

CITY OF MIAMI,
Miami, FL, July 28, 1994.

Hon. ARLEN SPECTER,
Washington, DC.

DEAR SENATOR SPECTER: On behalf of the City of Miami, thank you for including our community in your and Mayor Rendell's proposal to require some amount of foreign aid to be issued in vouchers, which can be redeemed in distressed cities throughout the country. The initiative set forth in Mayor Rendell's New Urban Agenda, will benefit Greater Miami/Dade County, should our application for Empowerment Zone or Enterprise Community status be successful. Miami's selection as a procurement center for foreign aid would be a natural complement to our status as the Business Capital of the Americas.

My staff and The Beacon Council, Greater Miami/Dade County's economic development organization, have been working for the past several months with Doug Troutman of your staff to determine which business activities and services in Miami could be useful in extending foreign assistance. Toward this end, Mr. Troutman has been extremely helpful in providing further background information to assist our efforts. We look forward to working with you and your staff further on this important issue.

On behalf of our community, thank you for involving Miami in this significant project.

Sincerely,

STEPHEN P. CLARK,
Mayor.

By Mr. DANFORTH (for himself, Ms. MOSELEY-BRAUN, and Mr. DOMENICI):

S. 2536. A bill to encourage the furnishing of health care services to low-income individuals by exempting health care professionals from liability for negligence for health care services provided without charge, except in cases of gross negligence or willful misconduct, and for other purposes; read the first time.

THE CHARITABLE MEDICAL CARE ACT OF 1994

• Mr. DANFORTH. Mr. President, Senator MOSELEY-BRAUN and I are introducing today a bill that we hope will give some needed reinforcement to free clinics and volunteers in every community providing charitable medical services to those who cannot afford to pay for medical care. We have called this bill the Charitable Medical Care Act of 1994 and its purpose is to expand the concept of the good Samaritan laws, giving immunity from civil liability for care rendered in emergency situations, to encompass charitable medical care provided without charge.

There are over 170 free clinics across our country, as well as countless volunteers that provide care to those without means to pay. Over time, it is my hope that we will find ways to expand health insurance coverage to all. But until we reach that goal, and probably continuing even after that, these clinics and volunteers are badly needed and wonderful examples of the giving elements of the medical community. We need their contribution and they deserve our support.

A major concern that free clinics have identified—and one that they believe is an obstacle to achieving greater participation by health professionals—is the concern for an increased malpractice exposure for those who volunteer to provide such services. While lawsuits against free clinics and other volunteer health professionals have been rare, the complexities of malpractice insurance in those settings and the perception that there is higher risk of suit in such settings make this a formidable barrier to participation.

Virginia passed legislation to provide immunity from negligence for health professionals who give free services and the free clinics there have found it to be a tremendous boost to their participation rates. I am inserting in the RECORD an article written by a physician who is the chairman of Medical Services at the Bradley Free Clinic of Roanoke, VA. His article provides a good overview of the services provided by free clinics and the need for this legislation. It is my hope that in passing this bill, we will help health care volunteers and the clinics in which they serve.

I also want to acknowledge the initiative of Sister Christine Bowman from the Saint Therese Medical Center in Waukegan, IL, in bringing this issue to our attention and in her tireless efforts to support and move forward with this legislation.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CARE FOR THE POOR? WE FOUND A SOLUTION

(By Kevin C. Kelleher, M.D.)

One way or another, there will apparently be changes in our health-care system. But how soon or how comprehensive, no one really knows. Meanwhile, a lot of people, including many of the working poor, don't have health insurance and can't afford adequate care. In my opinion, the medical profession should be doing something about that now, without waiting for the government to act.

What we can do right away, in many communities and for hardly any money, is set up free clinics. The idea isn't new or revolutionary. In fact, free clinics are already working—some for more than 18 years—in at least 120 places, according to the Free Clinic Foundation of America. They're an interim solution, but also adaptable to whatever major reform comes along.

I'm chairman of medical services at the Bradley Free Clinic of the Roanoke Valley, in Roanoke, Va., established in 1974. Patients there get more than $2 of services for every dollar donated to us. In 1991 alone, we collected more than $380,000 in cash contributions, which went toward 6,000 patient visits and some 11,000 prescriptions.

These patients aren't getting low-quality medicine, either. We provide all of their primary care, including lab tests, X-rays, dental care, and free medications. (Try finding dental care and prescriptions in a typical universal-coverage proposal.) In addition, specialists volunteer to treat patients in-office or at the clinic.

In some respects, clinic care goes beyond that provided to insured patients. At our free clinic, we give patients more training in basic self-care and hygiene than most insured people get.

More important, free clinics can link with social services that help provide such things as drug treatment, prenatal care, and teen counseling. Private practices rarely have the time or staff to do this.

Our local hospitals and medical societies endorse us, and we have the financial support of area businesses and charitable organizations such as United Way. We've even received some grant money from national corporations.

We also enjoy backing from pharmaceutical companies and medical- and dental-equipment suppliers. One dental firm donated nearly $100,000 in X-ray equipment on the condition that we let its salespeople bring clients in to observe the technology in action.

Word of our success has spread. We've helped start 10 other clinics in six states, from Illinois to Mississippi. And you can imagine my surprise when we got an inquiry from the former Soviet Union. Health-care consultants from nine African nations visited our clinic last year and left with much-needed insight into caring for the poor.

LEGAL WORRIES ARE NOT A PROBLEM

Community-minded doctors and businesses have been the back-bone of our clinic, but state legislators made it possible for us to donate our time. That's because doctors who work at free clinics in Virginia are shielded against malpractice suits. The legislation, enacted in 1978, was recently amended to include retired physicians who volunteer, and specialists who use their own offices to see clinic patients.

With such protection, it would be easy to drop our guard. But we follow the same protocols at the clinic as we do with our private patients, including quality-review checks. Volunteer nurses continually monitor records and keep tabs on outcomes. This is important because patients are likely to see a different physician on each visit. Our statistics tell us the clinic doctors are treating the same problems—and getting the same good results—that we already see in our private practices. The only difference is that patients aren't charged anything.

We've adopted a few other policies to head off problems: Abusive or intoxicated patients are discharged for good. Also, we don't dispense controlled substances. Prescriptions

for scheduled drugs are filled at cost by local pharmacists, or gratis if patients truly can't afford them.

Although we'll see anyone in an emergency, every patient who uses the clinic is screened for need at the first visit. Unemployment isn't a prerequisite. In fact, 60 percent of our patients have jobs. The rest are on fixed incomes, temporarily out of work, or Medicare-eligible without Part B coverage.

Clinic patients appreciate our services so much that they're careful not to abuse them, as they might be tempted to do under an entitlement program. (Still, some "free" clinics in other areas of the country charge nominal fees for visits and prescriptions, to guard against abuses.)

Our rules are seldom broken, and we've never been sued. When times are tough, patients are grateful for free care. Several years ago, for instance, one unemployed cardiac patient wrote a letter praising use to former President Ronald Reagan. The commendation we got back from the Gipper hangs in or waiting room.

Some patients take such pride in the clinic that they also volunteer their time—an hour or two each month to do filing, housekeeping, or landscaping. Others sit with patients and take down the information we use to screen each person for need.

Today, 120 physicians—one-third of the doctors in Roanoke—work at the clinic (each averaging two to three hours a week) or take referrals in their own offices. Even the doctors who don't see patients at the clinic appreciate the importance of what we're doing: In 1991, 128 non-participating physicians made contributions to our fund drives.

Additional services at the clinic are contributed by more than 100 pharmacists, nurses, front-desk staffers, lab technicians, dentists and hygienists.

We're all kept hopping when the clinic opens at 5:30 p.m. Three or four physicians are on duty, and each of us usually sees 25 to 30 patients a night. Patients understand there may be a long wait, but eventually gets seen. (We make appointments only for physicals.) Most of us don't leave until 10 p.m., and occasionally later.

In response to the demand for our services, the clinic grew from 2,500 square feet of donated space in 1974 to 7,000 square feet in a new building today. An architectural firm drew up the plans for free, and local builders supplied much of the materials at cost. The rest of the money came from corporate grants and donations.

We now have nine modern, well-equipped exam rooms and four dental stations. That's quite a difference from our beginnings on the creaky first floor of an old house, with $250 in the bank and shower curtains separating the exam areas. We had one doctor and one nurse then.

GET YOUR CLINIC STARTED—NOW

If you want to start such a clinic, plenty of assistance is available. Here in Roanoke, we established the Free Clinic Foundation of America to help create new facilities and support existing ones. We've put together a "how-to" handbook as well as a national directory listing 120 free clinics. With more funding, physician participation, and community interest, many other clinics can be set up.

Our foundation will work for congressional legislation, federal grant money, and funding from private sources to create as many as 24 new clinics a year over the next three years, each treating about 4,000 to 6,000 patients. This is a start, but hundreds more free clinics would be needed to extend basic coverage to most of the nation's medically indigent.

To encourage doctors to participate in our proposed national network for free clinics, we need more protection against malpractice suits. Last spring, I met with the staff of Rep. John D. Dingell (D-Mich.) to present a version of Virginia's Volunteer Clinic Act. The bill would provide the same malpractice immunity we enjoy in Virginia to all doctors who donate their services to free clinics. But, as with any proposed legislation, it may be several years before it becomes law. Meanwhile, the need for such clinics isn't likely to diminish anytime soon.●

By Mr. DANFORTH:

S. 2537. A bill to regulate interstate commerce by providing uniform principles to address the multiple imposition of punitive damages, and for other purposes; to the Committee on the Judiciary.

MULTIPLE PUNITIVE DAMAGES FAIRNESS ACT OF 1994

Mr. DANFORTH. Mr. President, I introduce the Multiple Punitive Damages Fairness Act of 1994. This legislation is intended to reform abusive punitive damages awards by disallowing the repeated sanction of punitive damages against the same defendant for one act. By doing so, this bill protects the due process rights of corporate defendants as well as the rights of injured plaintiffs to be compensated, rather than see money which is rightfully theirs be distributed as a windfall.

I believe that punitive damages can be a valuable deterrent and punishment. However, like any sanction, they must be applied with sound judgment. For example, in the Civil Rights Act of 1991, I supported and pushed for the expansion of punitive damages to cases involving intentional discrimination against women, the disabled and religious minorities. It is important that perpetrators of such harms be required to do more than simply supply backpay and reinstatement. But I supported the caps that were placed on these damages because unlimited and disproportionate punishment is pointlessly destructive.

The Multiple Punitive Damages Fairness Act which I introduce today is also designed to bring some modicum of fairness to the awarding of punitive damages. Specifically, the bill establishes the general rule that punitive damages may only be awarded once for harms based on a single act or course of conduct. There are two exceptions to this rule. First, when there is new evidence of additional wrongful behavior by the defendant. Second, if a court determines in a pretrial hearing that prior punitive damages were not high enough to punish the defendant or deter the behavior.

With the exception of those lawyers who reap the windfall millions from repeat punitive damages, nobody seriously argues that repeatedly punishing the same company for one act makes sense or benefits society. On the contrary, out of control punitive awards have had a debilitating effect on many vital high-technology and health-related industries.

And this bill does not adversely impact the rights of plaintiffs to be fully and fairly compensated for any and all harms. On the contrary, my bill protects the rights of future plaintiffs to collect by preventing defendants' assets from being needlessly squandered.

My bill only limits repeated punitive awards and punitive damages do not compensate victims for their loss. Both economic and noneconomic harm are taken care of through compensatory damage awards. Punitive damages are permitted only in order to deter the wrongdoer from repeating the wrongful act and to deter others from taking similar actions. Thus, there can be no credible argument that stopping redundant punitive damages harms victims.

The concept of punitive damages was first articulated in England in 1763. At that time, these damages were referred to as "exemplary damages." According to former Attorney General Griffin Bell, these awards were designed to compensate the victim for nonphysical injuries and to punish the wrongdoer. The typical punitive damages claim arose from an isolated incident involving two parties in which one party's honor was called into question. Since one's honor was highly valued and its injury was not usually included in compensatory damages, the concept of exemplary damages was established.

Between 1763 and the 1960's, the awarding of noneconomic damages became more commonplace as a way to compensate a victim for nonphysical injuries. During the 20th century, however, punitive damages became divorced from the concept of compensation. They became a weapon to punish and deter wrongdoers.

Prior to 1970, punitive or exemplary damages were not commonly awarded. Then, in the mid-1970's, there was an explosion of lawsuits in which plaintiffs sought punitive damages. With the increase in applications came a destructive increase in the amounts of the awards. The Institute for Civil Justice, in a study of 24,000 punitive damage cases, found that between 1965 and 1969 the average sum awarded was $43,000. But, between 1980 and 1984, the inflation-adjusted amounts averaged $729,000—a jump of 1,500 percent.

During this period when punitive damage awards were exploding, many of the academics following the issue criticized their expansion. Professor John Jeffries of the University of Virginia stated that "punitive damages are out of control." Dean Dorsey D. Ellis at Washington University in St. Louis stated that the punitive damage "process currently in place in most jurisdictions contributes substantially to the misallocation of resources and is so lacking in fundamental fairness that it

denies defendants, especially institutional defendants, the due process required by the Constitution and embedded in our legal system."

Criticism of punitive damages has not been limited to individual academics. The American College of Trial Lawyers and the American Law Institute each have noted the need for punitive damage reform. The American College of Trial Lawyers, half defense counsel and half plaintiffs' attorneys, has made the following observation: "* * * awards often bear no relation to deterrence and merely reflect a jury's dissatisfaction with a defendant and a desire to punish, often without regard to the true harm threatened by a defendant's conduct." The American Law Institute has stated that "[u]nlike other aspects of tort damages, there is serious debate, both scholarly and political, about whether any punitive component of a tort award is legitimate, as well as sharp controversy about how much to award in this category."

Ultimately, this skepticism about punitive damages has reached the highest court in the land. In 1991, the Supreme Court in Pacific Mutual Life Insurance Co. versus Haslip, expressed concern about punitive damages that run wild and can offend the due process clause of the Constitution. Again, in two more recent cases, TXO Production Corp. versus Alliance Resources Corp. (1993) and Honda Motor Co. versus Oberg (1994), the Supreme Court has expressed strong concern with respect to unbridled punitive damages procedures and awards. Unfortunately, the Court has remained unable to articulate a solution. I ask that a National Law Journal article describing the Court's most recent treatment of the punitive damages issue be included in the RECORD at the close of my remarks.

As the last part of the article suggests, the problem addressed by my bill, that of multiple punishments for the same act, is one which will require some resolution soon. This is logical. The most blatant circumstance for constitutional and public policy objections to punitive damages is where they are awarded over and over without limits for cases arising out of a single act or course of conduct. Not only is it arbitrary and fundamentally unfair to punish someone many times for a single conduct, but repetitive punitive damages awards can strip a corporate defendant of its assets or insurance coverage. This hurts defendant but it also hurts plaintiffs by awarding a windfall to earlier claimant until the coffers are empty.

What do we say to subsequent defendants who have valid claims for compensation? Sorry, we tell them. You get nothing for your suffering. You can't recover your medical bills or lost wages. You missed the gravy train. Someone else already won the sweepstakes. So, Mr. President, plaintiffs and defendants are losing.

And Congress alone is responsible to remedy this problem which has frustrated courts and commentators alike. State and lower Federal courts are powerless. As one frustrated Federal Judge wrote in 1989 in Juzwin versus Amtorg:

[T]his court does not have the power or the authority to prohibit subsequent awards in other courts, notwithstanding its opinion that such subsequent awards violate the due process rights of the defendants. . . . Until there is uniformity either through Supreme Court decision or national legislation, this court is powerless to fashion a remedy that will protect the due process rights of the defendant or other defendants similarly situated.

Other courts have sent the same message. A Federal District Court in New York wrote "[t]here must * * * be some limit, either as a matter of policy or as a matter of due process, to the amount of times defendants may be punished for a single transaction." (In re Agent Orange Prod. Liab. Litig., 1983.)

State legislatures cannot provide a remedy. A recent study by tort scholars at the American Law Institute concluded that "single-state action * * * is an ineffectual response to the problem [of multiple punitive damages] because one state cannot control what happens in other jurisdictions. In fact, the State that acts alone may simply provide some relief to out-of-state manufacturers at the expense of its own citizen-victims, a situation that hardly provides much law reform incentive for state legislators." (The American Law Institute, "Enterprise Responsibility for Personal Injury—Reporters' Study," Vol. II (1991).)

A Federal solution is the only remedy to the unfairness of multiple punitive damages awards. The Third Circuit Court of Appeals summed it all up when they wrote that "[u]nquestionably, a national solution is needed." (Dunn verses Hovic, 1992). The bill I introduce today will uniformly and effectively protect claimants from the risk that corporate defendants are unfairly stripped of their ability to pay damages. At the same time, this bill will address legitimate due process concerns which arise when a business is punished repeatedly and without limit for just one wrongful act.

I urge my colleagues to consider the merits of this very reasonable measure and take it up in the next Congress.

Mr. President, I ask unanimous consent that the text of the bill and an article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2537

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Multiple Punitive Damages Fairness Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings.
Sec. 4. Purpose.
Sec. 5. Definitions.
Sec. 6. General rule.
Sec. 7. Applicability; preemption; jurisdiction of Federal courts.
Sec. 8. Effective date.

SEC. 3. FINDINGS.

The Congress finds the following:

(1) Multiple or repetitive imposition of punitive damages for harms arising out of a single act or course of conduct may deprive a defendant of all of the assets or insurance coverage of the defendant, and may endanger the ability of claimants to receive compensation for basic out-of-pocket expenses and damages for pain and suffering.

(2) The detrimental impact of multiple punitive damages exists even in cases that are settled, rather than tried, because the threat of punitive damages being awarded results in a settlement that provides for a higher award amount than would ordinarily be obtained. To the extent that this premium exceeds what would otherwise be a fair and reasonable settlement for compensatory damages, assets that could be available for satisfaction of future compensatory claims are dissipated.

(3) Fundamental unfairness results when anyone is punished repeatedly for what is essentially the same conduct.

(4) Federal and State appellate and trial judges, and well-respected commentators, have expressed concern that multiple imposition of punitive damages may violate constitutionally protected rights.

(5) Multiple imposition of punitive damages may be a significant obstacle to global settlement negotiations in repetitive litigation.

(6) Limiting the imposition of multiple punitive damages awards would facilitate the resolution of mass tort claims involving thousands of injured claimants.

(7) Federal and State trial courts cannot provide solutions to problems caused by the multiple imposition of punitive damages because they lack the power or authority to prohibit subsequent awards in other courts.

(8) Individual State legislatures can create only a partial remedy to address problems caused by the multiple imposition of punitive damages, because each State lacks the power to control the imposition of punitive damages in other States.

SEC. 4. PURPOSE.

The purpose of this Act is to provide a fair and balanced resolution to the problem of multiple imposition of punitive damages in interstate commerce.

SEC. 5. DEFINITIONS.

As used in this Act—

(1) the term "punitive damages" means damages awarded against any person or entity to punish or deter such person or entity, or others, from engaging in similar behavior in the future;

(2) the term "specific findings of fact" are findings in written form focusing on specific behavior of a defendant that demonstrates a conscious, flagrant, indifference to the safety or welfare of the claimant; and

(3) the term "claimant" means—

(A) any person who brings a civil action and any person on behalf of whom such action is brought;

(B) if such action is brought through or on behalf of an estate, the term includes the claimant's decedent; and

(C) if such action is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian.

SEC. 6. GENERAL RULE.

(a) GENERAL RULE.—Except as provided in subsection (b), punitive damages shall be prohibited in any civil action in Federal or State court in which such damages are sought against a defendant based on the same act or course of conduct for which punitive damages have already been awarded against such defendant.

(b) CIRCUMSTANCES FOR AWARD.—

(1) SUBSTANTIAL NEW EVIDENCE.—If the court determines in a pre-trial hearing that the claimant will offer new and substantial evidence of previously undiscovered, additional wrongful behavior on the part of the defendant, other than the injury to the claimant, the court may award punitive damages in accordance with subsection (c).

(2) INSUFFICIENT AWARD.—If the court determines in a pre-trial hearing that the amount of punitive damages previously imposed were insufficient to either punish the defendant's wrongful conduct or to deter the defendant and others from similar behavior in the future, the court may award punitive damages in accordance with subsection (c).

(c) LIMITATIONS ON AWARD.—A court awarding punitive damages pursuant to subsection (b) shall—

(1) make specific findings of fact on the record to support the award;

(2) reduce the amount of the punitive portion of the damage award by the sum of the amounts of punitive damages previously paid by the defendant in prior actions based on the same act or course of conduct; and

(3) prohibit disclosure to the jury of the court's determination and action under this subsection.

SEC. 7. APPLICABILITY; PREEMPTION; JURISDICTION OF FEDERAL COURTS.

(a) APPLICABILITY TO PUNITIVE DAMAGES ACTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), this Act shall apply to any civil action brought on any theory where punitive damages are sought based on the same act or course of conduct for which punitive damages have already been awarded against the defendant.

(2) STATUTORY EXCEPTION.—This Act shall not apply to any civil action involving damages awarded under any Federal or State statute that prescribes the amount of punitive damages to be awarded.

(b) PREEMPTION.—Except as provided in subsection (a)(2), this Act shall supersede any Federal or State law regarding recovery for punitive damages.

(c) JURISDICTION OF FEDERAL COURTS.—The district courts of the United States shall not have jurisdiction over any civil action pursuant to this Act based on sections 1331 or 1337 of title 28, United States Code.

SEC. 8. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall take effect on the date of its enactment.

(b) PENDING ACTIONS.—This Act shall apply to—

(1) any civil action pending on the date of enactment of this Act; and

(2) any civil action commenced on or after such date, including any action in which the harm or the conduct which caused the harm occurred prior to such date.

[From the National Law Journal, Aug. 1, 1994]

TORTS

(By Sheila L. Birnbaum and J. Russell Jackson)

On June 24, near the end of its term, the U.S. Supreme Court rendered its decision in *Honda Motor Co.* v. *Oberg*[1] a products liability case involving a constitutional challenge to a punitive damages award. The 7-2 decision is a high-water mark in the recent Supreme Court decisions on the subject, as it represents the largest number of justices agreeing that punitive damages awards may violate due process. The case is almost certain to spawn numerous constitutional challenges to punitive damages awards in products liability litigation, as it reaffirms the viability of due process challenges to punitive damages and reserves for another day the question of "the character of the standard that will identify unconstitutionally excessive awards."

To understand the significance of Oberg fully, one must review the two Supreme Court decisions that affirmed punitive damages awards in the face of due process challenges. In *Pacific Mutual Life Insurance Co.* v. *Haslip*,[2] the court affirmed a punitive damages award in an insurance fraud case. The justices explained that punitive damages awards could violate due process, but they refused to declare what minimum procedures are required to keep a state punitive damages award from being constitutionally impermissible.

The Haslip court merely held that Alabama's procedures governing punitive damages awards did not violate due process. The procedures approved by the court included jury instructions that limit the jury's discretion in awarding punitive damages, substantive trial court review of the verdict and substantive appellate review of the verdict.

The Haslip court also declared that a punitives award should bear "some reasonable relationship to compensatory damages," and that the approximate 4-to-1 ratio in that case of punitive damages to compensatory damages "may be close to the line of constitutional propriety."

The lack of a well-defined constitutional standard in Haslip led to some confusion among courts and litigants about the boundaries of due process in punitive damages procedures. Some courts established more rigorous procedures in light of Haslip.[3] Others upheld punitive damages schemes by finding that *Haslip* did not establish the bare minimum of process due to defendants.[4]

Court watchers waited expectantly for guidance when the court rendered its decision last summer in *TXO Production Corp.* v. *Alliance Resources Corp.*[5] In *TXO*, an intentional tort case involving slander of title to land, the court affirmed the constitutionality of a punitive damages award that was 526 times the amount of the compensatory damages award.

The TXO court did not articulate a clear standard for evaluating whether the $10 million punitive damages award comported with due process. A majority of the TXO court agreed that punitive awards must comport with due process, with a plurality requiring such awards to be procedurally fair and noting that "concerns of reasonableness probably enter into the constitutional calculus."

The dissent in TXO attacked the plurality for summarily reaffirming the notion that there are constitutional limits to punitives awards and "abandon[ing] all pretense of providing further instruction." Justice Anthony M. Kennedy, in his concurrence, complained that the plurality's "reasonableness" standard was unclear. Justice Antonin Scalia, in another concurrence, accused the plurality of leaving the door open to the assertion of a standardless substantive due process right.

Oberg is the first case in which the court has overturned a punitive damages award for failure to comply with due process, and it represents the first real attempt by the court to begin sketching the boundaries of due process with respect to punitive damages.

The facts in Oberg are somewhat unusual, which means the holding will have little direct effect on the punitive damages schemes of most states. The principles articulated by the court, however, lay important groundwork for future constitutional challenges to punitive damages awards.

The defendant in Oberg had been found liable in a products liability suit for $735,512.31 in compensatory damages and $5 million in punitive damages. The defendant sought post-verdict review of the punitives award in the trial court and on appeal. The Oregon Supreme Court declined to review the award, relying on a 1910 amendment to the Oregon Constitution that prohibits judicial review of the amount of punitive damages awarded by a jury "unless the court can affirmatively say there is no evidence to support the verdict." Oregon appears to be the only state to prohibit judicial review of punitive damages awards.

The Oregon Supreme Court, according to the U.S. Supreme Court's opinion, refused to "interpret Haslip to hold that an award of punitive damages, to comport with the requirements of the Due Process Clause, always must be subject to a form of post-verdict or appellate review that includes the possibility of remittitur."

The Oregon court was confident that the Oregon punitive damages scheme comported with due process, as it provided for very detailed jury instructions with substantive criteria and required that the plaintiff prove entitlement to punitive damages by clear and convincing evidence. The scheme also allowed courts to reverse punitive awards when there was no evidence to support liability for punitive damages. Additionally, Oregon law required the trial judge to determine that a prima facie case for punitive damages had been presented before evidence of the defendant's wealth could be submitted to the jury.

The safeguards of the Oregon scheme did not comport with due process, the Supreme Court held. The "decision to punish a tortfeasor by means of an exaction of exemplary damages is an exercise of state power that must comply with the Due Process Clause of the Fourteenth Amendment."

The justices held that judicial review must cover more than whether there is evidence to support liability for any award of punitive damages. Due process requires a judicial review of the propriety of the *amount* of punitive damages awarded. As the court explained:

"Oregon, unlike the common law, provides no assurance that those whose conduct is sanctionable by punitive damages are not subjected to punitive damages of arbitrary amounts. What we are concerned with is the possibility that a guilty defendant may be unjustly punished; evidence of guilt warranting some punishment is not a substitute for evidence providing at least a rational basis

Footnotes at end of article.

for the particular deprivation of property imposed by the State to defer future wrongdoing."

The analysis the Oberg court used in arriving at its conclusion that the punitives award violated due process is telling. It reflects more of the historical approach advocated by Justice Scalia than the procedural due process analysis that Justice Sandra Day O'Connor has advocated.

In Haslip, the majority failed to articulate the standard it used to evaluate whether the punitive award comported with due process. Justice Scalia, in his Haslip concurrence, advocated a primarily historical analysis: "If the government chooses to follow a historically approved procedure, it necessarily provides due process, but if chooses to depart from historical practices, it does not necessarily deny due process."

Justice O'Connor, in her *Haslip* dissent, had proposed different criteria, based on the Supreme Court's landmark 1976 procedural due process decision in *Mathews v. Eldridge*.[6] In her view, the court should look at three factors in evaluating punitive awards: "(1) the private interest at stake; (2) the risk that existing procedures will wrongly impair this private interest, and the likelihood that additional safeguards can effect a cure; and (3) the governmental interest in avoiding these additional procedures."

The Supreme Court's decision in *Oberg* focused almost exclusively on the fact that judicial review of the amount of punitive damages awards has a long historical basis. The court relied on English cases from the 18th century, U.S. common-law decisions from the 19th century treatises to conclude that "judicial review of the size of punitive damages awards has been a safeguard against excessive verdicts for as long as punitive damages have been awarded." Modern practice, the court stated, "is consistent with these earlier authorities."

Perhaps most interesting was the court's pronouncement that "abrogation of a well-established common law protection against arbitrary deprivations of property raises a presumption that its procedures violate the Due Process Clause."

Because the Oregon procedure departed from "traditional" procedure without providing substitute safeguards, the court concluded that it violated due process. As Justice Scalia elaborated in his concurrence, "The deprivation of property without observing (or providing a reasonable substitute for) an important traditional procedure for enforcing state-prescribed limits upon such deprivation violates the Due Process Clause."

Justice Ruth Bader Ginsburg, joined by Chief Justice William H. Rehnquist, criticized in her dissent the majority's reliance on history as the standard for due process, and she took issue with conclusions the majority drew about historical procedures. She noted that the majority "barely acknowledges the large authority exercised by American juries in the 18th and 19th centuries." Juries usually had the power to determine both law and fact, she observed, and common-law courts "reviewed punitive damage verdicts extremely deferentially, if at all."[7]

Two aspects of the *Oberg* opinion ensure that there will be future due process challenges to punitives awards. First, the court stated in strong terms its concern about the potential for unfairness that is inherent in punitive damages awards. Second, it recognized that historical change may require adaptation of punitives standards that were satisfactory at one point in history.

The court warned, "Punitive damages pose an acute danger of arbitrary deprivation of property. Jury instructions typically leave the jury with wide discretion in choosing amounts, and the presentation of evidence of a defendant's net worth creates the potential that juries will use their verdicts to express biases against big business, particularly those without strong local presences."

The *Oberg* court also encouraged future challenges by reserving the question of what standard identifies a constitutionally excessive punitives award and by discussing the effect of historical change on the constitutional analysis. The court recognized that not all change from historical procedures would violate due process, because the law must respond to changes in society. The court cited as an example the expansion of the notion of personal jurisdiction in the 1945 case *International Shoe Co. v. Washington*,[8] which developed as a new business entity, the corporation, whose ability to conduct business without physical presence had created new problems not envisioned by rules developed in another era," as well as to the "dramatic improvements in communication and transportation that made litigation in a distant forum less onerous."

The fact of historical change will play prominently in the analysis of future punitive damages challenges. Modern products liability litigation bears little resemblance to tort litigation of the 18th and 19th centuries. Defendants in some jurisdictions are now held liable for punitive damages based on underlying strict liability theories that, by their very terms, may ignore traditional notions of fault. This represents a sharp break from the past.

Moreover, the development of sophisticated mass production processes and the emergence of national and international corporations make it increasingly likely that a defendant may be held liable for punitive damages in numerous different law suits for the same course of conduct: marketing a single type of product. The potential for arbitrariness in awards of this type is magnified by the fact that in many jurisdictions—as was the case in *Oberg*—the jury may base its award in part on the net worth of the defendant.

Thus, a products liability defendant may be subject to numerous punitive damages awards for the same conduct, with each award being intended to punish the defendant fully on the basis of the defendant's net worth. This, too, appears to be at odds with the historical application of punitive damages.

Basing multiple punitive damages awards on a defendant's net worth is seen to prejudice large corporate defendants in particular. One commentator[9] has posited this example: Company A is 10 times larger than Company B. Both make the same type of product, and both have identical management and costs, so that Company A's annual net profit is 10 times larger than company B's. If each is sued for product defects at the same rate, Company A will pay 10 times more in compensatory awards each year than Company B.

But the punitives awards against the larger company are exponentially higher than those against the smaller company, even though they are premised on the same misconduct. Because each punitive award is based on the company's net worth, each award Company A pays already will be 10 times more than Company B's. If it pays 10 times as many awards, at the end of each year Company A will have paid 100 times the punitive damages than Company B did. This, it may be argued, is the sort of arbitrariness inherent in modern punitive damages awards that violates due process.

The Supreme Court has not yet been confronted with challenges, such as the examples given above, that go to the heart of products liability litigation. It seems clear that in the wake of *Oberg*, such challenges will be made, and that given the court's concern about arbitrary punitives awards, the court may well decide to hear them.

FOOTNOTES

(1) 1994 WL 276687 (U.S., June 24, 1994).

(2) 111 S. Ct. 1032 (1991).

(3) See, e.g., Johnson v. Hugo's Skateway, 974 F.2d 1408 (4th Cir. 1992); Mattison v. Dallas Carrier Corp., 947 F.2d 95 (4th Cir. 1991); Garnes v. Fleming Landfill Inc., 413 S.E.2d 897 (W.Va 1991).

(4) See, e.g., Dunn v. Hovic, 1 F.3d 1371 (3d Cir.), cert. denied, 114 S. Ct. 650 (1993).

(5) 113 S. Ct. 2711 (1993).

(6) 424 U.S. 319 (1976).

(7) Although it might seem surprising that justice Scalia voted with the majority given the historical overlay that Justice Ginsburg crafted in her dissent, his position was consistent with his dissent in TXO, in which he said, "To say (as I do) that 'procedural due process' requires judicial review of punitive damages awards for reasonableness is not to say that there is a federal constitutional right to a substantively correct 'reasonableness' determination."

(8) 326 U.S. 310 (1945).

(9) Malcolm W. Wheeler, "A Proposal for Further Common Law Development of the Use of Punitive Damages in Modern Product Liability Litigation," 40 Ala. L. Rev. 919 (1989).

By Mr. KERRY (for himself and Mr. STEVENS):

S. 2538. A bill to amend the Magnuson Fishery Conservation and Management Act, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUSTAINABLE FISHERIES ACT

Mr. KERRY. Mr. President, on March 1, 1977 the United States Fishery Conservation and Management Act of 1976 was signed into law in response to an urgent threat to the valuable living marine resources of our coastal waters. At that time, the threat to our domestic fisheries came in the form of an efficient and aggressive state-of-the-art foreign fishing fleet that was operating within sight of our shores and displacing our domestic fishermen and processors. In response, Congress, led by Senator Warren Magnuson, passed the Fishery Conservation and Management Act establishing a 200-mile fishery conservation zone and asserting United States management authority over fish within the conservation zone, as well as over anadromous species such as salmon throughout their migratory range. In honor of Senator Magnuson's leadership, in 1980 the act was officially retitled the Magnuson Fishery Conservation and Management Act.

The Magnuson Act succeeded—it limited the operation of foreign fishing vessels and processors and encouraged the development of the U.S. domestic fishing fleet and processing industry. In 1993, U.S. commercial fishermen landed over 10 billion pounds of fish, producing $3.4 billion in dockside revenues. By weight of catch, the United States is now the world's sixth largest

fishing nation. The United States is also the top seafood exporter, with exports valued at $3.1 billion in 1993.

However, we have succeeded too well in some ways and today there is another threat to our coastal fisheries. This time it comes not from abroad but from ourselves. Since the implementation of the Magnuson Act, the number of commercial groundfish vessels in New England has increased by 70 percent, and the number of fishermen has risen by 130 percent. Although fish and shellfish are renewable resources, they are not unlimited. In several U.S. fisheries, a pattern has been repeated: Fishermen, lured by the promise of large and lucrative harvests, enter a fishery when fish populations are abundant. As the fishery develops, larger boats often replace small boats, the number of boats increases, and new technologies are continually introduced to improve each vessel's fishing power and efficiency. In several U.S. fisheries, these trends have been bolstered by government policies, including tax incentives and Federal loan guarantees, designed to stimulate development of the domestic fishing industry. The result is that the harvesting capacity in many fisheries has outpaced the capacity of the fisheries to renew themselves. U.S. fisheries also have suffered from destruction of essential habitat, destructive fishing practices, and water pollution.

The key to the success of the Magnuson Act is the ability of the eight regional fisheries management councils established under the act to work with the National Marine Fisheries Service to manage the fisheries on a regional level while meeting the national standards set forth in the Act. The Councils have made a substantial effort to manage the nation's fisheries—as of September 1, 1993, 33 fishery management plans are in effect with several others in development. However, their success in managing the nation's fisheries has been mixed. Critics charge that since the enactment of the Magnuson Act, the councils have sometimes reacted to developments in fisheries rather than anticipating problems—even when looming problems are apparent. In addition, the complexity of the process has impeded the council response, often exacerbating the problem. In many instances, minor management actions could have been taken sooner to avoid the need for more dramatic measures later. In some regions, including parts of the Northwest, the Council members are no longer perceived as stewards of the public resource, providing fair and balanced representation, but are seen as protectors of special economic interests. The Magnuson Act requires that Council members be knowledgeable or experienced with regard to the conservation and management, or the recreational or commercial harvest, of the fishery resources within their geographic area of responsibility. However, this requirement has created situations in which Council members may have personal or financial interests in a fishery they are responsible for managing.

In fact, despite the work of the Councils, problems continue to exist in varying degrees in many regions. These include: continued overfishing; lack of coordination between Councils and the Federal Government; lack of accountability; inconsistency in State and Federal management measures; and adoption of unenforceable management measures.

The collapse of the traditional New England groundfish stocks of cod, haddock, and yellowtail flounder unfortunately is an example of what happens when the fisheries management process fails. The commercial fishing industry in Massachusetts was a $300 million industry in 1990. By 1993, revenues had dropped to almost $232 million, and this year revenues are certain to be much lower. In 1993, the decline of these valuable fish stocks necessitated a substantial amendment to the fisheries management plan for these stocks in an effort to eliminate overfishing by cutting in half fishing mortality over the next 5 to 7 years. The initiation of regulations necessary to rebuild the fishery has had significant economic impact on the lives of those in coastal communities throughout New England. The latest reports from the National Marine Fisheries Service indicate that the situation is even worse than predicted, and the New England Council is now considering even more drastic measures. This is a dire situation with potentially disastrous economic and social impacts on the historic fishing communities of New England. I believe it must be addressed and reversed. The bill I am introducing today should have this effect.

Over the last 2 years, the Commerce Committee has conducted a series of hearings here in Washington and in fishing communities around the U.S. coast. We have reviewed comments from members of the fishing industry, the administration, conservation groups, and other public interest groups. This has been a bipartisan effort. I have worked closely with the senior Senator from Alaska. We and our colleagues share the desire to ensure plentiful yields of fish for years to come. The bill that I am introducing today is an effort to address the existing problems of the fisheries management process. Even though I do not anticipate it can be passed during the very few days remaining before this Congress concludes its work, I think it is important to present it now to permit interested persons to voice any concerns they may have about its provisions so these can be considered and addressed if appropriate, thereby enabling us to move forward with expedience when the new Congress convenes next year.

I recognize that this bill is ambitious in scope. However, the fisheries of the United States are at a crossroads and significant action is required to remedy our fisheries management problems and preserve the way of life of our fishing communities. Fish on the dinner table is something that many Americans may have taken for granted in the past; but unless we take steps to ensure that these resources are conserved, they will not be there for future generations. I hope my colleagues will join me in committing themselves to passing legislation in the next year to ensure that the fisheries of the United States once again will be bountiful and sustainable.

I want to thank the distinguished chairman of the Commerce Committee, Senator STEVENS and his staff, and the staff of the majority and the minority, for their assistance in the preparing this bipartisan bill for introduction today. I also want to express special appreciation to Penny Dalton of the Commerce Committee's National Ocean Policy Study Majority Staff, Mara Brown, a fellow on the Committee staff, Steve Metruck, a fellow in my office, Trevor McCabe and John Moran of the Commerce Committee's National Ocean Policy Study Minority Staff, Jim Sartucci, a fellow on the Minority Staff and Earl Comstock of Senator STEVENS' staff for the many hours of collaborative work they invested in the drafting of this bill.

I ask unanimous consent that the statement of Senator STEVENS, followed by a summary of the bill's principal provisions and the bill itself, appear in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2538

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Sustainable Fisheries Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
TITLE I—CONSERVATION AND MANAGEMENT
Sec. 101. Amendment of the Magnuson Fishery Conservation and Management Act.
Sec. 102. Findings; purposes; and policy.
Sec. 103. Definitions.
Sec. 104. Authorization of appropriations.
Sec. 105. Highly migratory species.
Sec. 106. Foreign fishing.
Sec. 107. Permits for foreign fishing.
Sec. 108. Large-scale driftnet fishing.
Sec. 109. National standards.
Sec. 110. Regional fishery management councils.
Sec. 111. Fishery management plans.
Sec. 112. Plan review and implementation.

79-059 O—97 Vol. 140 (Pt. 21) 9

Sec. 113. Ecosystem management.
Sec. 114. State jurisdiction.
Sec. 115. Prohibited acts.
Sec. 116. Civil penalties and permit sanctions.
Sec. 117. Enforcement.
Sec. 118. North Pacific fisheries conservation.
Sec. 119. Transition to sustainable fisheries.
TITLE II—FISHERY MONITORING AND RESEARCH
Sec. 201. Change of title.
Sec. 202. Registration and data management.
Sec. 203. Data collection.
Sec. 204. Observers wages as maritime liens.
Sec. 205. Fisheries research.
Sec. 206. Incidental harvest research.
Sec. 207. Repeal.
Sec. 208. Clerical amendments.
TITLE III—FISHERIES STOCK RECOVERY FINANCING
Sec. 301. Short title.
Sec. 302. Fisheries stock recovery refinancing.
Sec. 303. Federal financing bank relating to fishing vessels and fishery facilities.
Sec. 304. Fees for guaranteeing obligations.
Sec. 305. Sale of acquired collateral.
TITLE IV—ATLANTIC TUNAS CONVENTION ACT
Sec. 401. Short title.
Sec. 402. Research and monitoring activities.
Sec. 403. Advisory committee procedures.
Sec. 404. Regulations.
Sec. 405. Fines and permit sanctions.
Sec. 406. Authorization of appropriations.
Sec. 407. Report.

TITLE I—CONSERVATION AND MANAGEMENT

SEC. 101. AMENDMENT OF MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

SEC. 102. FINDINGS; PURPOSES; AND POLICY.

Section 2 (16 U.S.C. 1801) is amended—

(1) by striking subsection (a)(2) and inserting the following:

"(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.";

(2) by inserting "to facilitate long-term protection of essential fish habitats," in subsection (a)(6) after "conservation,";

(3) by adding at the end of subsection (a) the following:

"(9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats on a national level. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States.";

(4) by inserting "in a non-wasteful manner" in subsection (b)(6) after "such development"; and

(5) by adding at the end of subsection (b) the following:

"(7) to promote the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.".

SEC. 103. DEFINITIONS.

Section 3 (16 U.S.C. 1802) is amended—

(1) by redesignating paragraphs (2) through (32) as paragraphs (3) through (33) respectively, and inserting after paragraph (1) the following:

"(2) The term 'bycatch' means fish which are harvested by a fishing vessel, but which are not sold or kept for personal use, including, but not limited to, economic and regulatory discards.";

(2) by redesignating paragraphs (7) through (33) (as redesignated) as paragraphs (9) through (35), respectively, and inserting after paragraph (6) (as redesignated) the following:

"(7) The term 'economic discards' means fish which are the target of a fishery, but which are not retained by the fishing vessel which harvested them because they are of an undesirable size, sex or quality, or for other economic reasons.

"(8) The term 'essential fish habitat' means any area essential to the life cycle of a stock of fish, or to the production of maximum sustainable yield of one or more fisheries managed under this Act.";

(3) by redesignating paragraphs (12) through (35) (as redesignated) as paragraphs (13) through (36), respectively, and inserting after paragraph (11) (as redesignated) the following:

"(12) The term 'fishery dependent community' means a community which is substantially dependent on the harvest of fishery resources to meet social and economic needs.";

(4) by redesignating paragraphs (19) through (36) (as redesignated) as paragraphs (20) through (37), respectively, and inserting after paragraph (18) (as redesignated) the following:

"(19) The term 'individual transferable quota' means a revocable Federal authorization to harvest or process a quantity of fish under a unit or quota share that represents a percentage of the total allowable catch of a stock of fish, that may be received or held by a specific person or persons for their exclusive use, and that may be transferred in whole or in part by the holder to another person or persons for their exclusive use.";

(5) by redesignating paragraphs (22) through (37) (as redesignated) as paragraphs (23) through (38), respectively, and inserting after paragraph (21) (as redesignated) the following:

"(22) The term 'limited access system' means any system for controlling fishing effort which includes such measures as license limitations, individual transferable quotas, and non-transferable quotas.";

(6) by striking "Pacific Marine Fisheries Commission" in paragraph (23), as redesignated, and inserting "Pacific States Marine Fisheries Commission";

(7) by striking paragraph (27), as redesignated, and inserting the following:

"(27) The term 'optimum', with respect to the yield from a fishery, means the amount of fish which—

"(A) will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities, and taking into account the protection of marine ecosystems;

"(B) is prescribed on the basis of the maximum sustainable yield from a fishery, as modified by any relevant social, economic, or ecological factor; and

"(C) provides for the rebuilding of an overfished fishery to a level consistent with producing the maximum sustainable yield.";

(8) by redesignating paragraphs (28) through (38) (as redesignated) as paragraphs (29) through (39), respectively, and inserting after paragraph (27) (as redesignated) the following:

"(28) The terms 'overfishing' and 'overfished' mean a level or rate of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.";

(9) by redesignating paragraphs (30) through (39) (as redesignated) as paragraphs (31) through (40), respectively, and inserting after paragraph (29) (as redesignated) the following:

"(30) The term 'regulatory discards' means fish caught in a fishery which fishermen are required by regulation to discard whenever caught, or are required by regulation to retain but not sell.";

(10) by striking "for which a fishery management plan prepared under title III or a preliminary fishery management plan prepared under section 201(h) has been implemented" in paragraph (38), as redesignated, and inserting "regulated under this Act";and

(11) by redesignating paragraph (40), as redesignated, as (41), and inserting after paragraph (39) the following:

"(40) The term 'vessel subject to the jurisdiction of the United States' has the same meaning as in section 3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(c)).".

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

The Act is amended by inserting after section 3 the following:

"SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary for the purposes of carrying out the provisions of this Act, not to exceed the following sums (of which 15 percent in each fiscal year shall be used for enforcement activities):

"(1) $102,000,000 for fiscal year 1993;
"(2) $106,000,000 for fiscal year 1994;
"(3) $143,000,000 for fiscal year 1995;
"(4) $147,000,000 for fiscal year 1996;
"(5) $151,000,000 for fiscal year 1997;
"(6) $155,000,000 for fiscal year 1998; and
"(7) $159,000,000 for fiscal year 1999.".

SEC. 105. HIGHLY MIGRATORY SPECIES.

Section 102 (16 U.S.C. 1812) is amended by striking "promoting the objective of optimum utilization" and inserting "promote the achievement of optimum yield".

SEC. 106. FOREIGN FISHING.

Section 201 (16 U.S.C. 1821) is amended—

(1) by inserting a comma and "or is approved under section 204(b)(6)(A)(ii)" before the semicolon in subsection (a)(1);

(2) by striking "(g)" in subsection (a)(2) and inserting "(f)";

(3) by striking "(i)" in subsection (c)(2)(D) and inserting "(h)";

(4) by striking ", including any regulations promulgated to implement any applicable fishery management plan or any preliminary fishery management plan" in subsection (c); and

(5) by striking subsection (f) and redesignating subsections (g), (h), (i), and (j) as (f), (g), (h), and (i), respectively.

SEC. 107. PERMITS FOR FOREIGN FISHING.

(a) So much of section 204(b) (16 U.S.C. 1824(b)) as precedes paragraph (2) is amended to read as follows:

"(b) APPLICATIONS AND PERMITS.—

"(1) ELIGIBILITY.—

"(A) Each foreign nation with which the United States has entered into a governing international fishery agreement shall submit an application to the Secretary of State each year for a permit for each of its fishing vessels that wishes to engage in fishing described in subsection (a).

"(B) An owner of a vessel, other than a vessel of the United States, who wishes to engage in the transshipment at sea of fish products in the exclusive economic zone or within the boundary of any State, may submit an application to the Secretary each year for a permit for a vessel belonging to that owner, whether or not such vessel is subject to an international fishery agreement described in section 201(b) or (c).

"(C) No permit issued under this section may be valid for longer than a year. Section 558(c) of title 5, United States Code, does not apply to the renewal of any such permit.".

(b) Section 204(b)(4) (16 U.S.C. 1824(b)(4)) is amended—

(1) by inserting "(A)" after the caption;

(2) by inserting "submitted under paragraph (1)(A)" after "any application";

(3) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(4) by inserting at the end thereof the following:

"(B) Upon receipt of any application submitted under paragraph (1)(B) which complies with the requirements of paragraph (3), the Secretary shall promptly transmit copies of the application or summary as indicated under subparagraphs (A)(ii) and (iii), and shall also promptly transmit such application or summary to States bordering the exclusive economic zone where such transhipment is proposed to occur.".

(c) Section 204(b)(5) (16 U.S.C. 1824(b)(5)) is amended by striking "under paragraph (4)(C)" and inserting "submitted under paragraph (1)".

(d) Section 204(b)(6) (16 U.S.C. 1824(b)(6)) is amended—

(1) by striking "transmitted under paragraph (4)(A)" and inserting "submitted under paragraph (1)(A)" in subparagraph (A);

(2) by inserting "(i)" before "After" in subparagraph (A); and

(3) by inserting before subparagraph (B) the following:

"(ii) In the case of any application submitted under paragraph (1)(B), the Secretary, after taking into consideration any comments submitted by the Council under paragraph (5) or any affected State, may approve the application upon determining that the activity described in the application will be in the interest of the United States and will meet the applicable requirements of this Act, and that the owners or operators have agreed to comply with requirements set forth in section 201(c)(2) and have established any bonds or financial assurances that may be required by the Secretary; or the Secretary may disapprove all or any portion of the application.".

(e) Section 204(b)(8) (16 U.S.C. 1824(b)(8)) is amended—

(1) by inserting a comma and "or the agent for the foreign vessel owner for any application submitted under paragraph (1)(B)" before the semicolon at the end of subparagraph (A); and

(2) by inserting "and any affected State" before the period at the end of subparagraph (C).

(f) Section 204(b)(9) (16 U.S.C. 1824(b)(9)) is amended—

(1) by inserting "paragraph (1)(A) of" after "by a foreign nation under";

(2) by inserting "(A)" after the heading in paragraph (9); and

(3) by adding at the end thereof the following:

"(B) If the Secretary does not approve any application submitted by a foreign vessel owner under paragraph (1)(B) of this subsection, the Secretary shall promptly inform the vessel owner of the disapproval and the reasons therefore. The owner, after taking into consideration the reasons for disapproval, may submit a revised application under this subsection.".

(g) Section 204(b)(11) (16 U.S.C. 1824(b)(11)) is amended—

(1) by inserting "(A)" after the paragraph heading,

(2) by inserting "submitting an application under paragraph (1)(A)" after "If a foreign nation"; and

(3) adding at the end thereof the following:

"(B) If the vessel owner submitting an application under paragraph (1)(B) notifies the Secretary of acceptance of the conditions and restrictions established by the Secretary under paragraph (7), and upon payment of the applicable fees established pursuant to paragraph (10) and confirmation of any bonds or financial assurances that may be required for such transhipment of fish, the Secretary shall thereupon issue a permit for the vessel.".

(h) Section 204 (16 U.S.C. 1824) is amended by adding at the end thereof the following:

"(d) PROHIBITION ON PERMIT ISSUANCE.—Notwithstanding any other provision of this Act, the Secretary is prohibited from issuing, before December 1, 1999, any permit to authorize the catching, taking, or harvesting of Atlantic mackerel or Atlantic herring by foreign fishing vessels within the exclusive economic zone. This subsection shall not apply to permits to authorize foreign fish processing vessels to process Atlantic mackerel or Atlantic herring harvested by fishing vessels of the United States.".

SEC. 108. LARGE-SCALE DRIFTNET FISHING.

(a) Section 206(e) (16 U.S.C. 1826(e)) is amended by striking paragraphs (3) and (4), and redesignating paragraphs (5) and (6) as (3) and (4), respectively.

(b) Section 206(f) (16 U.S.C. 1826(f)) is amended by striking "(6)" and inserting "(4)".

SEC. 109. NATIONAL STANDARDS.

(a) Paragraph (1) of section 301(a) (16 U.S.C. 1851(a)) is amended to read as follows:

"(1) Conservation and management measures shall prevent overfishing and rebuild overfished fishery resources while achieving, on a continuing basis, the optimum yield from each fishery.".

(b) Section 301(a)(5) (16 U.S.C 1851(a)(5)) is amended by striking "promote" and inserting "consider".

(c) Section 301(a) (16 U.S.C. 1851(a)) is amended by adding at the end thereof the following:

"(8) Conservation and management measures shall take into account the importance of the harvest of fishery resources to fishery dependent communities.".

SEC. 110. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) Section 302(a) (16 U.S.C. 1852(a)) is amended—

(1) by inserting "(1)" after the subsection heading;

(2) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (H);

(3) by striking "section 304(f)(3)" wherever it appears and inserting in lieu thereof "paragraph (3)";

(4) by striking paragraph (1)(F), as redesignated, and inserting the following:

"(F) PACIFIC COUNCIL.—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 13 voting members, including 7 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State), and including one appointed from an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho in accordance with subsection (b)(5).";

(5) by indenting the sentence at the end thereof and inserting "(2)" in front of "Each Council", and by inserting "The Secretary shall establish the boundaries between the geographical areas of authority of adjacent Councils." after "authority."; and

(6) by adding at the end the following:

"(3) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.".

(b) Section 302(b) (16 U.S.C. 1852(b)) is amended—

(1) by striking subparagraph (C) of subsection (b)(1) and inserting the following:

"(C) The members required to be appointed by the Secretary in accordance with subsections (b)(2) and (5).";

(2) by redesignating paragraph (5) as paragraph (6), and inserting after paragraph (4) the following:

"(5)(A) The Secretary shall appoint to the Pacific Fishery Management Council one representative of an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho, from a list of not less than 3 individuals submitted by the tribal governments. The representative shall serve for a term of 3 years and may not serve more than 3 consecutive terms. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regulation the procedure for submitting lists under this subparagraph.

"(B) Representation shall be rotated among the tribes taking into consideration—

"(i) the qualifications of the individuals on the list referred to in subparagraph (A),

"(ii) the various treaty rights of the Indian tribes involved and judicial cases that set forth how those rights are to be exercised, and

"(iii) the geographic area in which the tribe of the representative is located.

"(C) A vacancy occurring prior to the expiration of any term shall be filled in the same manner set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen."; and,

(3) by striking "subsection (b)(2)" in paragraph (6), as redesignated, and inserting "subsections (b)(2) and (5)".

(c) Section 302(e) (16 U.S.C. 1852(e)) is amended by adding at the end the following:

"(5) At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council. The official minutes and other appropriate records of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote.".

(d) Section 302(g) (16 U.S.C. 1852(g)) is amended by redesignating paragraph (4) as

(5), and by inserting after paragraph (3) the following:

"(4) The Secretary shall establish advisory panels to assist in—

"(A) the collection and evaluation of information relevant to the development of or amendment to any fishery management plan under section 303(e)(2); and

"(B) carrying out the purposes of section 303(f).".

(e) Section 302(h) (16 U.S.C. 1852(h)) is amended—

(1) by striking "section 304(f)(3)" in paragraphs (1) and (5) and inserting "subsection (a)(3)"; and

(2) by striking "204(b)(4)(C)" in paragraph (2) and inserting "204(b)(4)(A)(iii)".

(f) Section 302(i) (16 U.S.C. 1852(i)) is amended to read as follows:

"(i) NEGOTIATED CONSERVATION AND MANAGEMENT MEASURES.—

"(1) Acting through the Secretary, a Council may, on its own or at the request of the Secretary, establish a negotiation panel to assist in the development of specific conservation and management measures for a fishery under authority of such Council. In making the decision to establish such panel, the Council shall consider whether—

"(A) there are a finite number of identifiable interests that will be significantly affected by the development of such measures;

"(B) there is a reasonable likelihood that a negotiation panel can be convened with a balanced representation of persons who—

"(i) can adequately represent the interests identified under subparagraph (A); and

"(ii) are willing to act in good faith to reach a consensus on the development of a such measures;

"(C) there is reasonable likelihood that a negotiation panel will contribute to the development of such measures within a fixed period of time; and

"(D) the process under this subsection will not unreasonably delay the development of any conservation and management measure or its submission to the Secretary.

"(2) If the Council decides to establish a negotiation panel it shall notify all identifiable interests of its intention to convene such panel at least 30 calendar days prior to the appointment of members. Such notification shall be published in accordance with subsection (j)(2)(C) of this section and shall include—

"(A) a description of the subject and scope of the measures to be developed and the issues to be considered;

"(B) a list of interests likely to be significantly affected by the measures to be developed;

"(C) a list of the persons proposed to represent such interests, the person or persons proposed to represent the Council, and the person or persons proposed to be nominated as facilitator;

"(D) an explanation of how a person may apply or nominate another person for membership on the negotiation panel; and

"(E) a proposed agenda and schedule for completing the work of the negotiation panel.

"(3) No more than 45 calendar days after providing this notification the Council shall make appointments to the negotiation panel in such a manner as to achieve balanced representation of all significant interests to the conservation and management measures. Such interests shall include, where appropriate, representatives from the fishing industry, consumer groups, the scientific community, tribal organizations, conservation organizations and other public interest organizations, and Federal and State fishery managers.

"(4) Each negotiation panel established under this section shall attempt to reach a consensus concerning specific conservation and management measures and any other issue such panel determines is relevant to such measures. The Council, to the maximum extent possible consistent with its legal obligations, will use the consensus of the negotiation panel, with respect to such measures, as the basis for the development of the conservation and management measures to be adopted by the Council or submitted by the Council to the Secretary in accordance with this Act.

"(5) The person or persons representing the Council on a negotiation panel shall participate in the deliberations and activities of such panel with the same rights and responsibilities as other panel members, and shall be authorized to fully represent the Council in the discussions and negotiations of such panel.

"(6) Any facilitator nominated by the Council to a negotiation panel must be approved by the panel by consensus. If the panel does not approve a facilitator nominated by the Council the panel shall select by consensus another person to serve as facilitator. No person appointed by the Council to the negotiation panel to represent any intereston the Council may serve as facilitator or otherwise chair such panel.

"(7) A facilitator approved or selected by a negotiation panel shall—

"(A) chair the meetings of such panel in an impartial manner;

"(B) impartially assist the panel members in conducting discussions and negotiations; and

"(C) manage the keeping of any minutes or records, (except that any personal notes and materials of the facilitator or the panel members shall not be subject to disclosure, except upon order of a court).

"(8) A negotiation panel may adopt any additional procedures for the operation of the negotiation panel not in conflict with those specified in this section.

"(9) At the conclusion of the negotiation process, if the negotiation panel reaches a consensus on proposed conservation and management measures, such panel shall transmit to the Council, and present to the Council at the next scheduled meeting of the Council, a report containing the proposed conservation and management measures. If the negotiation panel does not reach consensus on proposed conservation and management measures, such panel shall transmit to the Council, and present to the Council at the next scheduled meeting of the Council, a report specifying its recommendations and describing the areas in which the negotiation panel reached consensus and the areas in which consensus was not achieved. The negotiation panel may include in a report any other information or materials that such panel considers appropriate. Any panel member may include, as an addendum to the report, additional information or materials.

"(10) A negotiation panel shall terminate upon approval by the Secretary of the conservation and management measures recommended by the Council on the basis of the report by the panel, unless the Council in consultation with the panel, or the panel itself specifies an alternative termination date.

"(11) For the purposes of this subsection—

"(A) The term 'negotiation panel' means an advisory panel established by a Council under section (g)(2) to assist in the development of specific conservation and management measures through the process established under this subsection.

"(B) The term 'consensus' means general but not unanimous concurrence among the interests represented unless such panel—

"(i) agrees by consensus to define such term to mean a unanimous concurrence; or

"(ii) agrees by consensus upon another specified definition.

"(C) The term 'facilitator' means a person experienced or trained in group mediation and negotiation who impartially aids in the discussions and negotiations among the members of a negotiation panel.

"(D) The term 'interest' means, with respect to this subsection, multiple persons or parties who have a similar point of view or which are likely to be affected in a similar manner.".

(g) Section 302(j) (16 U.S.C. 1852(j)) is amended—

(1) by deleting "of the Councils" in paragraph (1) and inserting "established under subsection (g)"; and

(2) by deleting "of a Council:" in paragraph (2) and inserting "established under subsection (g):".

(3) by adding at the end of paragraph (2)(C): "Interested persons may propose to modify the published agenda of a meeting by submitting to a Council, panel or committee within 14 calendar days of the published date of the meeting a notice containing a written description of the proposed modification signed by not less than two Council members.";

(4) by adding the following at the end of paragraph (2)(D): "All written data submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the qualifications and interests of the person in the subject of the oral or written statement.";

(5) by amending paragraph (2)(E) to read as follows:

"(E) Detailed minutes of each meeting of the Council shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed, issued, or approved by the Council. The Chairman shall certify the accuracy of the minutes of each meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction."; and

(6) by striking "303(d)" in paragraph (2)(F) and inserting "402(b)".

(g) Section 302(k) (16 U.S.C. 1852(k)) is amended—

(1) by inserting "and recusal" in the subsection heading;

(2) by striking paragraph (1) and inserting the following:

"(1) For the purposes of this subsection—

"(A) the term 'affected individual' means an individual who—

"(i) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2); or

"(ii) is a voting member of a Council appointed under subsection (b)(2); and

"(B) the term 'designated official' means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, with the concurrence of the Council, to attend Council meetings and make determinations under paragraph (7)(B).";

(3) by striking "(1)(A)" in paragraph (3)(A) and inserting "(1)(A)(i)";

(4) by striking "(1)(B) or (C)" in paragraph (3)(B) and inserting "(1)(A)(ii)";

(5) by striking "(1)(B) or (C)" in paragraph (4) and inserting "(1)(A)(ii)";

(6)(A) by striking "and" at the end of paragraph (5)(A);

(B) by striking the period at the end of paragraph (5)(B) and inserting a semicolon and the word "and"; and

(C) by adding at the end of paragraph (5) the following:

"(C) be kept on file by the Secretary for use in reviewing determinations under paragraph (7)(B) and made available for public inspection at reasonable hours.";

(7) by striking "(1)(B) or (C)" in paragraph (6) and inserting "(1)(A)(ii)";

(8) by redesignating paragraph (7) as (8) and inserting after paragraph (6) the following:

"(7)(A) An affected individual required to disclose a financial interest under paragraph (2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected benefit, shared only by a minority of persons within the same industry sector or gear group, to the financial interest. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

"(B) At the request of an affected individual, or at the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

"(C) Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

"(D) Any affected individual who does not participate in a Council decision in accordance with this subsection shall state for the record how he or she would have voted on such decision if he or she had voted.

"(E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.

"(F) No later than December 1, 1995, the Secretary, in consultation with the Councils, shall issue guidelines with respect to voting recusals under subparagraph (A) and the making of determinations under subparagraph (B)."; and

(9) by striking "(1)(B) or (C)" in paragraph (8), as redesignated, and inserting "(1)(A)(ii)".

SEC. 111. FISHERY MANAGEMENT PLANS.

(a) Section 303(a) (16 U.S.C. 1853(a)) is amended—

(1) by striking paragraph (6) and inserting the following:

"(6) consider and provide for, after consultation with the Coast Guard and persons participating in the fishery,—

"(A) safety of life and property at sea;

"(B) temporary adjustments regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery (except that any such adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery), and

"(C) enforcement measures (including an estimate of the resources necessary for effective implementation of such measures).";

(2) by striking paragraph (7) and inserting the following:

"(7) facilitate the protection of essential fish habitat by—

"(A) summarizing available information on the significance of such habitat to the fishery and the effects of changes to such habitat on the fishery; and

"(B) identifying Federal actions that should be considered to promote the long-term protection of essential fish habitats.";

(3) by striking "and" at the end of paragraph (8);

(4) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(5) by adding at the end the following:

"(10) specify objective and measurable criteria for classifying when the fishery to which the plan applies would be or is overfished, with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery;

"(11) assess the level of bycatch occurring in the fishery, and to the extent practicable, assess and specify the effect of the fishery on stocks of fish to which the plan does not apply, but which are associated with the ecosystem of the fishery; and

"(12) to the extent practicable, minimize mortality caused by economic and regulatory discards in the fishery.".

(b) Section 303(b) (16 U.S.C. 1853(b)) is amended—

(1) by striking paragraph (6) and inserting the following:

"(6) establish a limited access system for the fishery in order to achieve optimum yield if—

"(A) in developing such system, the Council and the Secretary take into account present participation in the fishery, historical fishing practices in and dependence on the fishery, the economics of the fishery, the capability of fishing vessels used in the fishery to engage in other fisheries, the cultural and social framework relevant to the fishery and fishery dependent communities, and any other relevant considerations; and

"(B) in the case of any system that provides for individual transferable quotas, such system also complies with the guidelines and fee requirements established under section 303(f);"; and

(2) by striking "and" at the end of paragraph (9);

(3) by striking the period at the end of paragraph (10) and inserting a semicolon and "and"; and

(4) by adding at the end the following:

"(11) include, consistent with the other provisions of this Act, conservation and management measures that provide a harvest preference or other incentives for fishing vessels within each gear group that employ fishing practices resulting in lower levels of bycatch.".

(c) Section 303 (16 U.S.C. 1853) is amended by striking subsection (c) and all thereafter and inserting the following:

"(c) REGULATIONS TO IMPLEMENT A FISHERY MANAGEMENT PLAN.—Proposed regulations which the Council deems necessary or appropriate for the purposes of implementing a fishery management plan or amendment to a plan may be submitted to the Secretary for action under section 304—

"(1) simultaneously with submission of the plan or amendment to the Secretary for action under section 304; or

"(2) at any time after the plan or amendment is approved.

"(d) FISHERIES UNDER AUTHORITY OF MORE THAN ONE COUNCIL.—

"(1) Except as provided in section 302(a)(3), if any fishery extends beyond the geographical area of authority of any one Council, the Secretary may—

"(A) designate which Council shall prepare the fishery management plan for such fishery and any amendment to such plan, as well as any proposed regulations for such fishery; or

"(B) require that the plan, amendment, and proposed regulations be prepared jointly by the Councils concerned.

"(2) No jointly prepared fishery management plan, amendment, or proposed regulations may be submitted to the Secretary unless approved by a majority of the voting members, present and voting, of each Council concerned.

"(e) PREPARATION BY THE SECRETARY.—

"(1) The Secretary shall prepare a fishery management plan with respect to any fishery (other than a fishery to which section 302(a)(3) applies), or any amendment to any such plan, in accordance with the national standards, the other provisions of this Act, and any other applicable law, if—

"(A) the appropriate Council fails to develop and submit to the Secretary, after a reasonable period of time, a fishery management plan for such fishery, or any necessary amendment to such plan, if such fishery requires conservation and management and the Secretary provides written notice to the Council of the need for such conservation and management;

"(B) the Secretary disapproves or partially disapproves any such plan or amendment, or disapproves a revised plan or amendment, and the Council involved fails, after a reasonable period of time, to take final action on a revised or further revised plan or amendment, as the case may be; or

"(C) the Secretary determines that the appropriate Council has failed to take sufficient action on a fishery management plan, a plan amendment or proposed regulations to rebuild an overfished fishery pursuant to section 305(b) within 1 year after determining that such fishery is overfished.

"(2) The Secretary shall prepare a fishery management plan with respect to any highly migratory species fishery to which section 302(a)(3) applies that requires conservation and management, or any amendment to any such plan, in accordance with the national standards, the other provisions of this Act, and any other applicable law. In preparing and implementing any such plan or amendment, the Secretary shall—

"(A) conduct public hearings, at appropriate times and in appropriate locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan and any regulations implementing the plan;

"(B) consult with and consider the comments and views of affected Councils, as well as commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species;

"(C) establish an advisory panel under section 302(g) for each fishery management plan to be prepared under this paragraph, which shall consist of a balanced number (but not less than seven) of representatives who are

knowledgeable and experienced with respect to the fishery concerned selected from among members of advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species and other interested parties;

"(D) evaluate the likely effects, if any, of conservation and management measures on participants in the affected fisheries and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors;

"(E) with respect to a highly migratory species for which the United States is authorized to harvest an allocation or quota or fishing mortality level under a relevant international fishery agreement, provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation, quota, or fishing mortality level;

"(F) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan;

"(G) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), comparable international fishery management measures with respect to fishing for highly migratory species; and

"(H) ensure that conservation and management measures adopted under this paragraph—

"(i) promote international conservation of the affected fishery;

"(ii) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries; and

"(iii) are fair and equitable in allocating fishing privileges among United States fishermen and not have economic allocation as the sole purpose.

"(3) In preparing any plan or amendment under this subsection, the Secretary shall consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

"(4) The Secretary may not include in any fishery management plan, or any amendment to any such plan, prepared by the Secretary under paragraph (1), a provision establishing a limited access system, unless such system is first approved by a majority of the voting members of each appropriate Council.

"(f) INDIVIDUAL TRANSFERABLE QUOTAS.—

"(1) The Secretary may not approve a fishery management plan that includes individual transferable quotas until the Secretary has promulgated guidelines under paragraph (2). Thereafter, the Secretary may approve a fishery management plan or amendment that includes individual transferable quotas only if the plan or amendment is consistent with the guidelines promulgated under paragraph (2).

"(2) The Secretary shall promulgate, after consultation with the Councils and public notice and comment, mandatory guidelines for the establishment of any individual transferable quota system. The guidelines shall—

"(A) ensure that any individual transferable quota system—

"(i) is consistent with the requirements for limited access systems under section 303(b)(6),

"(ii) promotes conservation,

"(iii) requires collection of fees from holders of individual transferable quotas under section 304(f(2),

"(iv) provides for the fair and equitable allocation of fishing privileges, and facilitates a reduction in excessive fishing capacity in the fishery;

"(v) establishes a national lien registry system for the identification, perfection, determination or lien priorities, and nonjudicial foreclosure of encumbrances or individual transferable quotas; and

"(vi) facilitates a reduction in excessive fishing capacity in the fishery;

"(B) address the characteristics of fisheries that are relevant to the design of suitable individual transferable quota systems, the nature and extent of the privilege established under an individual transferable quota system, factors in making initial allocations and determining eligibility for ownership of individual transferable quotas, limitations on the consolidation of individual transferable quotas, and methods of providing for new entrants, including, in fisheries where appropriate, mechanisms to provide a portion of the annual harvest for entry-level fishermen or small vessel owners who do not hold invididual transferrable quotas;

"(C) provide for effective monitoring and enforcement of individual transferable quota systems, including providing for the inspection of fish harvested under such systems before the fish is transported beyond the geographic area under a Council's jurisdiction or the jurisdiction of the United States;

"(D) provide for appropriate penalties for violations of individual transferable quota systems, including the revocation of individual transferable quotas for such violations; and

"(E) include recommendations for potential management options related to individual transferable quotas, including the authorization of individual units or quotas that may not be transferred by the holder, and the use of leases or auctions by the Federal government in the establishment or allocation of individual transferable or nontransferable units or quotas.

"(3) Any fishery management plan which includes individual transferable quotas that the Secretary approved on or before June 30, 1994, shall be amended by June 30, 1997, to be consistent with this subsection and any other applicable provisions of this Act.

"(4) No later than 60 days after the date of enactment of the Sustainable Fisheries Act, the Secretary shall establish an advisory panel on individual transferable quotas under section 302(g)(3) which shall be comprised of fishery scientists and representatives of the Councils, representatives of affected States and fishery dependent communities, fishery participants and conservation organizations. Such advisory panel shall provide recommendations on the guidelines required under paragraph (2), a list of all United States fisheries that may be suited for the development of limited access systems that include individual transferable quotas, and other information as the Secretary or the advisory panel deem appropriate.

"(5) An individual transferable quota does not constitute a property right. Nothing in this section or in any other provision of law shall be construed to limit the authority of the Secretary to terminate or limit such individual transferable quota at any time and without compensation to the holder of such quota. The term 'holder of an individual transferable quota' includes, (A) fishing vessel owners, fishermen, crew members or other citizens of the United States, and (B) United States fish processors.".

SEC. 112. PLAN REVIEW AND IMPLEMENTATION.

Section 304 (16 U.S.C. 1854) is amended to read as follows:

"SEC. 304. PLAN REVIEW AND IMPLEMENTATION.

"(a) ACTION BY THE SECRETARY AFTER RECEIPT OF PLAN.—

"(1) Upon transmittal by the Council to the Secretary of a fishery management plan, or amendment to such plan, the Secretary shall—

"(A) immediately commence a review of the management plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

"(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written data, views, or comments of interested persons on the document or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

"(2) In undertaking the review required under paragraph (1), the Secretary shall—

"(A) take into account the data, views, and comments received from interested persons;

"(B) consult with the Secretary of State with respect to foreign fishing; and

"(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

"(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

"(A) the applicable law with which the plan or amendment is inconsistent;

"(B) the nature of such inconsistencies; and

"(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

"(4) If the Secretary disapproves or partially approves a plan or amendment, the Council may submit a revised plan or amendment to the Secretary for review under this subsection.

"(b) ACTION ON REGULATIONS.—

"(1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, this Act and other applicable law. Within 15 days of initiating such evaluation the Secretary shall make a determination and—

"(A) if that determination is affirmative, the Secretary shall publish such regulations, with such technical changes as may be necessary for clarity and an explanation of those changes, in the Federal Register for a public comment period of 15 to 60 days; or

"(B) if that determination is negative, the Secretary shall notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent with the fishery management plan, this Act, and other applicable law.

"(2) Upon receiving a notification under paragraph (1)(B), the Council may revise the proposed regulations and submit them to the Secretary for reevaluation under paragraph (1).

"(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (1)(A). The Secretary shall consult with the Council before making any revisions to the proposed regulations, and must publish in the Federal Register an explanation of any differences between the proposed and final regulations.

"(c) DEFINITION.— For purposes of subsections (a) and (b), the term 'immediately' means on or before the 5th day after the day on which a Council transmits to the Secretary a plan, amendment, or proposed regulation that the Council characterizes as final.

"(d) SECRETARIAL PLAN REVIEW.—

"(1)(A) Whenever, under section 303(e), the Secretary prepares a fishery management plan or amendment, the Secretary shall immediately—

"(i) for a plan or amendment prepared under section 303(e)(1), submit such plan or amendment to the appropriate Council for consideration and comment;

"(ii) publish in the Federal Register a notice stating that the plan or amendment is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

"(B) Whenever a plan or amendment is submitted under subsection (1)(A)(i), the appropriate Council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 60-day period referred to in subparagraph (A)(ii). After the close of such 60-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, data, or comments submitted under subparagraph (A)(ii), may adopt such plan or amendment.

"(2) The Secretary may propose regulations in the Federal Register to implement any plan or amendment prepared by the Secretary. The comment period on proposed regulations shall be 60 days, except that the Secretary may shorten the comment period on minor revisions to existing regulations.

"(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (3). The Secretary must publish in the Federal Register an explanation of any substantive differences between the proposed and final rules. All final regulations must be consistent with the plan, with the national standards and other provisions of this Act, and with any other applicable law.

"(e) JUDICIAL REVIEW.—

"(1) Regulations promulgated by the Secretary under this Act and actions described in paragraph (2) shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a complaint for such review is filed within 30 days after the date on which the regulations are promulgated or the action is published in the Federal Register, as applicable; except that—

"(A) section 705 of such title is not applicable, and

"(B) the appropriate court shall only set aside any such regulation or action on a ground specified in section 706(2)(A), (B), (C), or (D) of such title.

"(2) The actions referred to in paragraph (1) are actions that are taken by the Secretary under regulations which implement a fishery management plan, including but not limited to actions that establish the date of closure of a fishery to commercial or recreational fishing.

"(3) (A) Notwithstanding any other provision of law, the Secretary shall file a response to any complaint filed in accordance with paragraph (1) not later than 45 days after the date the Secretary is served with that complaint, except that the appropriate court may extend the period for filing such a response upon a showing by the Secretary of good cause for that extension.

"(B) A response of the Secretary under this paragraph shall include a copy of the administrative record for the regulations that are the subject of the petition.

"(4) Upon a motion by the person who files a complaint under this subsection, the appropriate court shall assign the matter for hearing at the earliest possible date and shall expedite the matter in every possible way.

"(f) ESTABLISHMENT OF FEES.—

"(1) The Secretary shall by regulation establish the level of any fees that are authorized to be charged pursuant to section 303(b)(1). The Secretary may enter into a cooperative agreement with the States concerned under which the States administer the permit system and the agreement may provide that all or part of the fees collected under the system shall accrue to the States. The level of fees charged under this paragraph shall not exceed the administrative costs incurred in issuing the permits.

"(2)(A) Notwithstanding paragraph (1), the Secretary shall collect a fee from each person holding an individual transferable quota pursuant to a limited access system established under section 303(b)(6). Fees assessed under this paragraph shall be sufficient to recover the cost of managing the fishery to which the quota applies, including reasonable costs for salaries, training, data analysis and other costs directly related to fishery management and enforcement, up to—

"(i) four percent annually of the value of fish harvested or processed in that year under the individual transferable quota; and

"(ii) an additional 1 percent of the value of fish authorized to be harvested or processed for that year under the individual transferable quota to be assessed on a person receiving an initial quota or transferring a quota.

"(B) The Secretary, in consultation with the Councils, shall promulgate regulations, prescribing the method of determining the value of fish authorized to be taken, the amount of each fee, and the method of collecting fees. Fees collected under this paragraph shall meet the requirements of section 9701(b) of title 31, United States Code. Fees collected under this paragraph shall be an offsetting collection and shall be available only to the Secretary for the purposes of administering and implementing this Act in the region in which the fees were collected.

"(C) Persons holding individual transferable quota pursuant to limited access systems established in the surf clam and ocean quahog fishery or in the wreckfish fishery are exempt from the collection of fees under this paragraph for a period of 5 years from the date of enactment of the Sustainable Fisheries Act.

"(g) EFFECT OF CERTAIN LAWS ON CERTAIN TIME REQUIREMENTS.—The Secretary shall comply with any applicable provisions of chapter 35 of title 44, United States Code, chapter 6 of title 5, United States Code, and Executive Order Numbered 12866, dated September 30, 1993, within the time limitations specified in subsections (a) and (b).

"(h) RESPONSIBILITY OF THE SECRETARY.— The Secretary shall have general responsibility to carry out the provisions of this Act. The Secretary may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to discharge such responsibility.".

SEC. 113. ECOSYSTEM MANAGEMENT.

Section 305 (16 U.S.C. 1855) is amended to read as follows:

"SEC. 305. ECOSYSTEM MANAGEMENT.

"(a) REPORT ON STATUS OF FISHERIES.—The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council's geographical area of authority and identify those fisheries that are approaching a condition of being overfished or are overfished. For those fisheries managed under a fishery management plan, the status shall be assessed using the criteria for overfishing specified by the appropriate Council under section 303(a)(10). A fishery shall be classified as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary estimates that the fishery will become overfished within two years. Any fishery determined to be a commercial fishery failure under section 316, shall be deemed to be overfished for the purposes of subsections (a) and (b).

"(b) FISHERY RECOVERY EFFORT.—

"(1) The Council shall take immediate action to prepare a fishery management plan, a plan amendment, or proposed regulations for fisheries under such Council's authority—

"(A) to prevent overfishing of a fishery from occurring whenever such fishery is classified under subsection (a) as approaching an overfished condition, or

"(B) to stop overfishing of a fishery whenever such fishery is classified under subsection (a) as overfished, and to rebuild affected stocks of fish.

"(2) The Council shall submit a fishery management plan, amendment or proposed regulations required under paragraph (1) to the Secretary within 1 year from the date of transmittal of the report on the status of stocks under subsection (a). For a fishery that is overfished, such fishery management plan, amendment or proposed regulations shall specify a time period for stopping overfishing and rebuilding the fishery. The time period shall be as short as possible, taking into account the status and biology of the overfished stock of fish, the needs of fishery-dependent communities, and the interaction of the overfished stock of fish within the marine ecosystem. The time period may not be more than 10 years, except under extraordinary circumstances.

"(3) During the development of a fishery management plan, a plan amendment, or proposed regulations under this subsection, the Council may request that the Secretary promulgate emergency regulations under subsection (e)(2) to reduce overfishing. Any request by the Council under this paragraph shall be deemed an emergency.

"(c) FISH HABITAT.—

"(1) The Secretary, in cooperation with the Councils and the Secretary of the Interior, after notice and public comment, shall identify the essential fish habitat for each fishery for which a fishery management plan is in effect. The identification shall be based on the description of essential fish habitat contained in the plan.

"(2) Each Council shall—

"(A) notify the Secretary regarding, and may comment on and make recommendations concerning, any activity undertaken, or proposed to be undertaken, by any Federal or State agency that, in the view of the Council, may have an adverse effect on essential fish habitat of a fishery under its authority; and

"(B) comment on and make recommendations to any Federal or State department or agency concerning any such activity that, in the view of the Council is likely to substantially affect the habitat of an anadromous fishery resource under its jurisdiction.

"(3) If the Secretary receives information from a Council or determines from other sources that an action authorized, funded, carried out, or proposed to be carried out by any Federal agency may result in the destruction or adverse modification of any essential fish habitat identified under paragraph (1), the Secretary shall comment on and make recommendations to the Federal agency concerning that action.

"(4) Within 45 days after receiving a comment or recommendation under paragraphs (2) or (3) from a Council or the Secretary, a Federal agency shall provide a detailed response, in writing, to the commenting Council and the Secretary regarding the matter. The response shall include a description of measures being considered by the agency for avoiding, mitigating, or offsetting the impact of the activity on such habitat. In the case of a response that is inconsistent with a recommendation from any Council or the Secretary, the Federal agency shall explain its reasons for not following the recommendations.

"(d) GEAR EVALUATION AND NOTIFICATION OF ENTRY.—

"(1) Each Council shall submit to the Secretary by June 1, 1995, information describing (A) all fishing technologies employed under such Council's authority; and (B) all fisheries under the authority of such Council. The Secretary shall compile such information, along with information to comply with both (A) and (B) for fisheries to which section 302(a)(3) applies.

"(2) By July 15, 1995, the Secretary shall publish a proposed list of all technologies and fisheries, for each Council and for fisheries to which section 302(a)(3) applies, in the Federal Register for a public comment period of not less than 60 days. The Secretary shall include with such list specific guidelines for determining when a technology or fishery is sufficiently different from those listed as to require notification under paragraph (3). Within 30 days after the close of the public comment period the Secretary shall publish in the Federal Register a final list (including the guidelines), after taking into account any public comment received.

"(3) Beginning on the date that is 180 days after the date of the publication of the final list required under paragraph (2), no person or vessel shall employ a fishing technology or engage in a fishery that is not included on the final list for the appropriate Council or for fisheries to which section 302(a)(3) applies without first giving 90 days advance written notice of the intent to employ such unlisted technology or engage in such unlisted fishery to the appropriate Council, or the Secretary with respect to a fishery to which section 302(a)(3) applies. Such notice shall be by first class mail, return receipt requested, and shall include information on the use of the unlisted technology in other fisheries, if any, and a detailed description, including drawings, maps or diagrams if appropriate, of the unlisted technology or unlisted fishery which such person or vessel seeks to employ or engage in.

"(4) A Council may submit to the Secretary amendments to the final list published under paragraph (2) to reflect any substantial changes in the fishing technologies employed or fisheries engaged in under the authority of such Council. The Secretary may submit any amendments for fisheries to which section 302(a)(3) applies. The Secretary shall publish any such amendments in the Federal Register as proposed amendments (along with any proposed revisions to the guidelines) to the final list for a public comment period of not less than 60 days. Within 45 days of the close of the comment period, the Secretary shall publish a revised final list incorporating such proposed amendments, after taking into account any public comments received.

"(5) A Council may request the Secretary to promulgate emergency regulations under subsection (e) prohibiting any persons or vessels from employing an unlisted technology or engaging in an unlisted fishery if the appropriate Council, or the Secretary for fisheries to which section 302(a)(3) applies, determines that use of such technology or entry into such fishery would compromise the effectiveness of conservation and management efforts under this Act.

"(6) If, after providing the notice required under paragraph (3), no emergency regulations are implemented under paragraph (5), the person or vessel submitting notice under paragraph (3) may, after the required 90 day period has lapsed, employ the unlisted technology or enter the unlisted fishery to which such notice applies. The signed return receipt shall constitute adequate evidence of the submittal of such notice and the date upon which the 90-day period begins.

"(7) A violation of this subsection shall be considered a violation of section 307, punishable under section 308.

"(e) EMERGENCY ACTIONS.—

"(1) If the Secretary finds that an emergency exists involving any fishery, he may promulgate emergency regulations necessary to address the emergency, without regard to whether a fishery management plan exists for such fishery.

"(2) If a Council finds that an emergency exists involving any fishery within its jurisdiction, whether or not a fishery management plan exists for such fishery—

"(A) the Secretary shall promulgate emergency regulations under paragraph (1) to address the emergency if the Council, by unanimous vote of the voting members of the Council, requests the taking of such action; and

"(B) the Secretary may promulgate emergency regulations under paragraph (1) to address the emergency if the Council, by less than a unanimous vote, requests the taking of such action.

"(3) Any emergency regulation which changes an existing fishery management plan shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation promulgated under this subsection—

"(A) shall be published in the Federal Register together with the reasons therefor;

"(B) shall, except as provided in subparagraph (C), remain in effect for not more than 180 days after the date of publication, and may be extended by publication in the Federal Register for an additional period of not more than 180 days, provided the public has had an opportunity to comment on the emergency regulation, and, in the case of a Council recommendation for emergency regulations, the Council is actively preparing a fishery management plan, amendment, or proposed regulations to address the emergency on a permanent basis;

"(C) that responds to a public health emergency may remain in effect until the circumstances that created the emergency no longer exist, provided that the Secretary of Health and Human Services concurs with the Secretary's action and the public has an opportunity to comment after the regulation is published;

"(D) that reduces overfishing may be approved without regard to the requirements of section 301(a)(1); and

"(E) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, except for emergency regulations promulgated under paragraph (2) in which case such early termination may be made only upon the agreement of the Secretary and the Council concerned.

"(4) The Secretary may, pursuant to guidelines established by a Council in a fishery management plan, close or restrict a particular fishery covered by such fishery management plan in order to prevent overfishing or reduce bycatch. Any such guidelines shall specify appropriate means for providing timely notice to fishermen of any closure or restriction. In exercising the authority granted under this paragraph, the Secretary shall not be required to provide an opportunity for notice and comment if such closure or restriction is done in accordance with the fishery management plan guidelines and does not extend beyond the end of the current fishing period established for that fishery by the fishery management plan.".

SEC. 114. STATE JURISDICTION.

(a) Section 306(b) (16 U.S.C. 1856(b)) is amended by adding at the end the following:

"(3) If the State involved requests that a hearing be held pursuant to paragraph (1), the Secretary shall conduct such hearing prior to taking any action under paragraph (1).".

(b) Section 306(c)(1) (16 U.S.C. 1856(c)(1) is amended—

(1) by striking "and" in subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon and the word "and"; and

(3) by inserting after subparagraph (B) the following:

"(C) the owner or operator of the vessel submits reports on the tonnage of fish received from U.S. vessels and the locations from which such fish were harvested, in accordance with such procedures as the Secretary by regulation shall prescribe.".

SEC. 115. PROHIBITED ACTS.

(a) Section 307(1)(J)(i) (16 U.S.C. 1857(1)(J)(i)) is amended by striking "American Lobster Fishery Management Plan, as implemented by" and ", or any successor to that plan, implemented under this title".

(b) Section 307(1)(L) (16 U.S.C. 1857(1)(L)) is amended to read as follows:

"(L) to forcibly assault, resist, oppose, impede, intimidate, sexually harass, or interfere with any observer on a vessel under this Act, or any data collector employed by or under contract to the National Marine Fisheries Service;".

(c) Section 307(1)(M) (16 U.S.C. 1857(1)(M)) is amended to read as follows:

"(M) to engage in large-scale driftnet fishing on a vessel of the United States or a vessel subject to the jurisdiction of the United States upon the high seas beyond the exclusive economic zone of any nation or within the exclusive economic zone of the United States. Any vessel that is shoreward of the outer boundary of the exclusive economic zone of the United States or beyond the exclusive economic zone of any nation, and that has onboard gear that is capable of use for large-scale driftnet fishing, shall be presumed to be engaged in such fishing, but that presumption may be rebutted; or".

(d) Section 307(2)(A) (16 U.S.C. 1857(2)(A)) is amended to read as follows:

"(A) in fishing within the boundaries of any State, except—

"(i) recreational fishing permitted under section 201(i),

"(ii) fish processing permitted under section 306(c), or

"(iii) transshipment at sea of fish products within the boundaries of any State in accordance with a permit approved under section 204(b)(6)(A)(ii);".

(e) Section 307(2)(B) (16 U.S.C. 1857(2)(B)) is amended by striking "201(j)" and inserting "201(i)".

(f) Section 307(3) (16 U.S.C. 1857(3)) is amended to read as follows:

"(3) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer at sea directly or indirectly, or attempt to so transfer at sea, any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the exclusive economic zone or within the boundaries of any State except to the extent that the foreign fishing vessel has been permitted under section 204(b)(6)(B) or section 306(c) to receive such fish;".

(g) Section 307(4) (16 U.S.C. 1857(4)) is amended by inserting "or within the boundaries of any State" after "zone".

SEC. 116. CIVIL PENALTIES AND PERMIT SANCTIONS.

(a) The first sentence of section 308(b) (16 U.S.C. 1858(b)) is amended to read as follows: "Any person against whom a civil penalty is assessed under subsection (a), or against whom a permit sanction is imposed under subsection (g) (other than a permit suspension for nonpayment of penalty or fine), may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such order.".

(b) Section 308(g)(1)(C) (16 U.S.C. 1858(g)(1)(C)) is amended by striking the matter from "(C) any" through "overdue" and inserting the following: "(C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary, has not been paid and is overdue,".

(c) Section 308(16 U.S.C. 1858) is amended by inserting at the end thereof the following:

"(h) After deduction for any administrative or enforcement costs incurred, all funds collected under this section shall be deposited in a separate account of the Ocean Conservation Trust Fund established under section 315.".

SEC. 117. ENFORCEMENT.

(a) Section 311(e)(1) (16 U.S.C. 1861(e)(1)) is amended—

(1) by striking "fishery" each place it appears and inserting "marine";

(2) by inserting "of not less than 20 percent of the penalty collected" after "reward" in subparagraph (B), and

(3) by striking subparagraph (E) and inserting the following:

"(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), as made applicable by section 310(c) of this Act or by any other marine resource law enforced by the Secretary, to seizures made by the Secretary, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and".

(b) Section 311(e)(2) (16 U.S.C. 1861(e)(2)) is amended to read as follows:

"(2) Any person found in an administrative or judicial proceeding to have violated this Act or any other marine resource law enforced by the Secretary shall be liable for the cost incurred in the sale, storage, care, and maintenance of any fish or other property lawfully seized in connection with the violation.".

(c) Section 311 (16 U.S.C. 1861) is amended by redesignating subsection (f) as subsection (h), and by inserting the following after subsection (e):

"(f) ANNUAL REPORT ON ENFORCEMENT.—Each year at the time the President's budget is submitted to the Congress, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall, after consultation with the Councils, submit a report on the effectiveness of the enforcement of fishery management plans and regulations to implement such plans under the jurisdiction of each Council, including—

"(1) an analysis of the adequacy of federal personnel and funding resources related to the enforcement of fishery management plans and regulations to implement such plans; and

"(2) recommendations to improve enforcement that should be considered in developing amendments to plans or to regulations implementing such plans.

"(g) FISHERMEN'S INFORMATION NETWORKS.—The Secretary, in consultation with the Secretary of the department in which the Coast Guard is operating, shall conduct a program to encourage the formation of volunteer networks, to be designated as Fishermen's Information Networks, to advise on and assist in the monitoring, reporting, and prevention of violations of this Act.".

SEC. 118. NORTH PACIFIC FISHERIES CONSERVATION.

Section 313 (16 U.S.C. 1862) is amended—

(1) by striking "research plan" in the section heading and inserting "conservation"; and

(b) by adding at the end the following:

"(f) REDUCTION OF WASTE.—

"(1) No later than January 1, 1996, the North Pacific Fishery Management Council shall include in each fishery management plan under its jurisdiction conservation and management measures, including fees or other incentives, to reduce bycatch in each fishery. Notwithstanding section 304(d), in implementing this subsection the Council may recommend, and the Secretary may approve and implement any such recommendation, consistent with the other provisions of this Act, a system of fees to provide an incentive to reduce bycatch, and, in particular, economic and regulatory discards. Any such system of fees or incentives shall be fair and equitable to all fishermen and United States fish processors, and shall not have economic allocation as its sole purpose.

"(2) Not later than January 1, 1997, the North Pacific Fishery Management Council shall recommend, and the Secretary may approve and implement any such recommendation, consistent with the other provisions of this Act, conservation and management measures to ensure total catch measurement in each fishery under the Council's jurisdiction. Such conservation and management measures shall ensure the accurate enumeration of target species, economic discards, and regulatory discards.

"(3) Beginning on January 1, 1998, such conservation and management measures shall include an allocation preference to fishing and processing practices within each gear group that result in the lowest levels of economic discards, processing waste, regulatory discards, and other bycatch. In determining which practices shall be given priority, the reduction of economic discards shall be given the greatest weight, followed by processing waste (where applicable), regulatory discards and other bycatch, in that order.

"(4) In determining the level of target species catch, economic discards, regulatory discards, other bycatch, and processing waste, the Council and Secretary shall base such determinations on observer data or the best available information.

"(5) In the case of fisheries occurring under an individual transferable quota system under the jurisdiction of the North Pacific Fishery Management Council after January 1, 1998—

"(A) the Council shall designate non-target species, bycatch species, and regulatory discards for each such fishery;

"(B) the Council may not recommend, and the Secretary may not approve, any assignment or allocation of individual transferable quotas for regulatory discards, or non-target species for those fisheries, other than for each individual fishing season on an annual basis pursuant to subparagraph (C) of this subsection; and

"(C) the allocation preference required under paragraph (3) shall be implemented by giving priority in the allocation of quotas for regulatory discards and non-target species and to fishing practices that result in the lowest levels of economic discards, regulatory discards, processing waste, and other bycatch.

"(6) Nothing in this section shall be construed to preclude the North Pacific Fishery Management Council from allocating a portion of any quota for a directed fishery for use as bycatch in another fishery or fisheries, if the Council determines such allocation is necessary to prosecute a fishery, after taking into account the requirements of this section regarding reduction of bycatch and processing waste.

"(g) FULL RETENTION AND FULL UTILIZATION.—

"(1) The North Pacific Fishery Management Council shall, consistent with the other provisions of this Act, submit to the Secretary by January 1, 1997, a plan to phase-in by January 1, 2000, to the maximum extent practicable, fishery management plan amendments to require full retention by fishing vessels and full utilization by United States fish processors of all fishery resources, except regulatory discards, caught under the jurisdiction of such Council if such fishery resources cannot be quickly returned alive to the sea with the expectation of extended survival.

"(2) The plan shall include conservation and management measures to minimize processing waste and ensure the optimum utilization of target species, including standards setting minimum percentages of target species harvest which must be processed for human consumption.

"(3) In determining the maximum extent practicable, the North Pacific Fishery Management Council shall consider—

"(A) the state of available technology;

"(B) the extent to which species brought on board can be safely returned alive, with the expectation of extended survival, to the sea;

"(C) the extent to which each species is fully utilized as a target species by United States fishermen;

"(D) the impact of different processing practices on the price paid to fishermen and processors;

"(E) the nature and economic costs of each specific fishery; and

"(F) the effect of a full retention or full utilization requirement in a given fishery on other fisheries when compared with the beneficial effect of reducing economic discards and processing waste.

"(4) Notwithstanding section 304(f), the North Pacific Fishery Management Council may propose, and the Secretary may approve and implement any such recommendation, consistent with the other provisions of this Act, a system of fines or other incentives to implement this section. Any such fines or incentive system shall be fair and equitable to all fishing vessels and United States fish processors, and shall not have economic allocation as its sole purpose.

"(h) REGULATORY DISCARDS.—

"(1) Regulatory discards shall not be considered an economic discard for purposes of this section, however, the North Pacific Fishery Management Council shall seek to reduce the incidental catch of regulatory discards to the maximum extent practicable while allowing for the prosecution of fisheries under its jurisdiction.

"(2) Not later than January 1, 1996, the North Pacific Fishery Management Council shall propose, and the Secretary may approve and implement any such recommendation, consistent with the other provisions of this Act, for each groundfish fishery under the Council's jurisdiction, conservation and management measures to reduce the incidental harvest of regulatory discards to the minimum level necessary to prosecute directed fisheries for designated target species, and to otherwise meet the requirements of this section. Notwithstanding section 304(f), such conservation and management measures may include a system of fines, caps, or other incentives to reduce the incidental harvest of regulatory discards. Any system of fines or incentives under this section shall be fair and equitable to all fishing vessels and United States fish processors, and shall not have economic allocation as its sole purpose.

"(3) The North Pacific Fishery Management Council shall establish for each fishery which incidentally harvests regulatory discards under the Council's jurisdiction a cap which prevents such regulatory discards from being overfished or from being placed in risk of being overfished. Upon reaching such cap, the commercial fishery in which such regulatory discards are incidentally caught shall be closed for that season.

"(i) OBSERVER PROGRAM.—

"(1) Beginning January 1, 1996, the North Pacific Fishery Management Council shall require under the authority granted to it by subsection (a)—

"(A) 100 percent observer coverage on all fishing vessels which can safely accommodate an observer or observers, and at all United States fish processors, and

"(B) for vessels which cannot safely accommodate an observer, statistically reliable sampling of a fishing vessel's effort in each fishery in which that fishing vessel participates,

when such vessel or processor is fishing in a fishery under the North Pacific Fishery Management Council's jurisdiction. In implementing subparagraph (A) the North Pacific Fishery Management Council shall require that more than one observer be stationed on a fishing vessel or at a United States fish processor whenever the Council determines that more than one such observer is necessary to accurately monitor that vessel or processor's operation.

"(2) Observers stationed on fishing vessels or at United States fish processors under the authority of this section shall be paid by the Secretary using funds deposited in the North Pacific Fishery Observer Fund. Such payment shall not make an observer an employee of the Federal Government, unless such observer is otherwise employed by an agency of the United States.

"(3) Failure to pay the fee established by the North Pacific Fishery Management Council under subsection (a) shall be a considered a violation of section 307, punishable under section 308. Any fines collected pursuant to the authority granted by this subsection shall be deposited in the North Pacific Fishery Observer Fund account in the United States Treasury, and shall remain available until expended under the terms of that fund.

"(4) Notwithstanding sections 304(f) and subsection (b), the Secretary is authorized to recover from vessels participating in a fishery under an individual fishing quota regime or other limited access program established by the North Pacific Fishery Management Council, the full cost of any observers stationed on such vessel (including all costs for salaries, expenses, equipment, food and lodging, transportation, insurance, and analysis of observer data, plus reasonable costs for training and administrative overhead). Each participant in an individual fishing quota regime shall only be required to contribute the same proportion of the costs as that participant's quota shares represent to the total number of quota shares in such regime. To the extent that the costs recovered under this paragraph exceed the fee established by the Council under subsection (b), the Secretary shall deduct any payment by a vessel under subsection (b) from the amount owed by such vessel under this paragraph. The Secretary shall deposit any fees collected under this paragraph in the North Pacific Fishery Observer Fund account in the United States Treasury.

"(j) INDUSTRY ASSISTANCE.—

"(1) The Secretary shall submit a plan by June 1, 1995, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives to develop jointly with industry accurate methods of weighing the fish harvested by U.S. fishing vessels in fisheries under the jurisdiction of the North Pacific Fishery Management Council. Such plan shall include methods for assessing contributions from industry to fund such development, as well as recommendations from the Secretary concerning the level of funds needed to successfully implement the plan in Fiscal Year 1996.

"(2) The Secretary shall submit by January 1, 1995, to the Committee on Commerce, 1995, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a plan to develop markets and harvesting and processing techniques for arrowtooth flounder. The Secretary shall include in such plan recommendations concerning the level of funds needed to successfully implement the plan in Fiscal Year 1996.

"(3) For fiscal years 1995, 1996, 1997, and 1998, $50,000 is authorized to be appropriated for the purposes of implementing paragraph (1), and $250,000 is authorized to be appropriated for programs to implement paragraph (2).

"(k) DEFINITION.—For the purposes of this section, 'processing waste' means that portion of a fish which is processed and which could be used for human consumption or other commercial use, but which is not so used.".

SEC. 119. TRANSITION TO SUSTAINABLE FISHERIES.

(a) The Act is amended by adding at the end of title III the following:

"SEC. 315. TRANSITION TO SUSTAINABLE FISHERIES.

"(a) SUSTAINABLE DEVELOPMENT STRATEGY.—

"(1) At the discretion of the Secretary or at the request of the Governor of an affected State or a fishery dependent community, the Secretary, in consultation with the Councils and Federal agencies, as appropriate, may work with regional authorities, affected States, fishery dependent communities, the fishing industry, conservation organizations, and other interested parties, to develop a sustainable development strategy for any fishery classified as overfished under section 305(a) or determined to be a commercial fishery failure under section 316.

"(2) Such sustainable development strategy shall—

"(A) take into consideration the economic, social, and ecological factors affecting the fishery and provide recommendations for addressing such factors in the development of a fishery recovery effort under section 305(b);

"(B) identify Federal and State programs which can be used to provide assistance to fishery dependent communities during development and implementation of a fishery recovery effort;

"(C) develop a balanced and comprehensive long-term plan to guide the transition to a sustainable fishery, identifying alternative economic opportunities and establishing long-term objectives for the fishery including vessel types and sizes, harvesting and processing capacity, and optimal fleet size;

"(D) establish procedures to implement such a plan and facilitate consensus and coordination in regional decision-making; and

"(E) include any program established under subsection (b) to reduce the number of vessels or level of capital investment in the fishery.

"(2) REPORT.—The Secretary shall complete and submit to the Congress a report on any sustainable development strategy developed under this section.

"(b) BUY-OUT PROGRAM.—

"(1) The Secretary, in consultation with the appropriate Council, may develop and implement a buy-out program for fishing vessels or permits in a fishery for the purpose of reducing the number of fishing vessels and fishing effort in such fishery, if the Secretary, with the concurrence of the majority of the voting members of such Council, determines that a buy-out program is necessary for the development and implementation of a fishery recovery effort under section 305(b).

"(2) Any buy-out program developed or implemented in a fishery shall—

"(A) require a fishery management plan to be in place for such fishery that is adequate to limit access to the fishery and prevent the replacement of fishing effort removed by the buy-out program;

"(B) require fishing vessels or permits acquired under such program to be disposed of in a manner ensuring that such vessels or permits do not re-enter the fishery or contribute to excess fishing effort in other fisheries;

"(C) establish criteria for determining types and numbers of vessels which are eligible for participation in such program consistent with—

"(i) any strategy developed under subsection (a);

"(ii) the requirements of applicable fishery management plans; and

"(iii) the need to minimize program costs;

"(D) establish procedures (such as submission of owner bid under an auction system or fair market-value assessment) to be used in determining the level of payment for fishing vessels or permits acquired under the program; and

"(E) identify Federal and non-Federal mechanisms for funding the buy-out program, consistent with paragraphs (3) and (4).

"(3) The Federal share of the cost of a buy-out program implemented under this section shall not exceed 50 percent of the cost of that program. Such Federal share may be provided from monies made available under subsection (d)of this section, section 316(b) of this Act, or under section 2(b) of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)).

"(4) Notwithstanding section 305(f)(1), the Secretary, with the concurrence of a majority of the voting members of the affected Council, may establish a fee system to collect those funds required for the non-Federal share of such program that are not available from other non-Federal sources. Under such fee system, the Secretary may assess an annual fee on holders of fishing permits in the fishery for which the buy-out program is established which may not exceed 5 percent annually of the value of the fish harvested under the fishing permit. Assessments may not be used to pay any costs of administrative overhead or other costs not directly incurred in carrying out the specific buy-out program under which they are collected and shall be deposited in the Ocean Conservation Trust fund established under subsection (d).

"(5)(A) Upon completion of a proposal for a buy-out program (including any fee system to be established under this subsection), the Secretary shall immediately—

"(i) submit the proposed program and regulations necessary for its implementation to the appropriate Council for consideration and comment;

"(ii) publish in the Federal Register a notice stating that the proposed program and regulations are available and that written data, views, or comments of interested persons on the proposed program and regulations may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

"(B) During the 60-day public comment period—

"(i) the Secretary shall conduct a public hearing in each State affected by the proposed buy-out program; and

"(ii) the appropriate Council shall submit its comments and recommendations, if any, regarding the proposed program and regulations.

"(C) Within 45 days after the close of the public comment period, the Secretary, in consultation with the affected Council, shall analyze the public comment received and publish a final buy-out program and regulations for its implementation. The Secretary shall include an explanation of any substantive differences between the proposed and final program and regulations.

"(c) TASK FORCE.—The Secretary shall establish a task force to assist in the development of a sustainable development strategy or a buy-out program under this section. Such task force shall, at a minimum, consist of members of the affected communities and individuals with expertise in fishery management and conservation, economics, and sociology. Members of the task force are authorized to receive per diem and travel expenses consistent with section 302 of this Act.

"(d) OCEAN CONSERVATION TRUST FUND.—There is established in the Treasury an Ocean Conservation Trust Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purpose of carrying out the provisions of this section subject to the restrictions of this Act. This fund shall consist of all monies deposited into it in accordance with this section and section 308(h). Sums in the Fund that are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"SEC. 316. FISHERIES DISASTER RELIEF.

"(a) DETERMINATION OF FAILURE.—At the discretion of the Secretary or at the request of the Governor of an affected State or a fishery dependent community, the Secretary shall determine whether there is a commercial fishery failure due to a fishery resource disaster as a result of—

"(1) natural causes;

"(2) man-made causes beyond the control of fishery managers to mitigate through conservation and management measures; or

"(3) undetermined causes.

"(b) ECONOMIC ASSISTANCE.—

"(1) Upon the determination under subsection (a) that there is a commercial fishery failure, the Secretary is authorized to make sums available to be used by the affected State, fishery dependent community, or by the Secretary in cooperation with the affected State or fishery dependent community for—

"(A) assessing the economic and social effects of the commercial fishery failure; and

"(B) any activity that the Secretary determines is appropriate to restore the fishery or prevent a similar failure in the future and to assist a fishery dependent community affected by such failure.

"(2) Before making funds available for an activity authorized under this section, the Secretary shall make a determination that such activity will not expand the size or scope of the commercial fishery failure into other fisheries or other geographic regions.

"(c) FEDERAL COST-SHARING.—The Federal share of the cost of any activity carried out under the authority of this section shall not exceed 75 percent of the cost of that activity.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for each of the fiscal years 1995, 1996, 1997, 1998 and 1999, provided that such sums are designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) CONFORMING AMENDMENT.—Section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)(1)(A)) is amended—

(1) by striking "and" at the end of clause (ii); and

(2) by adding at the end the following new clause:

"(iii) to fund the Federal share of a buy-out program established under section 315(b) of the Magnuson Fishery Conservation and Management Act.".

TITLE II—FISHERY MONITORING AND RESEARCH

SEC. 201. CHANGE OF TITLE.

The heading of title IV (16 U.S.C. 1881 et seq.) is amended to read as follows:

"TITLE IV—FISHERY MONITORING AND RESEARCH".

SEC. 202. REGISTRATION AND DATA MANAGEMENT.

Title IV (16 U.S.C. 1881 et seq.) is amended by inserting after the title heading the following:

"SEC. 401. REGISTRATION AND DATA MANAGEMENT.

"(a) STANDARDIZED FISHING VESSEL REGISTRATION AND DATA MANAGEMENT SYSTEM.—The Secretary shall, in cooperation with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, develop recommendations for implementation of a standardized fishing vessel registration and data management system on a national or regional basis. The proposed system shall be developed after consultation with interested governmental and nongovernmental parties and shall—

"(1) be designed to standardize the requirements of vessel registration and data collection systems required by this Act, the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.), and any other marine resource law implemented by the Secretary;

"(2) integrate programs under existing fishery management plans into a nonduplicative data collection and management system;

"(3) avoid duplication of existing state, tribal, or federal systems (other than a federal system under paragraph (1)) and rely, to the maximum extent practicable, on information collected from existing systems;

"(4) provide for implementation through cooperative agreements with appropriate state, regional, or tribal entities;

"(5) establish standardized units of measurement, nomenclature, and formats for the collection and submission of information;

"(6) minimize the paperwork required for vessels registered under the system;

"(7) include all species of fish within the geographic areas of authority of the Councils and all fishing vessels, except for private recreational fishing vessels used exclusively for pleasure; and

"(8) prescribe procedures necessary to ensure the confidentiality of information collected under this section.

"(b) The registration and data management system should, at a minimum, obtain the following information for each fishing vessel—

"(1) the name and official number or other identification, together with the name and address of the owner or operator or both;

"(2) vessel capacity, type and quantity of fishing gear, mode of operation (catcher, catcher processor or other), and such other pertinent information with respect to vessel characteristics as the Secretary may require;

"(3) identification of the fisheries in which the fishing vessel participates;

"(4) estimated amounts of fish caught, and processed (if applicable) in each fishery; and

"(5) the geographic area of operations and the season or period during which the fishing vessel operates.

"(c) The registration and data management system should, at a minimum, provide basic fisheries performance data for each fishery, including—

"(1) the number of vessels participating in the fishery;

"(2) the time period in which the fishery occurs;

"(3) the approximate geographic location, or official reporting area where the fishery occurs;

"(4) a description of fishery gear used in the fishery, including the amount of such gear and the appropriate unit of fishery effort;

"(5) catch and ex-vessel value of the catch for each stock of fish in the fishery; and

"(6) the amount and types of economic and regulatory discards, and an estimate of any other bycatch.

"(d) PUBLIC COMMENT.—On or before December 1, 1995, the Secretary shall publish in the Federal Register for a 60-day public comment period, a proposal that would provide for implementation of a standardized fishing vessel registration and data collection system that meets the requirements of subsections (a) through (c). The proposal shall include—

"(1) a description of the arrangements for consultation and cooperation with the department in which the Coast Guard is operating, the States, the Councils, Marine Fisheries Commissions, the fishing industry and other interested parties; and

"(2) proposed regulations and legislation necessary to implement the proposal.

"(e) CONGRESSIONAL TRANSMITTAL.—On or March 1, 1996, the Secretary, after consideration of comments received under subsection (b), shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a proposal for implementation of a national fishing vessel registration system that includes—

"(1) any modifications made after comment and consultation;

"(2) a proposed implementation schedule; and

"(3) recommendations for any such additional legislation as the Secretary considers necessary or desirable to implement the proposed system.

"(f) REPORT TO CONGRESS.—By March 1, 1996, the Secretary shall report to Congress on the need to include private recreational fishing vessels used exclusively for pleasure into a national fishing vessel registration and data collection system. In preparing its report, the Secretary shall cooperate with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, and consult with governmental and nongovernmental parties.".

SEC. 203. DATA COLLECTION.

Section 402 is amended to read as follows:

"SEC. 402. DATA COLLECTION.

"(a) COUNCIL REQUESTS.—If a Council determines that additional information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement a data collection program for the fishery which would provide the types of information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) specified by the Council. The Secretary shall approve such a data collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for a data collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this subsection regarding a Council request shall be made within a reasonable period of time after receipt of that request.

"(b) CONFIDENTIALITY OF INFORMATION.—Any information submitted to the Secretary by any person in compliance with any requirement under this Act shall be confidential and shall not be disclosed if disclosure would significantly impair the commercial interests of the person from whom the information was obtained, except—

"(1) to Federal employees and Council employees who are responsible for fishery management plan development and monitoring;

"(2) to State employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

"(3) when required by court order;

"(4) when such information is used to verify catch under an individual transferable quota system; or

"(5) unless the Secretary has obtained written authorization from the person submitting such information to release such information and such release does not violate other requirements of this subsection.

The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with regulations promulgated under this Act.

"(c) RESTRICTION ON USE OF CERTAIN DATA.—

"(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), or the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

"(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a Federal fishing permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.".

SEC. 204. OBSERVERS.

Title IV of the Act (16 U.S.C. 1882) is amended by adding the following new section 403:

"SEC. 403. OBSERVERS.

"(a) GUIDELINES FOR CARRYING OBSERVERS.—Within one year of the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and public comment, for fishing vessels that are required to carry observers. The regulations shall include guidelines for determining—

"(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

"(2) actions which vessel owners or operators may reasonably be asked to take to render such facilities adequate and safe.

"(b) TRAINING.—The Secretary, in cooperation with State programs and the National Sea Grant College Program, shall—

"(1) establish programs to ensure that each observer receives adequate training in collecting and analyzing data necessary for the conservation and management purposes of the fishery to which such observer is assigned; and

"(2) require that an observer demonstrate competence in fisheries science and statistical analysis at a level sufficient to enable such person to fulfill the responsibilities of the position.

"(c) WAGES AS MARITIME LIENS.—Claims for observers' wages shall be considered maritime liens against the vessel and be accorded the same priority as seamen's liens under admiralty and general maritime law.".

SEC. 205. FISHERIES RESEARCH.

Section 404 is amended to read as follows:

"SEC. 404. FISHERIES RESEARCH.

"(a) IN GENERAL.—The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics of the fisheries.

"(b) STRATEGIC PLAN.—Within one year after the date of enactment of the Sustainable Fisheries Act, and at least every 3 years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the five years immediately following such publication. The plan shall—

"(1) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in subsection (c);

"(2) indicate the goals and timetables for the program described in paragraph (1); and

"(3) provide a role for commercial fishermen in such research, including involvement in field testing.

"(c) AREAS OF RESEARCH.—The areas of research referred to in subsection (a) are as follows:

"(1) Research to support fishery conservation and management, including but not limited to, research on the economics of fisheries and biological research concerning the abundance and life history parameters of stocks of fish, the interdependence of fisheries or stocks of fish, the identification of essential fish habitat, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

"(2) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize bycatch and any adverse effects on essential fish habitat and promote efficient harvest of target species.

"(3) Information management research, including the development of a fishery information base and an information management system that will permit the full use of

data in the support of effective fishery conservation and management.

"(d) PUBLIC NOTICE.—In developing the plan required under subsection (a), the Secretary shall consult with relevant Federal, State, and international agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.".

SEC. 206. INCIDENTAL HARVEST RESEARCH.

Section 405 is amended to read as follows:

"SEC. 405. INCIDENTAL HARVEST RESEARCH.

"(a) Within 9 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall, after consultation with the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council, conclude the collection of data in the program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the authority of such Councils. Within the same time period, the Secretary shall make available to the public aggregated summaries of data collected prior to June 30, 1994 under such program.

"(b) The program concluded pursuant to subsection (a) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

"(c) For stocks of fish identified pursuant to subsection (b), with priority given to stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

"(1) a program to collect and evaluate data on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

"(2) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

"(3) a program of data collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

"(d) The Secretary shall, in cooperation with affected interests, commence a program to design and evaluate the efficacy of technological devices and other changes in fishing technology for the reduction of incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing activity which are designed to be inexpensive to operate and which cause insignificant loss of shrimp. Such program shall take into account local conditions and include evaluation of any reduction in incidental mortality, as well as any reduction or increase in the retention of shrimp in the course of normal fishing activity.

"(e) The Secretary shall, within one year of completing the programs required by this subsection, submit a detailed report on the results of such programs to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(f) Any measure implemented under this Act to reduce the incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing shall, to the extent practicable,—

"(1) apply to such fishing throughout the range of the nontarget fishery resource concerned; and

"(2) be implemented first in those areas and at those times where the greatest reduction of such incidental mortality can be achieved.".

SEC. 207. REPEAL.

Section 406 (16 U.S.C. 1882) is repealed.

SEC. 208. CLERICAL AMENDMENTS.

The table of contents is amended by striking the matter relating to title IV and inserting the following:

"Sec. 315. Transition to sustainable fisheries.
"Sec. 316. Fisheries disaster relief.

"TITLE IV—FISHERY MONITORING AND RESEARCH

"Sec. 401. Registration.
"Sec. 402. Data collection.
"Sec. 403. Observers.
"Sec. 404. Fisheries research.
"Sec. 405. Incidental harvest research.".

TITLE III—FISHERIES STOCK RECOVERY FINANCING

SEC. 301. SHORT TITLE.

This title may be cited as the "Fisheries Stock Recovery Financing Act".

SEC. 302. FISHERIES STOCK RECOVERY REFINANCING.

Title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271 et seq.), is amended by adding at the end the following new section:

"Sec. 1111. (a) Pursuant to the authority granted under section 1103(a) of this title, the Secretary shall, under such terms and conditions as the Secretary shall prescribe by regulation, guarantee and make commitments to guarantee the principal of, and interest on, obligations which aid in refinancing, in a manner consistent with the reduced cash flows available to obligors because of reduced harvesting allocations during implementation of a fishery recovery effort, existing obligations relating to fishing vessels or fishery facilities. Guarantees under this section shall be subject to all other provisions of this title not inconsistent with the provisions of this section. The provisions of this section shall, notwithstanding any other provisions of this title, apply to guarantees under this section.

"(b) Obligations eligible to be refinanced under this section shall include all obligations which financed or refinanced any expenditures associated with the ownership or operation of fishing vessels or fishery facilities, including but not limited to expenditures for reconstructing, reconditioning, purchasing, equipping, maintaining, repairing, supplying, or any other aspect whatsoever of operating fishing vessels or fishery facilities, excluding only such obligations—

"(1) which were not in existence prior to the time the Secretary approved a fishery recovery effort eligible for guarantees under this section and whose purpose, in whole or in part, involved expenditures which resulted in increased vessel harvesting capacity; and

"(2) as may be owed by an obligor either to any stockholder, partner, guarantor, or other principal of such obligor or to any unrelated party if the purpose of such obligation had been to pay an obligor's preexisting obligation to such stockholder, partner, guarantor, or other principal of such obligor.

"(c) The Secretary shall refinance up to 100 percent of the principal of, and interest on, such obligations, but, in no event, shall the Secretary refinance an amount exceeding 75 percent of the unencumbered (after deducting the amount to be refinanced by guaranteed obligations under this section) market value, as determined by an independent marine surveyor, of the fishing vessel or fishery facility to which such obligations relate plus 75 percent of the unencumbered (including but not limited to homestead exemptions) market value, as determined by an independent marine surveyor, of all other supplementary collateral. The Secretary shall do so regardless of—

"(1) any fishing vessel or fishery facility's actual cost or depreciated actual cost; and

"(2) any limitations elsewhere in this title on the amount of obligations to be guaranteed or such amount's relationship to actual cost or depreciated actual cost.

"(d) Obligations guaranteed under this section shall have such maturity dates and other provisions as are consistent with the intent and purpose of this section (including but not limited to provisions for obligors to pay only the interest accruing on the principal of such obligations during the period in which fisheries stocks are recovering, with the principal and interest accruing thereon being fully amortized between the date stock recovery is projected to be completed and the maturity date of such obligations).

"(e) No provision of section 1104A(d) of this title shall apply to obligations guaranteed under this section.

"(f) The Secretary shall neither make commitments to guarantee nor guarantee obligations under this section unless—

"(1) the Secretary has first approved the fishery recovery effort, for the fishery in which vessels eligible for the guarantee of obligations under this section are participants; and

"(2) the Secretary has considered such factors as—

"(A) the projected degree and duration of reduced fisheries allocations;

"(B) the projected reduction in fishing vessel and fishery facility cash flows;

"(C) the projected severity of the impact on fishing vessels and fishery facilities;

"(D) the projected effect of the fishery recovery effort;

"(E) the provisions of any related fishery management plan under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); and

"(F) the need for and advisability of guarantees under this section;

"(3) the Secretary finds that the obligation to be guaranteed will, considering the projected effect of the fishery recovery effort involved and all other aspects of the obligor, project, property, collateral, and any other aspects whatsoever of the obligation involved, constitute, in the Secretary's opinion, a reasonable prospect of full repayment; and

"(4) the obligors agree to provide such security and meet such other terms and conditions as the Secretary may, pursuant to regulations prescribed under this section, require to protect the interest of the United States and carry out the purpose of this section.

"(g) All obligations guaranteed under this section shall be accounted for separately, in a subaccount of the Federal Ship Financing Fund to be known as the Fishery Recovery

Refinancing Account, from all other obligations guaranteed under the other provisions of this title and the assets and liabilities of the Federal Ship Financing Fund and the Fishery Recovery Refinancing Account shall be segregated accordingly.

"(h) For the purposes of this section, the term 'fishery recovery effort' means a fishery management plan, amendment, or regulations required under section 305(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(b)) to rebuild a fishery which the Secretary has determined to be a commercial fishery failure under section 316 of such Act.".

SEC. 303. FEDERAL FINANCING BANK RELATING TO FISHING VESSELS AND FISHERY FACILITIES.

Section 1104A(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(b)(2)), is amended by striking "*Provided, further,* That in the case of a fishing vessel or fishery facility, the obligation shall be in an aggregate principal amount equal to 80 percent of the actual cost or depreciated actual cost of the fishing vessel or fishery facility, except that no debt may be placed under this proviso through the Federal Financing Bank:" and inserting the following: "*Provided, further,* That in the case of a fishing vessel or fishery facility, the obligation shall be in an aggregate principal amount not to exceed 80 percent of the actual cost or depreciated actual cost of the fishing vessel or fishery facility, and obligations related to fishing vessels and fishery facilities under this title shall be placed through the Federal Financing Bank unless placement through the Federal Financing Bank is not reasonably available or placement elsewhere is available at a lower annual effective yield than placement through the Federal Financing Bank:".

SEC. 304. FEES FOR GUARANTEEING OBLIGATIONS.

Section 1104A(e) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(e)), is amended to read as follows:

"(e)(1) The Secretary is authorized to fix a fee for the guarantee of obligations under this title. Obligors shall pay all such fees to the Secretary when moneys are first advanced under guaranteed obligations and at least 60 days prior to each anniversary date thereafter. All such fees shall be computed and shall be payable to the Secretary under such regulations as the Secretary may prescribe.

"(2) For fishing vessels and fishery facilities, such fee shall—

"(A) if the obligation will not be purchased by the Federal Financing Bank, be in an amount equal to 1 percent per year of the average principal amount of the obligation outstanding (unless such obligation is issued under section 1111 of this title, in which case such fee shall be 1 and one-half percent per year of such average principal amount; and

"(B) if the obligation will be purchased by the Federal Financing Bank, be in an amount equal to 2 percent per year of the average principal amount of the obligation outstanding (unless such obligation is issued under section 1111 of this title, in which case such fee shall be 2 and one-half percent per year of such average principal amount), less any fee the Federal Financing Bank customarily charges for its services with respect to federally guaranteed obligations purchased by it and less the amount, if any, by which the interest rate on such obligation (which shall be fixed at the time the Federal Financing Bank commits to purchase such obligation) exceeds the current new issue rate on outstanding marketable obligations of the United States of comparable maturity.

"(3) For everything other than fishing vessels and fishery facilities, such fee shall—

"(A) if the security for the guarantee of an obligation under this title relates to a delivered vessel, not be less than one-half of 1 percent per year nor more than 1 percent per year of the average principal amount of such obligation outstanding, excluding the average amount (except interest) on deposit in an escrow fund created under section 1108 of this title; and

"(B) if the security for the guarantee of an obligation under this title relates to a vessel to be constructed, reconstructed, or reconditioned, not be less than one-quarter of 1 percent per year nor more than one-half of 1 percent per year of the average principal amount of such obligation outstanding, excluding the average amount (except interest) on deposit in an escrow fund created under section 1108 of this title. For the purposes of this subsection, if the security for the guarantee of an obligation under this title relates both to a delivered vessel or vessels and to a vessel or vessels to be constructed, reconstructed, or reconditioned, the principal amount of such obligation shall be prorated in accordance with regulations prescribed by the Secretary. The regulations to be prescribed by the Secretary under this subsection shall provide a formula for determining the creditworthiness of obligors under which the most creditworthy obligors pay a fee computed on the lowest allowable percentage and the least creditworthy obligors pay a fee which may be computed on the highest allowable percentage (the range of creditworthiness to be based on obligors which have actually issued guaranteed obligations).".

SEC. 305. SALE OF ACQUIRED COLLATERAL.

Section 1104A(a)(3) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a)(3)), is amended by inserting after "financing" the following: "(without requiring subsidy cost ceiling or other authorization under the Federal Credit Reform Act of 1990)".

TITLE IV—ATLANTIC TUNAS CONVENTION ACT

SEC. 401. SHORT TITLE.

This title may be cited as the "Atlantic Tunas Convention Authorization Act of 1994".

SEC. 402. RESEARCH AND MONITORING ACTIVITIES.

(a) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 90 days after the date of enactment of this Act, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives—

(1) identifying current governmental and nongovernmental research and monitoring activities on Atlantic bluefin tuna and other highly migratory species;

(2) describing the personnel and budgetary resources allocated to such activities; and

(3) explaining how each activity contributes to the conservation and management of Atlantic bluefin tuna and other highly migratory species.

(b) RESEARCH AND MONITORING PROGRAM.—Section 3 of the Act of September 4, 1980 (16 U.S.C. 971i) is amended—

(1) by amending the section heading to read as follows:

"SEC. 3. RESEARCH ON ATLANTIC HIGHLY MIGRATORY SPECIES.";

(2) by striking the last sentence;

(3) by inserting "(a) BIENNIAL REPORT ON BLUEFIN TUNA.—" before "The Secretary of Commerce shall"; and

(4) by adding at the end the following:

"(b) HIGHLY MIGRATORY SPECIES RESEARCH AND MONITORING.—

"(1) Within 6 months after the date of enactment of the Atlantic Tunas Convention Authorization Act of 1994, the Secretary of Commerce, in cooperation with the advisory committee established under section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) and in consultation with the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas (referred to elsewhere in this section as the 'Commission') and the Secretary of State, shall develop and implement a comprehensive research and monitoring program to support the conservation and management of Atlantic bluefin tuna and other highly migratory species that shall—

"(A) identify and define the range of stocks of highly migratory species in the Atlantic Ocean, including Atlantic bluefin tuna; and

"(B) provide for appropriate participation by nations which are members of the Commission.

"(2) The program shall provide for, but not be limited to—

"(A) statistically designed tagging studies;

"(B) genetic and biochemical stock analyses;

"(C) population censuses carried out through aerial surveys of fishing grounds;

"(D) adequate observer coverage and port sampling of commercial and recreational fishing activity;

"(E) collection of comparable real-time data on commercial and recreational catches and landings through the use of permits, logbooks, landing reports for charter operations and fishing tournaments, and programs to provide reliable estimates of the catch by private anglers;

"(F) studies of the life history parameters of Atlantic bluefin tuna and other highly migratory species;

"(G) integration of data from all sources and the preparation of data bases to support management decisions; and

"(H) other research as necessary.".

SEC. 403. ADVISORY COMMITTEE PROCEDURES.

Section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) is amended—

(1) by inserting "(a)" before "There"; and

(2) by adding at the end the following:

"(b)(1) A majority of the members of the advisory committee shall constitute a quorum, but one or more such members designated by the advisory committee may hold meetings to provide for public participation and to discuss measures relating to the United States implementation of Commission recommendations.

"(2) The advisory committee shall elect a Chairman for a 2-year term from among its members.

"(3) The advisory committee shall meet at appropriate times and places at least twice a year, at the call of the Chairman or upon the request of the majority of its voting members, the United States Commissioners, the Secretary, or the Secretary of State.

"(4)(A) The Secretary shall provide to the advisory committee in a timely manner such administrative and technical support services as are necessary for the effective functioning of the committee.

"(B) The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

"(5) The advisory committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, the Magnuson

Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures.".

SEC. 404. REGULATIONS.

Section 6(c)(3) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(3)) is amended by adding "or fishery mortality level" after "quota of fish" in the last sentence.

SEC. 405. FINES AND PERMIT SANCTIONS.

Section 7(e) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971(e)) is amended to read as follows:

"(e) The civil penalty and permit sanctions of section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858) are hereby made applicable to violations of this section as if they were violations of section 307 of that Act.".

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS.

"Sec. 10. There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, the following sums:

"(1) For fiscal year 1994, $2,750,000, of which $50,000 are authorized in the aggregate for the advisory committee established under section 4 and the species working groups established under section 4A, and $1,500,000 are authorized for research activities under this Act.

"(2) For fiscal year 1995, $4,000,000, of which $62,000 are authorized in the aggregate for such advisory committee and such working groups, and $2,500,000 are authorized for such research activities.

"(3) For fiscal year 1996, $4,000,000 of which $75,000 are authorized in the aggregate for such advisory committee and such working groups, and $2,500,000 are authorized for such research activities.".

SEC. 407. REPORT.

The Atlantic Tuna Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended by adding at the end thereof the following new section:

"ANNUAL REPORT.

"Sec. 11. By April 1, 1995, and annually thereafter, the Secretary of Commerce shall prepare and transmit to Congress a report, that—

"(1) details for the 10-year period the catches and imports to the United States of highly migratory species (including tunas, swordfish, marlin and sharks) from nations fishing on Atlantic stocks of such species that are subject to management by the International Commission for the Conservation of Atlantic Tunas;

"(2) identifies those fishing nations whose harvests are incompatible with existing international conservation and management programs;

"(3) for those nations whose harvests are determined to be incompatible under paragraph (2), certifies pursuant to section 8 of the Fishermen's Protective Act (22 U.S.C. 1978) that such nations are conducting fishing operations in a manner which diminishes the effectiveness of an international fishery conservation and management regime; and

"(4) describes reporting requirements established by the Secretary to ensure that imported fish products are in compliance with all international management measures, including minimum size requirements, established by the Commission and other international fishery organizations to which the United States is a party.".

SUMMARY OF MAJOR PROVISIONS—SUSTAINABLE FISHERIES ACT OF 1994

The Sustainable Fisheries Act amends the Magnuson Fishery Conservation and Management Act to extend the authorization of appropriations through 1999, strengthen conservation efforts and rebuild depleted fisheries. Major provisions include the following:

FISHERIES CONSERVATION

Preventing overfishing and rebuilding depleted fisheries. The bill would require the Councils to define overfishing in each fishery management plan. It also calls for an annual report by the Secretary of Commerce (Secretary) on the status of fisheries under each Council and identification of fisheries that are overfished or approaching an overfished condition. A Council would have one year to come up with a plan to stop overfishing and rebuild the fishery, and the Secretary would be required to step in if the Council fails to act. While a plan is under development, interim measures to reduce overfishing could be implemented as emergency measures. To deal with the socioeconomic issues associated with rebuilding the fishery, the Secretary would work with the states and local communities to develop a sustainable development strategy.

Habitat protection. The Secretary would be required to identify essential habitat for all fisheries under management, based on information provided by the Councils. The bill also would expand the existing authority of the Councils and the Secretary to comment and make recommendations to Federal agencies concerning actions that would affect essential fish habitat. In addition, the Secretary and the Councils would develop and publish a list of fisheries and approved gear for each fishery. Ninety days prior to using a new gear type or expanding into a new fishery, a fisherman would be required to provide a Council with notice and the opportunity to take emergency action to restrict such gear or fishery.

Bycatch and waste reduction. The bill defines categories of bycatch and requires any fishery management plan developed by a Council or the Secretary to (1) assess the level of bycatch occurring in each fishery, including the effect of a fishery on other stocks of fish in the ecosystem; and (2) minimize, to the extent practicable, mortality caused by waste and discards of unusable fish. In addition, the bill would encourage plans to provide incentives for fishing vessels within each gear group to reduce bycatch. Finally, provisions are included to establish specific timetables for reducing waste and promoting full utilization in the North Pacific fisheries.

MANAGEMENT PROCESS

Streamlining the approval process for plans and regulations. The bill simplifies and tightens the approval process for fishery management plans and regulations.

Council procedures and conflicts of interest. The bill proposes a number of changes to increase Council accountability, requiring that (1) a Council member be recused from voting on a Council decision "which would have a significant and predictable effect" on any financial interest; (2) each Council keep detailed minutes of each Council meeting, including a complete and accurate description of discussions and conclusions; (3) each Council record all roll call votes; and (4) with advance notice and member concurrence, each Council consider additional agenda items at meetings. The bill also establishes procedures for appointing a treaty tribe representative to the Pacific Council.

Individual transferable quotas (ITQS). The bill prohibits the Secretary from approving ITQ programs until guidelines are established to deal with ITQ-related issues such as initial allocation, eligibility for participation, consolidation, and access by entry-level fishermen. To cover management costs of an ITQ program, the Secretary would be authorized to establish an annual fee of up to four percent of the value of fish harvested or processed, and an additional one percent transfer fee. A 5-year fee exemption is provided in the existing programs for the surf clam and ocean quahog fishery and the wreckfish fishery. The bill also clarifies that ITQs do not convey a property right and are subject to termination at any time.

Scientific basis for management. The bill includes several provisions to improve monitoring and data collection for fisheries management: (1) development (in cooperation with the states and the Councils) of a federal plan for a standardized vessel registration and data management system to ensure the availability of basic fisheries data; (2) establishment of an observer training and education program and regulations for vessels that carry observers, including protection from sexual harassment; and (3) an expanded research program to provide better biological information and to study the effects of fishing on the marine ecosystem.

Enforcement. The bill would (1) establish voluntary fishermen's networks to promote compliance with fishery regulations; (2) require an annual report analyzing the adequacy and effectiveness of enforcement efforts; (3) encourage a reward of not less than 20 percent of any penalty assessed for information leading to an enforcement action; (4) require that fishery management plans identify needed enforcement.

TRANSITION TO SUSTAINABLE FISHERIES

Fisheries disaster relief. At the discretion of the Secretary or at the request of an affected State or community, the Secretary would (1) determine whether there is a commercial fishery failure; and (2) make relief funds available to the affected State or community, with the Federal cost-share not to exceed 75 percent.

Vessel or permit buy-out. As part of a sustainable development strategy and to limit effort in an overfished fishery, the Secretary would be authorized to develop and implement a vessel or permit buy-out program requiring that (1) a fishery management plan is in place that limits access to the fishery and prevents replacement of fishing effort that is bought out; (2) vessels or permits acquired under the buy-out program cannot reenter the fishery or contribute to excess fishing effort in other fisheries; and (3) criteria are established to determine types and numbers of vessels which are eligible for participation. The bill specifies that the Federal share of a buy-out program may not exceed 50 percent of the program costs. Working with the Council, the Secretary would be authorized to establish a fee system to collect the non-Federal share of funds for the program. Annual fees could not exceed 5 percent of the value of fish harvested in the fishery and would be deposited into a newly established Ocean Conservation Trust fund.

Vessel refinancing. The bill would amend Title XI of the Merchant Marine Act of 1936 to provide for a fisheries stock recovery refinancing program under the Fishing Vessel Obligation Guarantee Program. For those fisheries in which a fishery recovery effort is

under way, the Secretary would be authorized to refinance vessel mortgages, providing for an extended repayment schedule (including interest-only payments) that reflects reduced vessel income due to stock rebuilding restrictions.

INTERNATIONAL MANAGEMENT

Highly migratory species. The bill would require the Secretary to establish advisory panels for development of fishery management plans under the Magnuson Act for Atlantic tuna and other highly migratory species. It also amends the Atlantic Tunas Convention Act to (1) extend the authorization of appropriations; (2) make penalties and permit sanctions consistent with the Magnuson Act; (3) establish advisory committee procedures and expand research efforts; (4) require an annual report on international trade activities and calling for trade sanctions on nations that fail to comply with ICCAT.

Mr. STEVENS. Mr. President, I am pleased to introduce this bill with Senator KERRY to improve and reauthorize the Magnuson Fishery Conservation and Management Act.

Over the past 2 years, the Commerce Committee has held hearings in Massachusetts and Alaska, as well as numerous hearings here in Washington, DC.

Since the last time we revised the Magnuson Act in 1990, the act has been successful in many of the ways we intended.

However, it is clear from our review that the act needs fine turning in places, and major improvements in other areas.

This bill includes;

First, significant new mandates to reduce waste in U.S. fisheries;

Second, new conflict-of-interest and recusal requirements for regional Fishery Management Council members, as well as other reforms to the Council process; and

Third, the creation of guidelines for individual transferable quotas, or ITQs, to help define and clarify these new management tools.

In addressing these and other issues, Senator KERRY and I incorporated many of the suggestions from our colleagues on the Commerce Committee and fishermen in our home states, as well as from the administration, industry groups, conservation groups, and various members of both the House and Senate.

We hope the bill we introduce today will provide a solid foundation on which to build a consensus for the reauthorization of the Magnuson Act in the 104th Congress.

WASTE REDUCTION

This bill incorporates virtually all of the operative provisions of S. 2022, a bill I introduced earlier this year to address the problems of fishery waste in the North Pacific.

The bill we are introducing today includes specific definitions of "bycatch," "economic discards" and "regulatory discards" (which we in the North Pacific call prohibited species) in order to clearly delineate between specific types of waste which may require different solutions.

The bill requires each Council to assess bycatch and to minimize the mortality caused by economic and regulatory discards in each fishery which is managed by that Council.

For the North Pacific, the bill also requires the Council to incorporate provisions in its fishery management plans to reduce bycatch, economic and regulatory discards, as well as to reduce "processing waste" and to achieve full retention and full utilization by specific dates.

These are the same mandates for the North Pacific and the same basic definitions as those that I included in S. 2022 earlier this year.

This bill directs the Council to take additional steps to ensure that the valuable fishery resources off Alaska are available for future generations.

In addition to the provisions from my earlier bill, we have also included a definition of "overfishing."

This bill requires each Council to include in each fishery management plan specific criteria for determining when a fishery under that Council's jurisdiction is overfished or is approaching such a condition. The intent of this provision is to get the Councils to establish a mechanism to provide sufficient warning so that preventive measures can be put in place before any additional fisheries become overfished.

The Secretary of Commerce (Secretary) will use the criteria to report to Congress (and back to the Councils) on the fisheries within each Council's geographical area that are overfished or approaching a condition of being overfished.

Each Council will have one year to submit appropriate fishery management plans, amendments or regulations to prevent the overfishing of fisheries approaching that condition, and to stop overfishing and begin to rebuild fisheries that are already overfished.

If the Council fails to take action to begin this process within one year, the Secretary will be required to prepare an appropriate fishery management plan or plan amendment.

We know from current National Marine Fisheries Service data that our fisheries in Alaska are not overfished.

I have included these provisions to make sure Alaska's fisheries remain healthy for generations to come.

COUNCIL REFORM

This bill includes measures to reform the Council process, perhaps the most difficult issue we've dealt with in this reauthorization process.

Our bill would prevent Council members from voting on certain matters that benefit them financially, but does not require such widespread recusal by Council members that the Councils would be rendered ineffective.

I still believe in the basic goal Senator Magnuson and I had for the original Act—that the Councils should be made up of the people directly affected by fishery management decisions.

Senator KERRY and I have incorporated valuable portions of other proposals, including the administration's proposal (which was based on the existing Alaska Board of Fisheries recusal process) and Senator Breaux's proposal in the recusal section of our bill.

This bill requires Council members to recuse themselves from voting on Council decisions that would have a "significant and predictable effect" on their financial interests.

A Council decision would be considered to have a "significant and predictable effect" if there is "a close causal link between the Council decision and an expected benefit, shared only by a minority of persons within the same industry sector or gear group, to the financial interest" of the Council member.

This language will prevent Council members from voting on decisions benefitting only themselves or a minority in their gear group, but will not prevent them from expressing views or from voting on most matters on which they have expertise.

The Secretary, with the concurrence of the Council, will select a "designated official" with Federal conflict-of-interest experience to attend Council meetings and make determinations regarding the financial interests of members.

These determinations will occur at the request of the affected Council member or at the initiative of the designated official.

Any Council member can ask for a review by the Secretary of a determination, but this review will not be treated as cause for the invalidation or reconsideration by the Secretary of a Council decision.

This bill also increases Council reporting requirements, and includes a provision to require a roll call vote for the record at the request of any Council member.

ITQ'S

This bill establishes a definition and sets out general requirements for any individual transferable quota [ITQ] systems.

The bill prohibits the Secretary from approving any more ITQ plans until ITQ guidelines are completed.

Under this bill, the Secretary would be required to convene an advisory panel within 60 days to provide recommendations for the ITQ guidelines.

The guidelines would be required to, among other things:

First, provide for the fair and equitable allocation of fishing privileges;

Second, provide for the collection of fees of up to four percent annually of the value of the fish harvested or processed under an ITQ, and an additional one percent of the value of fish harvested or processed by a person receiving an initial quota or transferring a quota;

Third, address methods for providing for new entrants, including, in fisheries where appropriate, mechanisms to provide a portion of the annual harvest for entry-level fishermen or small vessel owners who do not hold an ITQ; and

Fourth, provide requirements for the effective monitoring and enforcement of ITQ systems, and provide for penalties, including the revocation of fishing privileges under ITQ systems.

This bill clearly states that an ITQ does not constitute a property right, and that no provision of law shall be construed to limit the ability of the Secretary to terminate or limit an ITQ at any time and without compensation.

The bill also specifies that holders of an ITQ may include fishing vessel owners, fishermen, crew members or other citizens of the United States, as well as United States fish processors.

By requiring the ITQ guidelines to provide for the fair and equitable allocation of fishing privileges, we mean for the Councils and Secretary to fairly and equitably allocate fishing privileges among all of the potential holders of ITQs if the potential holders have historically participated in the fishery.

The bill provides for increased fees to be assessed on any ITQ in order to, among other things, allow the Secretary to recoup the increased enforcement costs of ITQ systems, and to extract from ITQ holders an increased rent commensurate with the increased privilege received from ITQs.

The bill requires existing ITQ plans to come into compliance with these ITQ guidelines by June 30, 1997.

OTHER PROVISIONS

I will briefly mention some of the other improvements to the Magnuson Act included in our bill.

The bill simplifies the review process by the Secretary of fishery management plans and amendments by eliminating a preliminary evaluation required under current law.

The bill also provides a framework for Secretarial review of proposed regulations, providing the councils and with greater certainty that proposed regulations and regulatory amendments will be implemented in a timely manner.

There are provisions providing for the increased protection of fishery habitat essential to the life cycles of fish stocks.

The bill also defines the term, "fishery dependent community" for purposes of its use in the Magnuson Act as part of a new national standard and for purposes of defining who is eligible for programs included in new sections 315 and 316 of the Magnuson Act.

A new national standard is added to the Magnuson Act which requires all Councils "to take into account the importance of the harvest of fishery resources to fishery dependent communities" in recommending conservation and management measures under each fishery management plan.

This new standard has been included in the bill as a means of ensuring that all of the Councils consider measures like the closure of the Gulf of Alaska pollock fishery to certain vessels, community development quotas, and the allocation of Pacific whiting to shore plants that have already been included in fishery management plans by the North Pacific Council and the Pacific Council in order to address the needs of certain fishery dependent communities.

Another provision requires consideration be given to fishery dependent communities in developing any limited access systems, including ITQ systems.

By including these new provisions we intend to increase the Councils' consideration of the needs of coastal communities dependent on fishery resources.

In addition, the bill contains important new sections authorizing vessel and permit buy-back programs, and providing authorization for emergency funding for fishery failures which affect fishery dependent communities.

Funding for buy-back programs could be self-financed at up to 5 percent of the value of the fishery, but we also authorize the use of certain Federal funding for buy-outs and emergencies under certain circumstances.

These new measures will provide a relief mechanism for fisheries when factors beyond the control of the Council result in a fishery failure, and will provide an additional tool to address overcapitalization problems.

I look forward to working with Senator KERRY and our colleagues on the Commerce Committee on this legislation over the fall, and hope to reintroduce this bill as early in the session of Congress as possible.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2539. A bill to provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Energy and Natural Resources.

THE LANDLESS NATIVES LAND ALLOCATION ACT

• Mr. MURKOWSKI. Mr. President, I introduce S. 2539, the Landless Native Land Allocation Act of 1994. I am joined by Senator TED STEVENS in introducing this important legislation.

This legislation is intended to provide entitlements pursuant to the Alaska Native Claims Settlement Act [ANCSA] for five southeastern Alaska Native communities, namely Haines, Ketchikan, Petersburg, Tenakee, and Wrangell. These five communities were inadvertently and unfairly left off the list of Native communities eligible for ANCSA benefits at the time of its enactment in 1971. The facts and circumstances do not justify this omission and I call for Congress to rectify the situation.

Mr. President, as many Members of this body know, ANCSA was enacted to recognize and settle the aboriginal claims by Alaska Natives to the lands they had lived on and used for hundreds of years.

In passing ANCSA, Congress created a settlement mechanism that called for the establishment of Native corporations to receive and manage the $1 billion and 44 million acres awarded under the Act. Congress intended these corporations to be the vehicles through which Alaska natives could use their settlement resources to integrate into the non-Native economy. In many cases Native corporations have established businesses, effectively managed their resources, and prospered financially. Furthermore, Native corporations have served an important role as stewards of the ANCSA lands. These lands are an essential element of the traditional Native culture and way of life.

The five Native communities of Haines, Ketchikan, Petersburg, Tanakee, and Wrangell inexplicably were not listed under ANCSA as communities eligible to form village or urban corporations. This omission occurred despite the five communities comprising over 20 percent of the southeast Alaska regional corporation's shareholders and displaying historic cultural and traditional Alaska Native qualities.

For two decades, the five communities have attempted to appeal their omission from the ANCSA list of eligible Native communities. Such attempts have yet to find success as ANCSA does not provide southeast Native communities with the same right to eligibility determinations enjoyed by villages in other areas of Alaska. This lack of evenhanded treatment is unexplained in the Act or legislative record.

As a result of the unclear history surrounding the eligibility determination of the five communities, Congress, in 1993, directed the Secretary of the Interior to prepare a report examining whether it had inadvertently denied ANCSA eligibility to the five communities of Haines, Ketchikan, Petersburg, Tenakee, and Wrangell. A thorough review of ANCSA and its legislative history provides the basis for the report.

Published in February 1994, the report finds that the five communities do not differ significantly from southeast Alaska native communities that were permitted to form village or urban corporations under ANCSA. The five are similar to other southeast Alaska communities in the percentage of natives residing in the communities as well as historic native use and occupation of the land in and around the communities.

Furthermore, the report indicates that the omission of the five communities from ANCSA is not clearly explained in any provision of ANCSA or

in the accompanying conference report.

Mr. President, the report examines many other comparisons of the five communities with eligible southeast Native communities. Based on the overall data, it is apparent that Congress inadvertently omitted the five communities from ANCSA eligibility. If there are reasons for this omission, they are not clearly explained or evidenced in the RECORD and thus should be given no weight. Therefore, Congress should act to rectify the inequity suffered by the five communities for the last two decades by providing them the right to incorporate and receive benefits under ANCSA.

Specifically, S. 2539 would allow the five communities to incorporate as village corporations under ANCSA. These newly created corporations will be known as Landless Village Corporations. Each Native member of the five communities will be issued shares of stock in their respective Landless Village Corporation in proportion to the amount of shares they hold in Sealaska Corporation.

The Landless Village Corporations will be allowed to select certain public lands and receive from the Secretary of the Interior a patent for the surface rights thereto pursuant to ANCSA. As provided for in ANCSA, the Native regional corporation for southeast Alaska will receive the subsurface rights of the selected lands. Eligible public lands will include all public land in southeast Alaska excluding: (i) Conservation system units, (ii) lands within the Tongass National Forest Land Management Plan timber base, (iii) lands withdrawn for national defense purposes, (iv) lands selected by Regional, Village or Urban Corporations pursuant to ANCSA; and, (v) lands selected pursuant to the Alaska Statehood Act.

The number of acres of and a Landless Village Corporation may select will be based on the number of Natives enrolled to it. This population based method is the same method used by most village corporations under ANCSA and will best provide the Landless Village Corporations with an equitable settlement. It will result in the corporations being allowed to select from three to seven townships each.

It is well known that the lumber mills of southeast Alaska and the people who work for them have suffered significant economic hardship because of Forest Service timber policies aimed at reducing timber sales in southeast. Therefore, in order to support the sagging economy of southeastern Alaska, it will be required that timber harvested from lands selected by the Landless Village Corporations be processed in southeastern Alaska.

While I realize that there is no time for the 103d Congress to consider this legislation at this late date in the session, much work has gone into the development of this bill and I believe it is important that it receive the distinction of being introduced. I introduced this legislation at the request of my constituents in southeast Alaska and have developed this bill in close consultations with their representatives.

I intend to introduce this legislation next year and seek a hearing before the Senate Energy and Natural Resources Committee. Introduction in this Congress will provide the concepts in this bill with important public exposure that will serve the interested parties and enhance the opportunity for constructive public comment as we work to produce a fair settlement with broad public support.

Therefore, Mr. President, I ask my colleagues to support me in this effort to provide these Native communities in southeast Alaska with their just ANCSA entitlement and I look forward to their cooperation.●

By Mr. D'AMATO (for himself and Mr. MOYNIHAN):

S. 2541. A bill to amend the Age Discrimination in Employment Act of 1967 to protect elected judges against discrimination based on age; to the Committee on Labor and Human Resources.

AGE DISCRIMINATION ACT AMENDMENTS

Mr. MOYNIHAN. Mr. President, I join my colleague from New York in introducing this important piece of legislation which would correct an anomaly in the Age Discrimination in Employment Act of 1967 relating to the mandatory retirement of elected judges. Today, many able jurists in my State are unjustly prevented from serving on the bench past the Page of 70. This simple legislation would eliminate this vestige of age discrimination by allowing these judges to determine at their own will when they should retire.

Mr. President, I might remind the Senate that there are more than a dozen distinguished Members of this body over the age of 70, and a few others well on their way. The Senate benefits from their wisdom and experience much the same as my State would profit from the sagacity of our elder jurists.

I urge my colleagues to support this bill.

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 2542. A bill to require the Secretary of the Interior to carry out an expedited negotiated settlement of the land rights of the owners of patented and unpatented mining claims within Denali National Parks, AK, and for other purposes; to the Committee on Energy and Natural Resources.

DENALI MINING CLAIMS ACT

● Mr. MURKOWSKI. Mr. President, I introduce the Denali Mining Claims Act of 1994. Last November, I held an oversight hearing in Anchorage focusing on the difficulties that many Alaskan miners face when their claims are surrounded by Federal lands. Over 20 miners testified that Government regulations and procedures prevented them from mining their land even though they were promised continued access and use when the Alaska National Interest Lands Conservation Act was passed in 1980.

Mr. President, the legislation I am introducing today should help resolve many of the inholding problems within Denali National Park and Preserve. When Denali was expanded by ANILCA, the Kantishna Hills Mining District and two others were surrounded by Federal lands. At that time there were over 250 claims in the Kantishna area. Since 1980 the effect of litigation relating to the management of such mining claims has resulted in the cessation of all significant mining operations in the Denali area. ANILCA specifically allowed for mining in Kantishna, yet the National Park Service has literally vetoed all attempts to mine within the area.

I would prefer that these miners be permitted to mine their claims, a right statutorily preserved under ANILCA, however, I recognize that the National Park Service does not support mining in Denali and will continue to delay and deny plans of operation submitted in accordance with established guidelines.

To resolve this dispute, my bill directs the Park Service to enter into good faith negotiations with individuals who have patents or mining claims that they wish to sell in an attempt to find a reasonable way to compensate people for valuable claims or land that they are prevented from using. If good faith negotiations fail, my bill provides two additional options: A miner can choose to receive an offer of a fixed price per acre based upon a 1983 congressionally mandated study of the value of the claims, or the Secretary of Interior will use the Federal court system to institute a takings procedure. This bill provides three options to create as much flexibility as possible in the process.

Should negotiations between the Park Service and claims owner fail, the Park Service would be required and the land owner allowed to make a statement to Congress giving their reasons for the failure to reach an acceptable compromise. If a fixed price per acre is used to set a fair price, the valuation would vary depending upon the status of the claim and whether it had direct road access and/or a view of Denali itself. The final option would be use of the court system in a takings procedure.

Mr. President, previous attempts by the National Park Service to set a fair price on the value of mineral claims in Denali Park and Preserve have resulted in heated disputes over valuations and the length of time required to reach an

agreement. My legislation would provide a balanced approach to determining mineral and land values within a reasonable time frame. It would do so using a fixed process including good-faith, full disclosure negotiations. If a mining claim holder choose not to participate in this process, there would be no penalty.

Mr. President, I realize this legislation will not be acted on before the adjournment of this Congress. I am introducing this bill now to give interested parties an opportunity to comment upon it. It is my intention to reintroduce this bill at the beginning of the next Congress and work toward its passage.●

By Mr. CRAIG:

S. 2544. A bill to amend the Fair Labor Standards Act of 1938 to adjust the maximum hour exemption for agricultural employees, and for other purposes; to the Committee on Labor and Human Resources.

FAIR LABOR STANDARDS ACT AMENDMENT

● Mr. CRAIG. Mr. President, I am introducing a bill today, which this body previously approved as an amendment to the first bill amending the Fair Labor Standards Act [FLSA] that the Senate passed in 1989. This bill would solve a problem with the interpretation of a provision of the FLSA, clarifying that the maximum hour exemption for agricultural employees applies to water delivery organizations that supply 90 percent or more of their water for agricultural purposes.

This would restore an exemption that was always intended by Congress. The Department of Labor has interpreted current law to require that 100 percent of water delivered by a qualified delivery organization must be used for agricultural purposes. Thus, if even a negligible amount of water ends up being used for road watering, lawn and garden irrigation, stock consumption, or construction, for example, delivery organizations are assessed severe penalties.

The exemption for overtime pay requirements was placed in the FLSA to protect the economies of rural areas. Irrigation has never been, and can not be, a 40-hour-per-week undertaking. During the summer, water must be managed and delivered continually. Later in the year, following the harvest, the work load is light, consisting mainly of maintenance duties.

Winter compensation and time off traditionally have been the method of compensating for longer summer hours. Without this exemption, delivery organizations are forced to lay off their employees in the winter. Therefore, my bill would benefit farmers and employees, who would continue to earn a year-round income.

I realize that it is late in the legislative season in the 103d Congress and action on this legislation is not likely this year. However, I am introducing the bill at this time to make my colleagues aware of my intention to pursue this matter in the 104th Congress, and will reintroduce similar legislation on the first day of that Congress.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO THE FAIR LABOR STANDARDS ACT OF 1938.

Section 13(b)(12) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(b)(12)) is amended by inserting after "water" the following: ", at least 90 percent of which is ultimately delivered".●

By Mr. FEINGOLD:

S. 2545. A bill to provide for home community-based services for individuals with disabilities; read the first time.

HOME AND COMMUNITY-BASED SERVICES

● Mr. FEINGOLD. Mr. President, I am pleased to introduce legislation to reform fundamentally the way we provide long-term care in this country.

Though it is now apparent that we will not be voting on comprehensive health care reform in this Congress, we must not wait to renew our efforts. We should begin now, and universal coverage should again be our goal.

This legislation does not attempt to reform our health care system in any comprehensive way, but it does serve to resume the debate, and can be a first step in the effort to pursue universal coverage.

The measure I introduce today establishes a system of consumer-oriented, consumer-directed home and community-based long-term care services for individuals with disabilities of any age.

It is similar in large part to the excellent long-term care proposal included in President Clinton's health care reform bill, as well as to the provisions establishing home and community long-term care benefits in the versions of the President's bill that came out of the Senate Committee on Labor and Human Resources and the Senate Committee on Finance—provisions which had, in both cases, strong bipartisan support.

The legislation also provides for a hospital—long-term care link program, identical to legislation I introduced on S. 52, on the first day for introduction of bills in the 103d Congress.

The hospital link program is based on our experiences in Wisconsin where such an initiative has helped direct individuals needing long-term care services out of hospitals, and back to their own homes and communities. The hospital discharge is a critical point of embarkation into the long-term care system for many, and this program helps ensure that those who leave a hospital in need of long-term care can receive needed services where they prefer them—in their own homes.

Mr. President, a key feature of this proposal that was not included in the other long-term care proposals I mentioned is a provision that allows States to channel any savings this program generates in Medicaid funded long-term care services, institutional or home and community-based, back into this more flexible program.

In the long run, it is this provision that will result in helping to realize significant savings from a system that currently diverts the vast majority of its resources into expensive institutional settings.

Mr. President, though I am convinced that long-term care reform can result in substantial savings to taxpayers—and this has been our experience in Wisconsin—this measure does not depend on hypothetical savings for funding. This measure includes funding provisions consisting of specific cuts within the health care system, scored by the Congressional Budget Office to reduce Federal spending under Medicare.

Included in these proposed spending cuts is a provision that reduces the subsidy we give to the wealthiest Medicare beneficiaries through the Part B premium. The provision would peg the part B premium to income, reducing the taxpayer subsidy for individuals with income over $100,000 and couples with income over $125,000. The subsidy would be completely phased out for individuals with income over $125,000, and couples with income over $150,000.

Other savings are generated from a 10 percent home health copayment applied to individuals with incomes over 150 percent of poverty—still only half the copayment charged on other Medicare services; modifying the routine cost limits for home health services; correcting an anomaly in the formula for certain outpatient services; and continuing the reduction in the inpatient hospital capital reimbursement formula.

Over the 5 fiscal years for which we have estimates, the proposal actually generates savings in each year, producing a total of $6.1 billion in deficit reduction over that time.

This must be the approach we adopt, even for those proposals which experience shows will result in savings. By including funding provisions in this long-term care reform measure, we ensure that any additional savings produced by these reforms will only further reduce the budget deficit.

Mr. President, I am proud to note that, like the President's initial long-term care proposal and the provisions reported out of the two Senate Committees, this legislation has its roots in Wisconsin's own Community Options Program, known as COP—a program for which I was privileged to advocate

and help develop during my 10 years as chair of the Wisconsin Senate Aging Committee.

With the end of the 103d Congress upon us, and our efforts to achieve comprehensive health care reform set aside, at least for the remainder of this session, long-term care reform generally, and this proposal in particular, can serve to renew the best parts of the health care debate.

In part, we saw this potential in the efforts of the two Senate committees charged with primary oversight of health care reform. Both reported out proposals that included language very much like this legislation, and in each case, that language has strong bipartisan support.

Beyond that, this proposal can be adopted independently of the comprehensive reform that has been unable to attract a majority of Members. It is my hope that the momentum generated by reforming long-term care will help advance the push for comprehensive health care reform.

In the respect, Mr. President, though it can be considered apart from the remainder of health care reform, long-term care reform contains the important elements around which a consensus might develop for a more general health care bill. This means that not only can it proceed apart from comprehensive reform I strongly support, it can serve to reinitiate the push for broader changes.

Home and community-based long-term care reform can be the building block of health care reform.

This proposal will not interrupt my own efforts to push for those elements of health care reform that can deliver needed services and contain costs. To the contrary, it can accomplish both.

Mr. President, I have spoken with nearly every Member of the Senate about our experience in Wisconsin with long-term care reform, and I hope to have reached all 100 Members, including new members, by early next year. The Wisconsin experience is especially relevant, because, as a State, we have faced many of the same problems that continue to face the Nation as whole in long-term care.

In the early 1980's, Wisconsin's Medicaid nursing home bed use was soaring, as was the daily cost of a nursing home bed. Long-term care consumers had little choice but to enter an institution, or go without services. There was almost a complete absence of community- or home-based long-term care services for people in need of support. With the rare exception of a few older disabled with sufficient resources to create their own system of in-home supports, many were forced to enter nursing homes who would have liked to have remained in their own home or community.

Mr. President, there are many compelling reasons to reform our long-term care system. Over the past year and a half, I have detailed many of them on this floor: an exploding population of the very old the largest group of long-term care consumers; the relative shrinking population of caregivers; the growing need of family caregivers to leave the workplace just to provide a loved one with long-term care; and, the enormous and rapidly increasing expense to the taxpayer of institutional settings.

But, Mr. President, as with health care reform overall, I view long-term care reform first and foremost as a matter of simple humanity.

Chuck McLaughlin, of Black River Falls, WI, administers COP for Jackson County. He testified before a Senate Special Committee on Aging field hearing that I chaired about what that lack of choice meant to many disabled, especially elderly disabled, before Wisconsin implemented its reforms.

McLaughlin noted that though some "eventually adjusted to leaving their home and entering the nursing home, others never did." Although McLaughlin noted he had no hard empirical evidence to document the fact, he said he "saw people who simply willed their own death because they saw no reason to continue living. These were people who were literally torn from familiar places and familiar people. People who had lost the continuity of their lives an the history that so richly made them into who they were now. People who had nurtured and sustained their communities which in turn provided them with positive status in that community. These people were truly uprooted and adrift in an alien environment lacking familiar sights, sounds, and smells. Many of them simply chose not to live any longer. While the medical care they received was excellent, they were more than just their physical bodies. Modern medicine has no treatment for a broken spirit."

For many, the current long-term care system is so inflexible as to be inhumane. Even if there were no other reason to reform the system, this would be reason enough.

Mr. President, earlier this year I issued a report reviewing the long-term care provisions in President Clinton's health care reform legislation and offering some modifications to those provisions based on our experience in Wisconsin. In that report, I noted that Chuck McLaughlin's eloquent comments on the importance of community were not only relevant, even central, to the discussion of long-term care, but that community must also be the focus of our efforts in many other areas of our lives as Americans and citizens of the world.

More often than not the critical problems we face stem from a failure of community or a lack of adequate community-based supports—for example jobs and economic development, housing, crime, and education. These and other important issues are usually confronted by policymakers at a distance—from Washington, DC or from State capitals—essentially from the top down.

Too often we have tried to solve these challenges, including the challenge of long-term care, by imposing a superior vision from above. This approach has led to inflexible systems that cannot react to individual needs, but rather end up trying to fit the problem to their own structure.

This fundamental weakness is often enough to undermine even the sometimes huge amounts of money that we send along to implement the problem solving. It also limits the kinds of creative approaches those who are on the ground may see as useful and necessary.

Mr. President, just as we have a need to reinvent Government to respond more efficiently to our country's needs and our national deficit, we need also to reinvent community to allow flexible approaches to problems, and to allow those in the community to exercise their judgment as to how best solve problems.

A great strength of the Wisconsin long-term care reforms, and especially the home and community-based benefit on which this legislation is based, is that it is focused on the needs of the individual. Eligibility is based on disability, not age, and services are centered around the particular needs of an individual rather than the perceived needs of a group.

The approach this legislation takes is not only appropriate, but integral to the nature of long-term care.

Mr. President, of the many misconceptions about long-term care, and about programs providing long-term care services, the most common may be that long-term care is purely an elderly issue. Though it is true that the elderly make up the largest part of the population needing long-term care services, long-term care is an issue facing millions of younger Americans. Approximately 1 million children have severe disabilities that require long-term care services. And over and above those individuals needing assistance for long-term disabilities, long-term care is a problem facing millions more who are the family members of those needing services.

Beyond the wide variety of ages among those needing long-term care services, there is a diversity of needs. From families that have a loved one afflicted with Alzheimer's disease, to individuals with cerebral palsy, however well intentioned, no one set of services will address the individual needs of long-term care consumers.

Rather than trying to fit all of those needing long-term care services into one set of services, this legislation lets

case managers, working with long-term care consumers and their families, determine just what services are needed and preferred.

Mr. President, as I noted earlier, the failure to enact comprehensive reform will not interrupt my own efforts to advocate and push individual reforms that respond to the needs of people and that can help save our health care system money.

In home and community-based long-term care reform, we can achieve both.

For taxpayers in Wisconsin, COP has saved hundreds of millions of dollars that would otherwise have been spent on more expensive institutional care.

During the 1980's, while the rest of the country was experiencing a 24-percent increase in Medicaid nursing home bed use, in Wisconsin, thanks to COP and other long-term care reforms, Medicaid nursing home bed use actually dropped by 19 percent. In a recent talk, Governor Tommy Thompson noted that COP saves Wisconsin taxpayers about $25 million every year.

At the same time, COP has provided an alternative that allows the consumer to participate in determining the plan of care and in the execution of that plan.

But, Mr. President, at the Federal level we are behind Wisconsin and other States in reforming long-term care. Despite the creation of community-based Medicaid waiver programs, consumers are, for the most part, faced with few alternatives.

In describing the situation facing many elderly disabled prior to the establishment of COP in Wisconsin, Chuck McLaughlin testified before our field hearing that he recalled thinking that when he went to a grocery store there was incredible choice. He noted that there was an entire aisle for various types of pet food.

But when elderly people encountered frailty and the loss of independence, there were basically no choices for them. It seemed a sad reality that society was doing a much better job at providing meal diversity to cats and dogs than we were doing at offering choices to humans facing frailty.

Mr. President, that is the plight of many needing long-term care today. The disabled of all ages have few options. And those that they do have are expensive for them, for their families, and for taxpayers.

This proposal will begin to provide the flexibility that state and local government needs to provide consumer-oriented and consumer-directed services.

Mr. President, I want to emphasize that I will continue to strive for comprehensive health care reform, reform that establishes universal coverage—guaranteed coverage that can never be taken away.

This legislation by itself will not achieve that coverage, but it can be an important first step to achieving it.

More importantly, long-term care reform is necessary for its own sake. The 10 million individuals, and their families, who need long-term care today foreshadow a need that will expand as our population ages.

Nearly every American lacks long-term care security. Only the very will off are not exposed to the risk of financial devastation that can accompany a long-term disability.

Now is the time to begin putting a structure in place that builds on the informal family supports, that provides the needed consumer-oriented and consumer-directed services, and that will save taxpayers money.

Mr. President, I ask unanimous consent that the text of the bill, along with a summary of the legislation, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2545

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Home and Community-Based Services for Individuals with Disabilities Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
TITLE I—HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES
Sec. 102. State programs for home and community-based services for individuals with disabilities.
Sec. 103. State plans.
Sec. 104. Individuals with disabilities defined.
Sec. 105. Home and community-based services covered under State plan.
Sec. 106. Cost sharing.
Sec. 107. Quality assurance and safeguards.
Sec. 108. Advisory groups.
Sec. 109. Payments to States.
Sec. 110. Appropriations; allotments to States.
Sec. 111. Federal evaluations.
Sec. 112. Information and technical assistance grants relating to development of hospital linkage programs.
TITLE II—PROVISIONS RELATING TO MEDICARE
Sec. 201. Recapture of certain health care subsidies received by high-income individuals.
Sec. 202. Imposition of 10 percent copayment on home health services under medicare.
Sec. 203. Reduction in payments for capital-related costs for inpatient hospital services.
Sec. 204. Elimination of formula-driven overpayments for certain outpatient hospital services.
Sec. 205. Reduction in routine cost limits for home health services.

TITLE I—HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES

SEC. 102. STATE PROGRAMS FOR HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Each State that has a plan for home and community-based services for individuals with disabilities submitted to and approved by the Secretary under section 103(b) may receive payment in accordance with section 109.

(b) ENTITLEMENT TO SERVICES.—Nothing in this title shall be construed to create a right to services for individuals or a requirement that a State with an approved plan expend the entire amount of funds to which it is entitled under this title.

(c) DESIGNATION OF AGENCY.—Not later than 6 months after the date of enactment of this Act, the Secretary shall designate an agency responsible for program administration under this title.

SEC. 103. STATE PLANS.

(a) PLAN REQUIREMENTS.—In order to be approved under subsection (b), a State plan for home and community-based services for individuals with disabilities must meet the following requirements:

(1) STATE MAINTENANCE OF EFFORT.—

(A) IN GENERAL.—A State plan under this title shall provide that the State will, during any fiscal year that the State is furnishing services under this title, make expenditures of State funds in an amount equal to the State maintenance of effort amount for the year determined under subparagraph (B) for furnishing the services described in subparagraph (C) under the State plan under this title or the State plan under title XIX of the Social Security Act.

(B) STATE MAINTENANCE OF EFFORT AMOUNT.—

(i) IN GENERAL.—The maintenance of effort amount for a State for a fiscal year is an amount equal to—

(I) for fiscal year 1996, the base amount for the State (as determined under clause (ii)) updated through the midpoint of fiscal year 1996 by the estimated percentage change in the index described in clause (iii) during the period beginning on October 1, 1994, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in the index described in clause (iii) during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(ii) STATE BASE AMOUNT.—The base amount for a State is an amount equal to the total expenditures from State funds made under the State plan under title XIX of the Social Security Act during fiscal year 1994 with respect to medical assistance consisting of the services described in subparagraph (C).

(iii) INDEX DESCRIBED.—For purposes of clause (i), the Secretary shall develop an index which reflects the projected increases in spending for services under subparagraph (C), adjusted for differences among the States.

(C) MEDICAID SERVICES DESCRIBED.—The services described in this subparagraph are the following:

(i) Personal care services (as described in section 1905(a)(24) of the Social Security Act).

(ii) Home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915 of such Act.

(iii) Home and community care furnished to functionally disabled elderly individuals under section 1929 of such Act.

(iv) Community supported living arrangements services under section 1930 of such Act.

(v) Services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary.

(2) ELIGIBILITY.—

(A) IN GENERAL.—Within the amounts provided by the State and under section 109 for such plan, the plan shall provide that services under the plan will be available to individuals with disabilities (as defined in section 104(a)) in the State.

(B) INITIAL SCREENING.—The plan shall provide a process for the initial screening of an individual who appears to have some reasonable likelihood of being an individual with disabilities. Any such process shall require the provision of assistance to individuals who wish to apply but whose disability limits their ability to apply. The initial screening and the determination of disability (as defined under section 104(b)(1)) shall be conducted by a public agency.

(C) RESTRICTIONS.—

(i) IN GENERAL.—The plan may not limit the eligibility of individuals with disabilities based on—

(I) income;

(II) age;

(III) residential setting (other than with respect to an institutional setting, in accordance with clause (ii)); or

(IV) other grounds specified by the Secretary;

except that through fiscal year 2004, the Secretary may permit a State to limit eligibility based on level of disability or geography (if the State ensures a balance between urban and rural areas).

(ii) INSTITUTIONAL SETTING.—The plan may limit the eligibility of individuals with disabilities based on the definition of the term "institutional setting", as determined by the State.

(D) CONTINUATION OF SERVICES.—The plan must provide assurances that, in the case of an individual receiving medical assistance for home and community-based services under the State medicaid plan under title XIX of the Social Security Act as of the date a State's plan is approved under this title, the State will continue to make available (either under this plan, under the State medicaid plan, or otherwise) to such individual an appropriate level of assistance for home and community-based services, taking into account the level of assistance provided as of such date and the individual's need for home and community-based services.

(3) SERVICES.—

(A) NEEDS ASSESSMENT.—Not later than the end of the second year of implementation, the plan or its amendments shall include the results of a statewide assessment of the needs of individuals with disabilities in a format required by the Secretary. The needs assessment shall include demographic data concerning the number of individuals within each category of disability described in this title, and the services available to meet the needs of such individuals.

(B) SPECIFICATION.—Consistent with section 105, the plan shall specify—

(i) the services made available under the plan,

(ii) the extent and manner in which such services are allocated and made available to individuals with disabilities, and

(iii) the manner in which services under the plan are coordinated with each other and with health and long-term care services available outside the plan for individuals with disabilities.

(C) TAKING INTO ACCOUNT INFORMAL CARE.—A State plan may take into account, in determining the amount and array of services made available to covered individuals with disabilities, the availability of informal care. Any individual plan of care developed under section 105(b)(1)(B) that includes informal care shall be required to verify the availability of such care.

(D) ALLOCATION.—The State plan—

(i) shall specify how services under the plan will be allocated among covered individuals with disabilities,

(ii) shall attempt to meet the needs of individuals with a variety of disabilities within the limits of available funding,

(iii) shall include services that assist all categories of individuals with disabilities, regardless of their age or the nature of their disabling conditions,

(iv) shall demonstrate that services are allocated equitably, in accordance with the needs assessment required under subparagraph (A), and

(v) shall ensure that—

(I) the proportion of the population of low-income individuals with disabilities in the State that represents individuals with disabilities who are provided home and community-based services either under the plan, under the State medicaid plan, or under both, is not less than,

(II) the proportion of the population of the State that represents individuals who are low-income individuals.

(E) LIMITATION ON LICENSURE OR CERTIFICATION.—The State may not subject consumer-directed providers of personal assistance services to licensure, certification, or other requirements which the Secretary finds not to be necessary for the health and safety of individuals with disabilities.

(F) CONSUMER CHOICE.—To the extent feasible, the State shall follow the choice of an individual with disabilities (or that individual's designated representative who may be a family member) regarding which covered services to receive and the providers who will provide such services.

(4) COST SHARING.—The plan shall impose cost sharing with respect to covered services in accordance with section 106.

(5) TYPES OF PROVIDERS AND REQUIREMENTS FOR PARTICIPATION.—The plan shall specify—

(A) the types of service providers eligible to participate in the program under the plan, which shall include consumer-directed providers of personal assistance services, except that the plan—

(i) may not limit benefits to services provided by registered nurses or licensed practical nurses; and

(ii) may not limit benefits to services provided by agencies or providers certified under title XVIII of the Social Security Act; and

(B) any requirements for participation applicable to each type of service provider.

(6) PROVIDER REIMBURSEMENT.—

(A) PAYMENT METHODS.—The plan shall specify the payment methods to be used to reimburse providers for services furnished under the plan. Such methods may include retrospective reimbursement on a fee-for-service basis, prepayment on a capitation basis, payment by cash or vouchers to individuals with disabilities, or any combination of these methods. In the case of payment to consumer-directed providers of personal assistance services, including payment through the use of cash or vouchers, the plan shall specify how the plan will assure compliance with applicable employment tax and health care coverage provisions.

(B) PAYMENT RATES.—The plan shall specify the methods and criteria to be used to set payment rates for—

(i) agency administered services furnished under the plan; and

(ii) consumer-directed personal assistance services furnished under the plan, including cash payments or vouchers to individuals with disabilities, except that such payments shall be adequate to cover amounts required under applicable employment tax and health care coverage provisions.

(C) PLAN PAYMENT AS PAYMENT IN FULL.—The plan shall restrict payment under the plan for covered services to those providers that agree to accept the payment under the plan (at the rates established pursuant to subparagraph (B)) and any cost sharing permitted or provided for under section 106 as payment in full for services furnished under the plan.

(7) QUALITY ASSURANCE AND SAFEGUARDS.—The State plan shall provide for quality assurance and safeguards for applicants and beneficiaries in accordance with section 107.

(8) ADVISORY GROUP.—The State plan shall—

(A) assure the establishment and maintenance of an advisory group under section 108(b), and

(B) include the documentation prepared by the group under section 108(b)(4).

(9) ADMINISTRATION AND ACCESS.—

(A) STATE AGENCY.—The plan shall designate a State agency or agencies to administer (or to supervise the administration of) the plan.

(B) COORDINATION.—The plan shall specify how it will—

(i) coordinate services provided under the plan, including eligibility prescreening, service coordination, and referrals for individuals with disabilities who are ineligible for services under this title with the State medicaid plan under title XIX of the Social Security Act, titles V and XX of such Act, programs under the Older Americans Act of 1965, programs under the Developmental Disabilities Assistance and Bill of Rights Act, the Individuals with Disabilities Education Act, and any other Federal or State programs that provide services or assistance targeted to individuals with disabilities, and

(ii) coordinate with health plans.

(C) ADMINISTRATIVE EXPENDITURES.—Effective beginning with fiscal year 2004, the plan shall contain assurances that not more than 10 percent of expenditures under the plan for all quarters in any fiscal year shall be for administrative costs.

(D) INFORMATION AND ASSISTANCE.—The plan shall provide for a single point of access to apply for services under the State program for individuals with disabilities. Notwithstanding the preceding sentence, the plan may designate separate points of access to the State program for individuals under 22 years of age, for individuals 65 years of age or older, or for other appropriate classes of individuals.

(10) REPORTS AND INFORMATION TO SECRETARY; AUDITS.—The plan shall provide that the State will furnish to the Secretary—

(A) such reports, and will cooperate with such audits, as the Secretary determines are needed concerning the State's administration of its plan under this title, including the processing of claims under the plan, and

(B) such data and information as the Secretary may require in a uniform format as specified by the Secretary.

(11) USE OF STATE FUNDS FOR MATCHING.—The plan shall provide assurances that Federal funds will not be used to provide for the State share of expenditures under this title.

(12) HEALTH CARE WORKER REDEPLOYMENT.—The plan shall provide for the following:

(A) Before initiating the process of implementing the State program under such plan, negotiations will be commenced with labor unions representing the employees of the affected hospitals or other facilities.

(B) Negotiations under subparagraph (A) will address the following:

(i) The impact of the implementation of the program upon the workforce.

(ii) Methods to redeploy workers to positions in the proposed system, in the case of workers affected by the program.

(C) The plan will provide evidence that there has been compliance with subparagraphs (A) and (B), including a description of the results of the negotiations.

(13) TERMINOLOGY.—The plan shall adhere to uniform definitions of terms, as specified by the Secretary.

(b) APPROVAL OF PLANS.—The Secretary shall approve a plan submitted by a State if the Secretary determines that the plan—

(1) was developed by the State after a public comment period of not less than 30 days, and

(2) meets the requirements of subsection (a).

The approval of such a plan shall take effect as of the first day of the first fiscal year beginning after the date of such approval (except that any approval made before January 1, 1996, shall be effective as of January 1, 1996). In order to budget funds allotted under this title, the Secretary shall establish a deadline for the submission of such a plan before the beginning of a fiscal year as a condition of its approval effective with that fiscal year. Any significant changes to the State plan shall be submitted to the Secretary in the form of plan amendments and shall be subject to approval by the Secretary.

(c) MONITORING.—The Secretary shall annually monitor the compliance of State plans with the requirements of this title according to specified performance standards. In accordance with section 109(e), States that fail to comply with such requirements may be subject to a reduction in the Federal matching rates available to the State under section 109(a) or the withholding of Federal funds for services or administration until such time as compliance is achieved.

(d) TECHNICAL ASSISTANCE.—The Secretary shall ensure the availability of ongoing technical assistance to States under this section. Such assistance shall include serving as a clearinghouse for information regarding successful practices in providing long-term care services.

(e) REGULATIONS.—The Secretary shall issue such regulations as may be appropriate to carry out this title on a timely basis.

SEC. 104. INDIVIDUALS WITH DISABILITIES DEFINED.

(a) IN GENERAL.—For purposes of this title, the term 'individual with disabilities' means any individual within one or more of the following categories of individuals:

(1) INDIVIDUALS REQUIRING HELP WITH ACTIVITIES OF DAILY LIVING.—An individual of any age who—

(A) requires hands-on or standby assistance, supervision, or cueing (as defined in regulations) to perform three or more activities of daily living (as defined in subsection (d)), and

(B) is expected to require such assistance, supervision, or cueing over a period of at least 90 days.

(2) INDIVIDUALS WITH SEVERE COGNITIVE OR MENTAL IMPAIRMENT.—An individual of any age—

(A) whose score, on a standard mental status protocol (or protocols) appropriate for measuring the individual's particular condition specified by the Secretary, indicates either severe cognitive impairment or severe mental impairment, or both;

(B) who—

(i) requires hands-on or standby assistance, supervision, or cueing with one or more activities of daily living,

(ii) requires hands-on or standby assistance, supervision, or cueing with at least such instrumental activity (or activities) of daily living related to cognitive or mental impairment as the Secretary specifies, or

(iii) displays symptoms of one or more serious behavioral problems (that is on a list of such problems specified by the Secretary) which create a need for supervision to prevent harm to self or others; and

(C) who is expected to meet the requirements of subparagraphs (A) and (B) over a period of at least 90 days.

Not later than 2 years after the date of enactment of this Act, the Secretary shall make recommendations regarding the most appropriate duration of disability under this paragraph.

(3) INDIVIDUALS WITH SEVERE OR PROFOUND MENTAL RETARDATION.—An individual of any age who has severe or profound mental retardation (as determined according to a protocol specified by the Secretary).

(4) YOUNG CHILDREN WITH SEVERE DISABILITIES.—An individual under 6 years of age who—

(A) has a severe disability or chronic medical condition that limits functioning in a manner that is comparable in severity to the standards established under paragraphs (1), (2), or (3), and

(B) is expected to have such a disability or condition and require such services over a period of at least 90 days.

(5) STATE OPTION WITH RESPECT TO INDIVIDUALS WITH COMPARABLE DISABILITIES.—Not more than 2 percent of a State's allotment for services under this title may be expended for the provision of services to individuals with severe disabilities that are comparable in severity to the criteria described in paragraphs (1) through (4), but who fail to meet the criteria in any single category under such paragraphs.

(b) DETERMINATION.—

(1) IN GENERAL.—In formulating eligibility criteria under subsection (a), the Secretary shall establish criteria for assessing the functional level of disability among all categories of individuals with disabilities that are comparable in severity, regardless of the age or the nature of the disabling condition of the individual. The determination of whether an individual is an individual with disabilities shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this title and by using a uniform protocol consisting of an initial screening and a determination of disability specified by the Secretary. A State may not impose cost sharing with respect to a determination of disability. A State may collect additional information, at the time of obtaining information to make such determination, in order to provide for the assessment and plan described in section 105(b) or for other purposes.

(2) PERIODIC REASSESSMENT.—The determination that an individual is an individual with disabilities shall be considered to be effective under the State plan for a period of not more than 6 months (or for such longer period in such cases as a significant change in an individual's condition that may affect such determination is unlikely). A reassessment shall be made if there is a significant change in an individual's condition that may affect such determination.

(c) ELIGIBILITY CRITERIA.—The Secretary shall reassess the validity of the eligibility criteria described in subsection (a) as new knowledge regarding the assessments of functional disabilities becomes available. The Secretary shall report to the Congress on its findings under the preceding sentence as determined appropriate by the Secretary.

(d) ACTIVITY OF DAILY LIVING DEFINED.—For purposes of this title, the term 'activity of daily living' means any of the following: eating, toileting, dressing, bathing, and transferring.

SEC. 105. HOME AND COMMUNITY-BASED SERVICES COVERED UNDER STATE PLAN.

(a) SPECIFICATION.—

(1) IN GENERAL.—Subject to the succeeding provisions of this section, the State plan under this title shall specify—

(A) the home and community-based services available under the plan to individuals with disabilities (or to such categories of such individuals), and

(B) any limits with respect to such services.

(2) FLEXIBILITY IN MEETING INDIVIDUAL NEEDS.—Subject to subsection (e)(2), such services may be delivered in an individual's home, a range of community residential arrangements, or outside the home.

(b) REQUIREMENT FOR NEEDS ASSESSMENT AND PLAN OF CARE.—

(1) IN GENERAL.—The State plan shall provide for home and community-based services to an individual with disabilities only if the following requirements are met:

(A) COMPREHENSIVE ASSESSMENT.—

(i) IN GENERAL.—A comprehensive assessment of an individual's need for home and community-based services (regardless of whether all needed services are available under the plan) shall be made in accordance with a uniform, comprehensive assessment tool that shall be used by a State under this paragraph with the approval of the Secretary. The comprehensive assessment shall be made by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this title.

(ii) EXCEPTION.—The State may elect to waive the provisions of clause (i) if—

(I) with respect to any area of the State, the State has determined that there is an insufficient pool of entities willing to perform comprehensive assessments in such area due to a low population of individuals eligible for home and community-based services under this title residing in the area, and

(II) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(B) INDIVIDUALIZED PLAN OF CARE.—

(i) IN GENERAL.—An individualized plan of care based on the assessment made under subparagraph (A) shall be developed by a public or nonprofit agency that is specified under the State plan and that is not a provider of home and community-based services under this title, except that the State may elect to waive the provisions of this sentence if, with respect to any area of the State, the State has determined there is an insufficient pool of entities willing to develop individualized plans of care in such area due to a low population of individuals eligible for home and community-based services under this title residing in the area, and the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(ii) REQUIREMENTS WITH RESPECT TO PLAN OF CARE.—A plan of care under this subparagraph shall—

(I) specify which services included under the individual plan will be provided under the State plan under this title,

(II) identify (to the extent possible) how the individual will be provided any services specified under the plan of care and not provided under the State plan,

(III) specify how the provision of services to the individual under the plan will be coordinated with the provision of other health care services to the individual, and

(IV) be reviewed and updated every 6 months (or more frequently if there is a change in the individual's condition).

The State shall make reasonable efforts to identify and arrange for services described in subclause (II). Nothing in this subsection shall be construed as requiring a State (under the State plan or otherwise) to provide all the services specified in such a plan.

(C) INVOLVEMENT OF INDIVIDUALS.—The individualized plan of care under subparagraph (B) for an individual with disabilities shall—

(i) be developed by qualified individuals (specified in subparagraph (B));

(ii) be developed and implemented in close consultation with the individual (or the individual's designated representative); and

(iii) be approved by the individual (or the individual's designated representative).

(c) REQUIREMENT FOR CARE MANAGEMENT.—

(1) IN GENERAL.—The State shall make available to each category of individuals with disabilities care management services that at a minimum include—

(A) arrangements for the provision of such services, and

(B) monitoring of the delivery of services.

(2) CARE MANAGEMENT SERVICES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the care management services described in paragraph (1) shall be provided by a public or private entity that is not providing home and community-based services under this title.

(B) EXCEPTION.—A person who provides home and community-based services under this title may provide care management services if—

(i) the State determines that there is an insufficient pool of entities willing to provide such services in an area due to a low population of individuals eligible for home and community-based services under this title residing in such area; and

(ii) the State plan specifies procedures that the State will implement in order to avoid conflicts of interest.

(d) MANDATORY COVERAGE OF PERSONAL ASSISTANCE SERVICES.—The State plan shall include, in the array of services made available to each category of individuals with disabilities, both agency-administered and consumer-directed personal assistance services (as defined in subsection (h)).

(e) ADDITIONAL SERVICES.—

(1) TYPES OF SERVICES.—Subject to subsection (f), services available under a State plan under this title may include any (or all) of the following:

(A) Homemaker and chore assistance.

(B) Home modifications.

(C) Respite services.

(D) Assistive devices, as defined in the Technology Related Assistance for Individuals with Disabilities Act.

(E) Adult day services.

(F) Habilitation and rehabilitation.

(G) Supported employment.

(H) Home health services.

(I) Transportation.

(J) Any other care or assistive services specified by the State and approved by the Secretary that will help individuals with disabilities to remain in their homes and communities.

(2) CRITERIA FOR SELECTION OF SERVICES.—The State electing services under paragraph (1) shall specify in the State plan—

(A) the methods and standards used to select the types, and the amount, duration, and scope, of services to be covered under the plan and to be available to each category of individuals with disabilities, and

(B) how the types, and the amount, duration, and scope, of services specified, within the limits of available funding, provide substantial assistance in living independently to individuals within each of the categories of individuals with disabilities.

(f) EXCLUSIONS AND LIMITATIONS.—A State plan may not provide for coverage of—

(1) room and board,

(2) services furnished in a hospital, nursing facility, intermediate care facility for the mentally retarded, or other institutional setting specified by the Secretary, or

(3) items and services to the extent coverage is provided for the individual under a health plan or the medicare program.

(g) PAYMENT FOR SERVICES.—In order to pay for covered services, a State plan may provide for the use of—

(1) vouchers,

(2) cash payments directly to individuals with disabilities,

(3) capitation payments to health plans, and

(4) payment to providers.

(h) PERSONAL ASSISTANCE SERVICES.—

(1) IN GENERAL.—For purposes of this title, the term 'personal assistance services' means those services specified under the State plan as personal assistance services and shall include at least hands-on and standby assistance, supervision, cueing with activities of daily living, and such instrumental activities of daily living as deemed necessary or appropriate, whether agency-administered or consumer-directed (as defined in paragraph (2)). Such services shall include services that are determined to be necessary to help all categories of individuals with disabilities, regardless of the age of such individuals or the nature of the disabling conditions of such individuals.

(2) CONSUMER-DIRECTED.—For purposes of this title:

(A) IN GENERAL.—The term 'consumer-directed' means, with reference to personal assistance services or the provider of such services, services that are provided by an individual who is selected and managed (and, at the option of the service recipient, trained) by the individual receiving the services.

(B) STATE RESPONSIBILITIES.—A State plan shall ensure that where services are provided in a consumer-directed manner, the State shall create or contract with an entity, other than the consumer or the individual provider, to—

(i) inform both recipients and providers of rights and responsibilities under all applicable Federal labor and tax law; and

(ii) assume responsibility for providing effective billing, payments for services, tax withholding, unemployment insurance, and workers' compensation coverage, and act as the employer of the home care provider.

(C) RIGHT OF CONSUMERS.—Notwithstanding the State responsibilities described in subparagraph (B), service recipients, and, where appropriate, their designated representative, shall retain the right to independently select, hire, terminate, and direct (including manage, train, schedule, and verify services provided) the work of a home care provider.

(3) AGENCY ADMINISTERED.—For purposes of this title, the term 'agency-administered' means, with respect to such services, services that are not consumer-directed.

SEC. 106. COST SHARING.

(a) NO COST SHARING FOR POOREST.—

(1) IN GENERAL.—The State plan may not impose any cost sharing for individuals with income (as determined under subsection (d)) less than 150 percent of the official poverty level (referred to in paragraph (2)) applicable to a family of the size involved.

(2) OFFICIAL POVERTY LEVEL.—The term 'applicable poverty level' means, for a family for a year, the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

(b) SLIDING SCALE FOR REMAINDER.—

(1) REQUIRED COINSURANCE.—The State plan shall impose cost sharing in the form of coinsurance (based on the amount paid under the State plan for a service)—

(A) at a rate of 10 percent for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) at a rate of 15 percent for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) at a rate of 25 percent for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) at a rate of 30 percent for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) at a rate of 35 percent for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) at a rate of 40 percent for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(2) REQUIRED ANNUAL DEDUCTIBLE.—The State plan shall impose cost sharing in the form of an annual deductible—

(A) of $100 for individuals with disabilities with income not less than 150 percent, and less than 175 percent, of such official poverty line (as so applied);

(B) of $200 for such individuals with income not less than 175 percent, and less than 225 percent, of such official poverty line (as so applied);

(C) of $300 for such individuals with income not less than 225 percent, and less than 275 percent, of such official poverty line (as so applied);

(D) of $400 for such individuals with income not less than 275 percent, and less than 325 percent, of such official poverty line (as so applied);

(E) of $500 for such individuals with income not less than 325 percent, and less than 400 percent, of such official poverty line (as so applied); and

(F) of $600 for such individuals with income equal to at least 400 percent of such official poverty line (as so applied).

(c) RECOMMENDATION OF THE SECRETARY.—The Secretary shall make recommendations to the States as to how to reduce cost-sharing for individuals with extraordinary out-of-pocket costs for whom the cost-sharing provisions of this section could jeopardize

their ability to take advantage of the services offered under this title. The Secretary shall establish a methodology for reducing the cost-sharing burden for individuals with exceptionally high out-of-pocket costs under this title.

(d) DETERMINATION OF INCOME FOR PURPOSES OF COST SHARING.—The State plan shall specify the process to be used to determine the income of an individual with disabilities for purposes of this section. Such standards shall include a uniform Federal definition of income and any allowable deductions from income.

SEC. 107. QUALITY ASSURANCE AND SAFEGUARDS.

(a) QUALITY ASSURANCE.—

(1) IN GENERAL.—The State plan shall specify how the State will ensure and monitor the quality of services, including—

(A) safeguarding the health and safety of individuals with disabilities,

(B) setting the minimum standards for agency providers and how such standards will be enforced,

(C) setting the minimum competency requirements for agency provider employees who provide direct services under this title and how the competency of such employees will be enforced,

(D) obtaining meaningful consumer input, including consumer surveys that measure the extent to which participants receive the services described in the plan of care and participant satisfaction with such services,

(E) establishing a process to receive, investigate, and resolve allegations of neglect and/or abuse,

(F) establishing optional training programs for individuals with disabilities in the use and direction of consumer directed providers of personal assistance services,

(G) establishing an appeals procedure for eligibility denials and a grievance procedure for disagreements with the terms of an individualized plan of care;

(H) providing for participation in quality assurance activities, and

(I) specifying the role of the long-term care ombudsman (under the Older Americans Act of 1965) and the Protection and Advocacy Agency (under the Developmental Disabilities Assistance and Bill of Rights Act) in assuring quality of services and protecting the rights of individuals with disabilities.

(2) ISSUANCE OF REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations implementing the quality provisions of this subsection.

(b) FEDERAL STANDARDS.—The State plan shall adhere to Federal quality standards in the following areas:

(1) Case review of a specified sample of client records.

(2) The mandatory reporting of abuse, neglect, or exploitation.

(3) The development of a registry of provider agencies or home care workers and consumer directed providers of personal assistance services against whom any complaints have been sustained, which shall be available to the public.

(4) Sanctions to be imposed on States or providers, including disqualification from the program, if minimum standards are not met.

(5) Surveys of client satisfaction.

(6) State optional training programs for informal caregivers.

(c) CLIENT ADVOCACY.—

(1) IN GENERAL.—The State plan shall provide that the State will expend the amount allocated under section 110(b)(2) for client advocacy activities. The State may use such funds to augment the budgets of the long-term care ombudsman (under the Older Americans Act of 1965) and the Protection and Advocacy Agency (under the Developmental Disabilities Assistance and Bill of Rights Act) or may establish a separate and independent client advocacy office in accordance with paragraph (2) to administer a new program designed to advocate for client rights.

(2) CLIENT ADVOCACY OFFICE.—

(A) IN GENERAL.—A client advocacy office established under this paragraph shall—

(i) identify, investigate, and resolve complaints that—

(I) are made by, or on behalf of, clients; and

(II) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the clients (including the welfare and rights of the clients with respect to the appointment and activities of guardians and representative payees), of—

(aa) providers, or representatives of providers, of long-term care services;

(bb) public agencies; or

(cc) health and social service agencies;

(ii) provide services to assist the clients in protecting the health, safety, welfare, and rights of the clients;

(iii) inform the clients about means of obtaining services provided by providers or agencies described in clause (i)(II) or services described in clause (ii);

(iv) ensure that the clients have regular and timely access to the services provided through the office and that the clients and complainants receive timely responses from representatives of the office to complaints; and

(v) represent the interests of the clients before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the clients with regard to the provisions of this title.

(B) CONTRACTS AND ARRANGEMENTS.—

(i) IN GENERAL.—Except as provided in clause (ii), the State agency may establish and operate the office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(ii) LICENSING AND CERTIFICATION ORGANIZATIONS; ASSOCIATIONS.—The State agency may not enter into the contract or other arrangement described in clause (i) with an agency or organization that is responsible for licensing, certifying, or providing long-term care services in the State.

(d) SAFEGUARDS.—

(1) CONFIDENTIALITY.—The State plan shall provide safeguards which restrict the use or disclosure of information concerning applicants and beneficiaries to purposes directly connected with the administration of the plan.

(2) SAFEGUARDS AGAINST ABUSE.—The State plans shall provide safeguards against physical, emotional, or financial abuse or exploitation (specifically including appropriate safeguards in cases where payment for program benefits is made by cash payments or vouchers given directly to individuals with disabilities). All providers of services shall be required to register with the State agency.

(3) REGULATIONS.—Not later than January 1, 1996, the Secretary shall promulgate regulations with respect to the requirements on States under this subsection.

(e) SPECIFIED RIGHTS.—The State plan shall provide that in furnishing home and community-based services under the plan the following individual rights are protected:

(1) The right to be fully informed in advance, orally and in writing, of the care to be provided, to be fully informed in advance of any changes in care to be provided, and (except with respect to an individual determined incompetent) to participate in planning care or changes in care.

(2) The right to—

(A) voice grievances with respect to services that are (or fail to be) furnished without discrimination or reprisal for voicing grievances,

(B) be told how to complain to State and local authorities, and

(C) prompt resolution of any grievances or complaints.

(3) The right to confidentiality of personal and clinical records and the right to have access to such records.

(4) The right to privacy and to have one's property treated with respect.

(5) The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

(6) The right to education or training for oneself and for members of one's family or household on the management of care.

(7) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's plan of care.

(8) The right to be fully informed orally and in writing of the individual's rights.

(9) The right to a free choice of providers.

(10) The right to direct provider activities when an individual is competent and willing to direct such activities.

SEC. 108. ADVISORY GROUPS.

(a) FEDERAL ADVISORY GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory group, to advise the Secretary and States on all aspects of the program under this title.

(2) COMPOSITION.—The group shall be composed of individuals with disabilities and their representatives, providers, Federal and State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives.

(b) STATE ADVISORY GROUPS.—

(1) IN GENERAL.—Each State plan shall provide for the establishment and maintenance of an advisory group to advise the State on all aspects of the State plan under this title.

(2) COMPOSITION.—Members of each advisory group shall be appointed by the Governor (or other chief executive officer of the State) and shall include individuals with disabilities and their representatives, providers, State officials, and local community implementing agencies. A majority of its members shall be individuals with disabilities and their representatives. The members of the advisory group shall be selected from the those nominated as described in paragraph (3).

(3) SELECTION OF MEMBERS.—Each State shall establish a process whereby all residents of the State, including individuals with disabilities and their representatives, shall be given the opportunity to nominate members to the advisory group.

(4) PARTICULAR CONCERNS.—Each advisory group shall—

(A) before the State plan is developed, advise the State on guiding principles and values, policy directions, and specific components of the plan,

(B) meet regularly with State officials involved in developing the plan, during the development phase, to review and comment on all aspects of the plan,

(C) participate in the public hearings to help assure that public comments are addressed to the extent practicable,

(D) report to the Governor and make available to the public any differences between the group's recommendations and the plan,

(E) report to the Governor and make available to the public specifically the degree to which the plan is consumer-directed, and

(F) meet regularly with officials of the designated State agency (or agencies) to provide advice on all aspects of implementation and evaluation of the plan.

SEC. 109. PAYMENTS TO STATES.

(a) IN GENERAL.—Subject to section 103(a)(9)(C) (relating to limitation on payment for administrative costs), the Secretary, in accordance with the Cash Management Improvement Act, shall authorize payment to each State with a plan approved under this title, for each quarter (beginning on or after January 1, 1996), from its allotment under section 110(b), an amount equal to—

(1)(A) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that does not exceed 20 percent of the amount allotted to the State under section 110(b), 100 percent of such amount; and

(B) with respect to the amount demonstrated by State claims to have been expended during the year for home and community-based services under the plan for individuals with disabilities that exceeds 20 percent of the amount allotted to the State under section 110(b), the Federal home and community-based services matching percentage (as defined in subsection (b)) of such amount; plus

(2) an amount equal to 90 percent of the amount demonstrated by the State to have been expended during the quarter for quality assurance activities under the plan; plus

(3) an amount equal to 90 percent of amount expended during the quarter under the plan for activities (including preliminary screening) relating to determination of eligibility and performance of needs assessment; plus

(4) an amount equal to 90 percent (or, beginning with quarters in fiscal year 2004, 75 percent) of the amount expended during the quarter for the design, development, and installation of mechanical claims processing systems and for information retrieval; plus

(5) an amount equal to 50 percent of the remainder of the amounts expended during the quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

(b) FEDERAL HOME AND COMMUNITY-BASED SERVICES MATCHING PERCENTAGE.—In subsection (a), the term 'Federal home and community-based services matching percentage' means, with respect to a State, the State's Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act) increased by 15 percentage points, except that the Federal home and community-based services matching percentage shall in no case be more than 95 percent.

(c) PAYMENTS ON ESTIMATES WITH RETROSPECTIVE ADJUSTMENTS.—The method of computing and making payments under this section shall be as follows:

(1) The Secretary shall, prior to the beginning of each quarter, estimate the amount to be paid to the State under subsection (a) for such quarter, based on a report filed by the State containing its estimate of the total sum to be expended in such quarter, and such other information as the Secretary may find necessary.

(2) From the allotment available therefore, the Secretary shall provide for payment of the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which the Secretary finds that the estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid.

(d) APPLICATION OF RULES REGARDING LIMITATIONS ON PROVIDER-RELATED DONATIONS AND HEALTH CARE RELATED TAXES.—The provisions of section 1903(w) of the Social Security Act shall apply to payments to States under this section in the same manner as they apply to payments to States under section 1903(a) of such Act.

(e) FAILURE TO COMPLY WITH STATE PLAN.—If a State furnishing home and community-based services under this title fails to comply with the State plan approved under this title, the Secretary may either reduce the Federal matching rates available to the State under subsection (a) or withhold an amount of funds determined appropriate by the Secretary from any payment to the State under this section.

SEC. 110. APPROPRIATIONS; ALLOTMENTS TO STATES.

(a) APPROPRIATIONS.—

(1) FISCAL YEARS 1996 THROUGH 2004.—Subject to paragraph (5)(C), for purposes of this title, the appropriation authorized under this title for each of fiscal years 1996 through 2004 is the following:

(A) For fiscal year 1996, $1,800,000,000.
(B) For fiscal year 1997, $3,500,000,000.
(C) For fiscal year 1998, $5,800,000,000.
(D) For fiscal year 1999, $7,300,000,000.
(E) For fiscal year 2000, $10,000,000,000.
(F) For fiscal year 2001, $15,700,000,000.
(G) For fiscal year 2002, $22,800,000,000.
(H) For fiscal year 2003, $30,700,000,000.
(I) For fiscal year 2004, $34,600,000,000.

(2) SUBSEQUENT FISCAL YEARS.—For purposes of this title, the appropriation authorized for State plans under this title for each fiscal year after fiscal year 2004 is the appropriation authorized under this subsection for the preceding fiscal year multiplied by—

(A) a factor (described in paragraph (3)) reflecting the change in the consumer price index for the fiscal year, and

(B) a factor (described in paragraph (4)) reflecting the change in the number of individuals with disabilities for the fiscal year.

(3) CPI INCREASE FACTOR.—For purposes of paragraph (2)(A), the factor described in this paragraph for a fiscal year is the ratio of—

(A) the annual average index of the consumer price index for the preceding fiscal year, to—

(B) such index, as so measured, for the second preceding fiscal year.

(4) DISABLED POPULATION FACTOR.—For purposes of paragraph (2)(B), the factor described in this paragraph for a fiscal year is 100 percent plus (or minus) the percentage increase (or decrease) change in the disabled population of the United States (as determined for purposes of the most recent update under subsection (b)(3)(D)).

(5) ADDITIONAL FUNDS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Each participating State must provide the Secretary with information concerning offsets and reductions in the medicaid program resulting from home and community-based services provided disabled individuals under this title, that would have been paid for such individuals under the State medicaid plan. At the time a State first submits its plan under this title and before each subsequent fiscal year (through fiscal year 2004), the State also must provide the Secretary with such budgetary information (for each fiscal year through fiscal year 2004), as the Secretary determines to be necessary to carry out this paragraph.

(B) REPORTS.—Each State with a program under this title shall submit such reports to the Secretary as the Secretary may require in order to monitor compliance with subparagraph (A). The Secretary shall specify the format of such reports and establish uniform data reporting elements.

(C) ADJUSTMENTS TO APPROPRIATION.—

(i) IN GENERAL.—For each fiscal year (beginning with fiscal year 1996 and ending with fiscal year 2004) and based on a review of information submitted under subparagraph (A), the Secretary shall determine the amount by which the appropriation authorized under subsection (a) will increase. The amount of such increase for a fiscal year shall be limited to the reduction in Federal expenditures of medical assistance (as determined by Secretary) that would have been made under title XIX of the Social Security Act but for the provision of home and community based services under the program under this title.

(ii) ANNUAL PUBLICATION.—The Secretary shall publish before the beginning of such fiscal year, the revised appropriation authorized under this subsection for such fiscal year.

(D) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring States to determine eligibility for medical assistance under the State medicaid plan on behalf of individuals receiving assistance under this title.

(b) ALLOTMENTS TO STATES.—

(1) IN GENERAL.—The Secretary shall allot the amounts available under the appropriation authorized for the fiscal year under paragraph (1) of subsection (a) (without regard to any adjustment to such amount under paragraph (5) of such subsection), to the States with plans approved under this title in accordance with an allocation formula developed by the Secretary which takes into account—

(A) the percentage of the total number of individuals with disabilities in all States that reside in a particular State;

(B) the per capita costs of furnishing home and community-based services to individuals with disabilities in the State; and

(C) the percentage of all individuals with incomes at or below 150 percent of the official poverty line (as described in section 106(a)(2)) in all States that reside in a particular State.

(2) ALLOCATION FOR CLIENT ADVOCACY ACTIVITIES.—Each State with a plan approved under this title shall allocate one-half of one percent of the State's total allotment under paragraph (1) for client advocacy activities as described in section 107(c).

(3) NO DUPLICATE PAYMENT.—No payment may be made to a State under this section for any services provided to an individual to the extent that the State received payment for such services under section 1903(a) of the Social Security Act.

(4) REALLOCATIONS.—Any amounts allotted to States under this subsection for a year that are not expended in such year shall remain available for State programs under this

title and may be reallocated to States as the Secretary determines appropriate.

(5) SAVINGS DUE TO MEDICAID OFFSETS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), from the total amount of the increase in the amount available for a fiscal year under paragraph (1) of subsection (a) resulting from the application of paragraph (5) of such subsection, the Secretary shall allot to each State with a plan approved under this title, an amount equal to the Federal offsets and reductions in the State's medicaid plan for such fiscal year that was reported to the Secretary under subsection (a)(5), reduced or increased, as the case may be, by any amount by which the Secretary determines that any estimated Federal offsets and reductions in such State's medicaid plan reported to the Secretary under subsection (a)(5) for the previous fiscal year were greater or less than the actual Federal offsets and reductions in such State's medicaid plan.

(B) CAP ON STATE SAVINGS ALLOTMENT.—In no case shall the allotment made under this paragraph to any State for a fiscal year exceed the product of—

(i) the Federal medical assistance percentage for such State (as defined under section 1905(b) of the Social Security Act); multiplied by

(ii)(I) for fiscal year 1996, the base medical assistance amount for the State (as determined under subparagraph (C)) updated through the midpoint of fiscal year 1996 by the estimated percentage change in the index described in section 103(a)(1)(B)(iii) during the period beginning on October 1, 1994, and ending at that midpoint; and

(II) for succeeding fiscal years, an amount equal to the amount determined under this clause for the previous fiscal year updated through the midpoint of the year by the estimated percentage change in such index during the 12-month period ending at that midpoint, with appropriate adjustments to reflect previous underestimations or overestimations under this clause in the projected percentage change in such index.

(C) BASE MEDICAL ASSISTANCE AMOUNT.—The base medical assistance amount for a State is an amount equal to the total expenditures from Federal and State funds made under the State plan under title XIX of the Social Security Act during fiscal year 1994 with respect to medical assistance consisting of the services described in section 103(a)(1)(C).

(c) STATE ENTITLEMENT.—This title constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the payment to States of amounts described in subsection (a).

SEC. 111. FEDERAL EVALUATIONS.

(a) IN GENERAL.—Not later than December 31, 2001, December 31, 2004, and each December 31 thereafter, the Secretary shall provide to Congress analytical reports that evaluate—

(1) the extent to which individuals with low incomes and disabilities are equitably served;

(2) the adequacy and equity of service plans to individuals with similar levels of disability across States;

(3) the comparability of program participation across States, described by level and type of disability; and

(4) the ability of service providers to sufficiently meet the demand for services.

(b) GERIATRIC ASSESSMENTS.—Not later than 18 months after the date of enactment of this Act, the Secretary shall report to Congress concerning the feasibility of providing reimbursement under health plans and other payers of health services for full geriatric assessment, when recommended by a physician.

SEC. 112. INFORMATION AND TECHNICAL ASSISTANCE GRANTS RELATING TO DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.

(a) FINDINGS.—Congress finds that—

(1) demonstration programs and projects have been developed to offer care management to hospitalized individuals awaiting discharge who are in need of long-term health care services that meet individual needs and preferences in home and community-based settings as an alternative to long-term nursing home care or institutional placement; and

(2) there is a need to disseminate information and technical assistance to hospitals and State and local community organizations regarding such programs and projects and to provide incentive grants to State and local public and private agencies, including area agencies on aging, to establish and expand programs that offer care management to individuals awaiting discharge from acute care hospitals who are in need of long-term care so that services to meet individual needs and preferences can be arranged in home and community-based settings as an alternative to long-term placement in nursing homes or other institutional settings.

(b) DISSEMINATION OF INFORMATION, TECHNICAL ASSISTANCE, AND INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.—Part C of title III of the Public Health Service Act (42 U.S.C. 248 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 327B. DISSEMINATION OF INFORMATION, TECHNICAL ASSISTANCE AND INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.

"(a) DISSEMINATION OF INFORMATION.—The Secretary shall compile, evaluate, publish and disseminate to appropriate State and local officials and to private organizations and agencies that provide services to individuals in need of long-term health care services, such information and materials as may assist such entities in replicating successful programs that are aimed at offering care management to hospitalized individuals who are in need of long-term care so that services to meet individual needs and preferences can be arranged in home and community-based settings as an alternative to long-term nursing home placement. The Secretary may provide technical assistance to entities seeking to replicate such programs.

"(b) INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.—The Secretary shall establish a program under which incentive grants may be awarded to assist private and public agencies, including area agencies on aging, and organizations in developing and expanding programs and projects that facilitate the discharge of individuals in hospitals or other acute care facilities who are in need of long-term care services and placement of such individuals into home and community-based settings.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (b) an entity shall be—

"(A)(i) a State agency as defined in section 102(43) of the Older Americans Act of 1965; or

"(ii) a State agency responsible for administering home and community care programs under title XIX of the Social Security Act; or

"(B) if no State agency described in subparagraph (A) applies with respect to a particular State, a public or nonprofit private entity.

"(2) APPLICATIONS.—To be eligible to receive an incentive grant under subsection (b), an entity shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require, including—

"(A) an assessment of the need within the community to be served for the establishment or expansion of a program to facilitate the discharge of individuals in need of long-term care who are in hospitals or other acute care facilities into home and community-care programs that provide individually planned, flexible services that reflect individual choice or preference rather than nursing home or institutional settings;

"(B) a plan for establishing or expanding a program for identifying individuals in hospital or acute care facilities who are in need of individualized long-term care provided in home and community-based settings rather than nursing homes or other institutional settings and undertaking the planning and management of individualized care plans to facilitate discharge into such settings;

"(C) assurances that nongovernmental case management agencies funded under grants awarded under this section are not direct providers of home and community-based services;

"(D) satisfactory assurances that adequate home and community-based long term care services are available, or will be made available, within the community to be served so that individuals being discharged from hospitals or acute care facilities under the proposed program can be served in such home and community-based settings, with flexible, individualized care which reflects individual choice and preference;

"(E) a description of the manner in which the program to be administered with amounts received under the grant will be continued after the termination of the grant for which such application is submitted; and

"(F) a description of any waivers or approvals necessary to expand the number of individuals served in federally funded home and community-based long term care programs in order to provide satisfactory assurances that adequate home and community-based long term care services are available in the community to be served.

"(3) AWARDING OF GRANTS.—

"(A) PREFERENCES.—In awarding grants under subsection (b), the Secretary shall give preference to entities submitting applications that—

"(i) demonstrate an ability to coordinate activities funded using amounts received under the grant with programs providing individualized home and community-based case management and services to individuals in need of long term care with hospital discharge planning programs; and

"(ii) demonstrate that adequate home and community-based long term care management and services are available, or will be made available to individuals being served under the program funded with amounts received under subsection (b).

"(B) DISTRIBUTION.—In awarding grants under subsection (b), the Secretary shall ensure that such grants—

"(i) are equitably distributed on a geographic basis;

"(ii) include projects operating in urban areas and projects operating in rural areas; and

"(iii) are awarded for the expansion of existing hospital linkage programs as well as the establishment of new programs.

"(C) EXPEDITED CONSIDERATION.—The Secretary shall provide for the expedited consideration of any waiver application that is necessary under title XIX of the Social Security Act to enable an applicant for a grant under subsection (b) to satisfy the assurance required under paragraph (1)(D).

"(4) USE OF GRANTS.—An entity that receives amounts under a grant under subsection (b) may use such amounts for planning, development and evaluation services and to provide reimbursements for the costs of one or more case mangers to be located in or assigned to selected hospitals who would—

"(A) identify patients in need of individualized care in home and community-based long-term care;

"(B) assess and develop care plans in cooperation with the hospital discharge planning staff; and

"(C) arrange for the provision of community care either immediately upon discharge from the hospital or after any short term nursing-home stay that is needed for recuperation or rehabilitation;

"(5) DIRECT SERVICES SUBJECT TO REIMBURSEMENTS.—None of the amounts provided under a grant under this section may be used to provide direct services, other than case management, for which reimbursements are otherwise available under title XVIII or XIX of the Social Security Act.

"(6) LIMITATIONS.—

"(A) TERM.—Grants awarded under this section shall be for terms of less than 3 years.

"(B) AMOUNT.—Grants awarded to an entity under this section shall not exceed $300,000 per year. The Secretary may waive the limitation under this subparagraph where an applicant demonstrates that the number of hospitals or individuals to be served under the grant justifies such increased amounts.

"(C) SUPPLANTING OF FUNDS.—Amounts awarded under a grant under this section may not be used to supplant existing State funds that are provided to support hospital link programs.

"(d) EVALUATION AND REPORTS.—

"(1) BY GRANTEES.—An entity that receives a grant under this section shall evaluate the effectiveness of the services provided under the grant in facilitating the placement of individuals being discharged from hospitals or acute care facilities into home and community-based long term care settings rather than nursing homes. Such entity shall prepare and submit to the Secretary a report containing such information and data concerning the activities funded under the grant as the Secretary determines appropriate.

"(2) BY SECRETARY.—Not later than the end of the third fiscal year for which funds are appropriated under subsection (e), the Secretary shall prepare and submit to the appropriate committees of Congress, a report concerning the results of the evaluations and reports conducted and prepared under paragraph (1).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1994 through 1996.".

TITLE II—PROVISIONS RELATING TO MEDICARE

SEC. 201. RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES RECEIVED BY HIGH-INCOME INDIVIDUALS.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new part:

"PART VIII—CERTAIN HEALTH CARE SUBSIDIES RECEIVED BY HIGH-INCOME INDIVIDUALS

"Sec. 59B. Recapture of certain health care subsidies.

"SEC. 59B. RECAPTURE OF CERTAIN HEALTH CARE SUBSIDIES.

"(a) IMPOSITION OF RECAPTURE AMOUNT.—In the case of an individual, if the modified adjusted gross income of the taxpayer for the taxable year exceeds the threshold amount, such taxpayer shall pay (in addition to any other amount imposed by this subtitle) a recapture amount for such taxable year equal to the aggregate of the Medicare part B recapture amounts (if any) for months during such year that a premium is paid under part B of title XVIII of the Social Security Act for the coverage of the individual under such part.

"(b) MEDICARE PART B PREMIUM RECAPTURE AMOUNT FOR MONTH.—For purposes of this section, the Medicare part B premium recapture amount for any month is the amount equal to the excess of—

"(1) 200 percent of the monthly actuarial rate for enrollees age 65 and over determined for that calendar year under section 1839(a)(1) of the Social Security Act, over

"(2) the total monthly premium under section 1839 of the Social Security Act (determined without regard to subsections (b) and (f) of section 1839 of such Act).

"(c) PHASE-IN OF RECAPTURE AMOUNT.—

"(1) IN GENERAL.—If the modified adjusted gross income of the taxpayer for any taxable year exceeds the threshold amount by less than $25,000, the recapture amount imposed by this section for such taxable year shall be an amount which bears the same ratio to the recapture amount which would (but for this subsection) be imposed by this section for such taxable year as such excess bears to $25,000.

"(2) JOINT RETURNS.—If a recapture amount is determined separately for each spouse filing a joint return, paragraph (1) shall be applied by substituting '$50,000' for '$25,000' each place it appears.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) THRESHOLD AMOUNT.—The term 'threshold amount' means—

"(A) except as otherwise provided in this paragraph, $100,000,

"(B) $125,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married (as determined under section 7703) but does not file a joint return for such year, and

"(ii) does not live apart from his spouse at all times during the taxable year.

"(2) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means adjusted gross income—

"(A) determined without regard to sections 135, 911, 931, and 933, and

"(B) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax.

"(3) JOINT RETURNS.—In the case of a joint return—

"(A) the recapture amount under subsection (a) shall be the sum of the recapture amounts determined separately for each spouse, and

"(B) subsections (a) and (c) shall be applied by taking into account the combined modified adjusted gross income of the spouses.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) TREATED AS TAX FOR SUBTITLE F.—For purposes of subtitle F, the recapture amount imposed by this section shall be treated as if it were a tax imposed by section 1.

"(B) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The recapture amount imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

"(i) the amount of any credit allowable under this chapter, or

"(ii) the amount of the minimum tax under section 55.

"(C) TREATED AS PAYMENT FOR MEDICAL INSURANCE.—The recapture amount imposed by this section shall be treated as an amount paid for insurance covering medical care, within the meaning of section 213(d)."

(b) TRANSFERS TO FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND.—

(1) IN GENERAL.—There are hereby appropriated to the Federal Supplementary Medical Insurance Trust Fund amounts equivalent to the aggregate increase in liabilities under chapter 1 of the Internal Revenue Code of 1986 which is attributable to the application of section 59B(a) of such Code, as added by this section.

(2) TRANSFERS.—The amounts appropriated by paragraph (1) to the Federal Supplementary Medical Insurance Trust Fund shall be transferred from time to time (but not less frequently than quarterly) from the general fund of the Treasury on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1). Any quarterly payment shall be made on the first day of such quarter and shall take into account the recapture amounts referred to in such section 59B(a) for such quarter. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) REPORTING REQUIREMENTS.—

(1) Paragraph (1) of section 6050F(a) of the Internal Revenue Code of 1986 (relating to returns relating to social security benefits) is amended by striking "and" at the end of subparagraph (B) and by inserting after subparagraph (C) the following new subparagraph:

"(D) the number of months during the calendar year for which a premium was paid under part B of title XVIII of the Social Security Act for the coverage of such individual under such part, and".

(2) Paragraph (2) of section 6050F(b) of such Code is amended to read as follows:

"(2) the information required to be shown on such return with respect to such individual."

(3) Subparagraph (A) of section 6050F(c)(1) of such Code is amended by inserting before the comma "and in the case of the information specified in subsection (a)(1)(D)".

(4) The heading for section 6050F of such Code is amended by inserting "and medicare part b coverage" before the period.

(5) The item relating to section 6050F in the table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting "and Medicare part B coverage" before the period.

(d) WAIVER OF CERTAIN ESTIMATED TAX PENALTIES.—No addition to tax shall be imposed under section 6654 of the Internal Revenue Code of 1986 (relating to failure to pay estimated income tax) for any period before April 16, 1997, with respect to any underpayment to the extent that such underpayment resulted from section 59B(a) of the Internal Revenue Code of 1986, as added by this section.

(e) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"Part VIII. Certain health care subsidies received by high-income individuals."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 202. IMPOSITION OF 10 PERCENT COPAYMENT ON HOME HEALTH SERVICES UNDER MEDICARE.

(a) IN GENERAL.—

(1) PART A.—Section 1813(a) of the Social Security Act (42 U.S.C. 1395e(a)) is amended by adding at the end the following new paragraph:

"(5)(A) The amount payable for a home health service furnished to an individual under this part shall be reduced by a copayment amount equal to 10 percent of the average nationwide per visit cost for such a service furnished under this title (as determined by the Secretary on a prospective basis for services furnished during a calendar year).

"(B) Subparagraph (A) shall not apply to individuals whose family income does not exceed 150 percent of the official poverty line (referred to in section 1905(p)(2)) for a family of the size involved.".

(2) PART B.—

(A) IN GENERAL.—Section 1833(b) of the Social Security Act (42 U.S.C. 1395l(b)) is amended by adding at the end the following new sentence: "If the total amount of the expenses incurred by an individual as determined under the preceding provisions of this subsection include expenses for a home health service, such expenses shall be further reduced by a copayment amount equal to 10 percent of the average nationwide per visit cost for such a service furnished under this title (as determined by the Secretary on a prospective basis for services furnished during a calendar year). The preceding sentence shall not apply to individuals whose family income does not exceed 150 percent of the official poverty line (referred to in section 1905(p)(2)) for a family of the size involved.".

(B) CONFORMING AMENDMENT.—Section 1833(a)(2) of the Social Security Act (42 U.S.C. 1395l(a)(2)) is amended—

(i) in subparagraph (A), by striking "to home health services," and by striking the comma after "opinion)";

(ii) in subparagraph (D), by striking "and" at the end;

(iii) in subparagraph (E), by striking the semicolon at the end and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(F) with respect to any home health service—

"(i) the lesser of —

"(I) the reasonable cost of such service, as determined under section 1861(v), or

"(II) the customary charges with respect to such service,

less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A), or

"(ii) if such service is furnished by a public provider of services, or by another provider which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low-income (and requests that payment be made under this clause), free of charge or at nominal charges to the public, the amount determined in accordance with section 1814(b)(2).".

(3) PROVIDER CHARGES.—Section 1866(a)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395cc(a)(2)(A)(i)) is amended—

(A) by striking "deduction or coinsurance" and inserting "deduction, coinsurance, or copayment"; and

(B) by striking "or (a)(4)" and inserting "(a)(4), or (a)(5)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to home health services furnished on or after January 1, 1995.

SEC. 203. REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS FOR INPATIENT HOSPITAL SERVICES.

(a) PPS HOSPITALS.—

(1) REDUCTION IN BASE PAYMENT RATES FOR PPS HOSPITALS.—Section 1886(g)(1)(A) of the Social Security Act (42 U.S.C. 1395ww(g)(1)(A)) is amended by adding at the end the following new sentence: "In addition to the reduction described in the preceding sentence, for discharges occurring after September 30, 1995, the Secretary shall reduce by 7.31 percent the unadjusted standard Federal capital payment rate (as described in 42 CFR 412.308(c), as in effect on the date of the enactment of the Home and Community-Based Services for Individuals with Disabilities Act of 1994) and shall reduce by 10.41 percent the unadjusted hospital-specific rate (as described in 42 CFR 412.328(e)(1), as in effect on the date of the enactment of the Home and Community-Based Services for Individuals with Disabilities Act of 1994).".

(2) REDUCTION IN UPDATE.—Section 1886(g)(1) of the Social Security Act (42 U.S.C. 1395ww(g)(1)) is amended—

(A) in subparagraph (B)(i)—

(i) by striking "and (II)" and inserting "(II)", and

(ii) by striking the semicolon at the end and inserting the following: ", and (III) an annual update factor established for the prospective payment rates applicable to discharges in a fiscal year which (subject to reduction under subparagraph (C)) will be based upon such factor as the Secretary determines appropriate to take into account amounts necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality;";

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C)(i) With respect to payments attributable to portions of cost reporting periods or discharges occurring during each of the fiscal years 1996 through 2003, the Secretary shall include a reduction in the annual update factor established under subparagraph (B)(i)(III) for discharges in the year equal to the applicable update reduction described in clause (ii) to adjust for excessive increases in capital costs per discharge for fiscal years prior to fiscal year 1992 (but in no event may such reduction result in an annual update factor less than zero).

"(ii) In clause (i), the term 'applicable update reduction' means, with respect to the update factor for a fiscal year—

"(I) 4.9 percentage points; or

"(II) if the annual update factor for the previous fiscal year was less than the applicable update reduction for the previous year, the sum of 4.9 percentage points and the difference between the annual update factor for the previous year and the applicable update reduction for the previous year.".

(b) PPS-EXEMPT HOSPITALS.—Section 1861(v)(1) of the Social Security Act (42 U.S.C. 1395x(v)(1)) is further amended by adding at the end the following new subparagraph:

"(T) Such regulations shall provide that, in determining the amount of the payments that may be made under this title with respect to the capital-related costs of inpatient hospital services furnished by a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B)) or a subsection (d) Puerto Rico hospital (as defined in section 1886(d)(9)(A)), the Secretary shall reduce the amounts of such payments otherwise established under this title by 15 percent for payments attributable to portions of cost reporting periods occurring during each of the fiscal years 1996 through 2003.".

SEC. 204. ELIMINATION OF FORMULA-DRIVEN OVERPAYMENTS FOR CERTAIN OUTPATIENT HOSPITAL SERVICES.

(a) AMBULATORY SURGICAL CENTER PROCEDURES.—Section 1833(i)(3)(B)(i)(II) of the Social Security Act (42 U.S.C. 1395l(i)(3)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(b) RADIOLOGY SERVICES AND DIAGNOSTIC PROCEDURES.—Section 1833(n)(1)(B)(i)(II) of the Social Security Act (42 U.S.C. 1395l(n)(1)(B)(i)(II)) is amended—

(1) by striking "of 80 percent"; and

(2) by striking the period at the end and inserting the following: ", less the amount a provider may charge as described in clause (ii) of section 1866(a)(2)(A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished during portions of cost reporting periods occurring on or after July 1, 1994.

SEC. 205. REDUCTION IN ROUTINE COST LIMITS FOR HOME HEALTH SERVICES.

(a) REDUCTION IN UPDATE TO MAINTAIN FREEZE IN 1996.—

(1) IN GENERAL.—Section 1861(v)(1)(L)(i) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(i)) is amended—

(1) in subclause (II), by striking "or" at the end;

(2) in subclause (III), by striking "112 percent." and inserting "and before July 1, 1996, 112 percent, or"; and

(3) by inserting after subclause (III) the following new subclause:

"(IV) July 1, 1996, 100 percent (adjusted by such amount as the Secretary determines to be necessary to preserve the savings resulting from the enactment of section 13564(a)(1) of the Omnibus Budget Reconciliation Act of 1993).".

(2) ADJUSTMENT TO LIMITS.—Section 1861(v)(1)(L)(ii) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(ii)) is amended by adding at the end the following new sentence: "The effect of the amendments made by section 205(a)(1) of the Home and Community-Based Services for Individuals with Disabilities Act of 1994 shall not be considered by the Secretary in making adjustments pursuant to this clause.".

(b) BASING LIMITS IN SUBSEQUENT YEARS ON MEDIAN OF COSTS.—

(1) IN GENERAL.—Section 1861(v)(1)(L)(i) of the Social Security Act (42 U.S.C. 1395x(v)(1)(L)(i)), as amended by subsection (a), is amended in the matter following subclause (IV) by striking "the mean" and inserting "the median".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after July 1, 1997.

SUMMARY OF LONG-TERM CARE REFORM LEGISLATION

OVERALL

The measures establishes a new home and community-based long-term care program to persons of all ages. The program would provide funds to States in the form of a block grant, matched by State funds, on a voluntary basis. Federal and State financial participation is capped, and the program would not constitute an entitlement to individuals. In particular, neither States nor the Federal government would be required to spend anymore than set forth by this measure.

ELIGIBILITY

Those meeting any of the following criteria would be eligible for the program:

(1) Individuals requiring assistance with three or more activities of daily living.

(2) Individuals with severe mental retardation.

(3) Individuals with severe cognitive or mental impairment.

(4) Children, under 6, with severe disabilities.

In addition, States could set aside up to 2% of their program funding for individuals who may not meet any one of the above criteria, but who have a disability of comparable level of severity.

SERVICES

States participating in the program would be required to provide assessment, plan of care, personal assistance, and case management services. In addition, states may also offer homemaker services, home modifications, respite, assistive devices, adult day care, habilitation/rehabilitation, supported employment home health care, and any other service at State discretion.

FEDERAL ALLOTMENT TO STATES

The total Federal allotment to States under this program would be:

(A) for fiscal year 1996, $1,800,000,000;
(B) for fiscal year 1997, $3,500,000,000;
(C) for fiscal year 1998, $5,800,000,000;
(D) for fiscal year 1999, $7,300,000,000;
(E) for fiscal year 2000, $10,000,000,000;
(F) for fiscal year 2001, $15,700,000,000;
(G) for fiscal year 2002, $22,800,000,000;
(H) for fiscal year 2003, $30,700,000,000; and
(I) for fiscal year 2004, $34,600,000,000.

Thereafter, the total Federal allotment would be increased by factors relating to inflation, and the change in the number of disabled.

In addition, States would be allowed to capture any Medicaid savings generated by the new benefit, and apply that savings to their program.

COPAYMENTS AND DEDUCTIBLES

The program includes a sliding scale payment schedule for eligible individuals based on income. Individuals with incomes below 150% of poverty would have no copayment or deductible. Above 150% of poverty, copayments and deductibles would range from 10% and $100 respectively for those with incomes between 150% and 175% of poverty, up to 40% and $600 respectively for those with incomes above 400% of poverty.

HOSPITAL/HOME & COMMUNITY LINKAGE

The program includes a hospital/home and community-based long-term care linkage program, to establish and expand State run programs designed to help facilitate the placement of individuals in need of long-term health care services into home- and community-based settings rather than institutional settings. This provision authorizes up to $5 million per year for three years.

FUNDING PROVISIONS

The measure includes the following modifications to Medicare:

Applies an income test to Medicare Part B premiums for individuals with incomes over $100,000 and couples with incomes over $125,000, increasing to 100% of Medicare costs for individuals with incomes over $125,000 and couples with incomes over $150,000.

Applies a 10% copayment to home health services for individuals with incomes over 150% of poverty.

Modifies aggregate cost limits for home health agencies.

Eliminates formula-driven overpayments to hospitals for certain outpatient services.

Modifies reimbursement for inpatient-related capital costs.●

By Mr. FORD:

S. 2546. A bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FAA INDEPENDENT ESTABLISHMENT ACT

Mr. FORD. Mr. President, today I am introducing a bill to make the FAA an independent Federal agency. Over the past year, there has been much discussion as to what should, must, or needs to be done with the FAA. Much of the debate has been over the form of the organization. This has prevented us from beginning any sort of meaningful discussion about the substance of the problems and how to continue to provide a safe and efficient air transportation system.

We must begin the process of talking to the users of the system to hear their concerns and needs for the future. We must begin to talk to the controllers and employees of the FAA to hear their concerns and needs for the future. We must continue to recognize the needs of the airports, and the important role they play in facilitating the air transportation system.

We also must begin the process of talking to the administration. I caution all of the interested parties to recognize the bill that I have introduced as a means to begin the hard work of determining what is needed for the entire FAA to move forward and continue to provide a safe and efficient air transportation system. All parties to these discussions must understand that there are limits on what is doable. The bill introduced is not by any means a final product. Instead, I view the bill as a first step in a long process, a process that will take the entire aviation community time to address. Congressman OBERSTAR and I, earlier this year, in response to the administration's proposal to create a corporation, indicated our strong opposition to such a proposal. I know all concerned are aware of our views, and we now need to focus our sights on the potential problems down the road, and how to address those needs.

The question of how we provide and set the stage for air transportation in the future is critical to our economy, critical to our children, and critical to all of us that fly. We all are aware that airports and aviation are a key component in opening up business opportunities, generating jobs, and invigorating communities. I have seen first hand the impact one airline company can have on a community. UPS came to Louisville a number of years ago, and along came a host of other companies seeking to utilize their delivery services. A similar positive situation has occurred in northern Kentucky when Delta established a hub at the Cincinnati-Northern Kentucky International Airport.

We also know that travel and tourism is the No. 1 industry in this country, generating more than $740 billion in direct and indirect expenditures in the United States per year. The industry directly accounts for more than 5.1 million jobs. Our airports, airlines, airline employees, air traffic controllers, and general aviation community work hard to ensure that the system is safe and that travel and tourism continue. We must support their efforts.

That support must focus on how best to revamp the FAA, how to modernize the air traffic control system, and how to increase capacity of our Nation's airports. The FAA has done a credible job over the years in making the system safe. The criticisms of the FAA generally have focused on their inability to modernize the system. After the controller strike in 1981, Congress was promised a plan, the National Air Space Plan, to modernize the system over 10 years at a cost of $12 billion. That blueprint quickly became fodder for much criticism. The original plan was overly ambitious, and made too many promises. There were very few details in the NAS plan when it was authorized by the Congress. I recognize that modernization of a fail proof system takes time—it is not as easy as merely buying a computer at a store and plugging it in. Thorough testing and validation must occur—the machines must work virtually error free.

The FAA also knows that it must deliver the modernization package. Too much time and money has been lost. I also want to point out that it appears that much of what needs to occur at the FAA is beginning to happen. Whether you agree with the FAA or not on its decision to cut the microwave landing system or move forward with the advanced automation system [AAS], the fact is that the Administrator and Deputy Administrator have recognized that it is important to decide, and not merely continue to pour money into dry holes. The FAA recently stated that "[r]esponsibility, authority, and accountability are key elements to the success of the ATC automation program". I agree and urge the FAA to take their own words to heart. The FAA also recognized that

its "[f]ailure to manage risks was a primary contributing factor to the unacceptable cost growth and schedule delays". Again, I agree with FAA. Much scrutiny of the AAS program has led to these realizations. These are not factors that one can readily legislate, but rather factors that the FAA has now recognized and addressed.

I also want to point out that the recent passage of S. 1587, the Federal Acquisition Streamling Act, provided the entire FAA with significant relief from the procurement laws, something the administration has sought. In talking to procurement specialists, one thread appears to be that the laws are not the problem, but rather how the FAA carries out its procurement activities.

We also simply cannot afford to have an aviation transportation system that is not capable of providing sufficient airport capacity to meet future demands. Administrator Hinson recently indicated that airport capacity is the No. 1 priority for the agency. With the projected growth in traffic, airports must be able to handle all of the passengers—simply put, there is much that can be done to increase air space capacity. New approach procedures, precision runway monitors, and dual and triple independent approaches all can be used to increase capacity. Yet, 15 of the 33 high-volume airports have only one runway. Technology alone will not solve the problem.

We all know that the FAA is the premier aviation agency in the world. Yet, airport delays continue to be a problem. Some two-thirds of those delays are weather-related, and as much as I would like to be able to change the weather, Congress simply does not have that power. We can, though, work to figure out how to get new radars installed more quickly and efficiently. We can work to figure out what systems can be purchased off the shelf to provide weather-related information. We also must ensure that our hard-working controllers have the tools needed to safely guide aircraft, that power failures not occur, that ASR–9's work properly, and all of the host of hardware used to meter the system continue to function properly.

These types of problems are not a function of whether or not the FAA is a corporation, independent, or a part of the DOT. However, these issues need to be addressed. The FAA just submitted a master plan on its air traffic control automation program. Over the years, Congress has seen many of these sorts of documents. The plan submitted needs to be thoroughly reviewed and discussed. Does it get us to where we want to be at the end of the decade? Will we be able to provide a more efficient system? I appreciate the Administrator's diligence in submitting the plan, and it is clear that this year has been a different one at the FAA than those in the past. A thorough examination and revalidation of its mission and its programs has occurred. Again, the examination of the AAS program has served all of us well. I look forward to working with the administration further on its modernization efforts.

Over the years, the FAA has received more than its fair share of Federal funding. This past year, its funding declined—primarily as a result of cuts in the airport improvement program. The administration and Congress must work together to fully fund the needs of the FAA. The airlines and airports must work together to increase the spending out of the trust fund. They must come to the Hill and make the case for full funding. We all know that unlike the vast majority of programs under the Transportation Department, the FAA is funded through user fees. Either we have got to make folks understand the real need for those dollars, or cut the fees collected.

I want to work with the airlines, the unions, the airports, the general aviation community, State aviation officials, and the General Accounting Office to craft a workable bill to move the agency forward as a Federal Agency. I know I share a common desire with the administration to see that the skies remain safe, that the system remains efficient, and that the FAA has the ability to do its job. I also want to work with the administration, and I look forward to their input.

We have spent most of the year arguing over the need for a corporation. Through a series of statements and discussions, the administration is well aware of congressional opposition to the plan. We now must step back and recognize what is in all of our and the user's best interests. There is the promise that much of what all of us seek can be achieved and I hope the administration recognizes and takes advantage of this opportunity.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2546

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Aviation Administration Independent Establishment Act of 1994".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the civil aviation industry in the United States has experienced an unprecedented period of rapid development and expansion over the past decade;

(2) the Federal Aviation Administration, an administration within the Department of Transportation, has been charged by the Congress with the responsibility for overseeing the safe operation of this essential segment of the national economy;

(3) the Federal Aviation Administration operates the most efficient air traffic control system in the world;

(4) the Federal Aviation Administration must be able to move forward with its plans to modernize the air transportation network in an efficient and cost effective manner to reduce delays, provide more direct routing of aircraft, and facilitate the use of satellite technology;

(5) funds must be collected from all of the users of the air transportation system on an equitable basis and those funds must be spent on improving the safety and efficiency of the air transportation system;

(6) the ability to expand capacity of the air traffic control system depends on a complex set of variables and the Federal Aviation Administration must have sufficient funds, resources and appropriate personnel to manage the future air traffic control system;

(7) the ability to expand capacity of the air traffic control system is highly dependent upon sufficient runway and airport capacity, and as such, Congress must ensure that appropriate funds are provided to fund the airport improvement program.

(8) the Federal Aviation Administration must oversee the growth and development of the entire air transportation system, and coordinate and facilitate research, development, implementation and installation of new technology, new runways and new airports; and

(9) the Federal Aviation Administration must coordinate its modernization plans with the ultimate users of the systems and seek input from the users and air traffic controllers, on how best to proceed with modernization efforts;

(10) the importance of the airport and airway system to our national defense and the need for a working relationship between civil and military aviation necessitates the continued highly successful relationship and cooperative efforts between the Federal Aviation Administration and the Department of Defense;

(11) to assure air safety through the continued modernization and expansion of the Nation's system of airports and airways, the Federal Aviation Administration must continue to emphasize research and development projects; and

(12) if the Federal Aviation Administration is provided with greater autonomy and consistent leadership, it can be expected to exercise vigorously its prerogatives with the direction and guidance of the President and under the ongoing oversight of the Congress.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(1) the term "Administration" means the Federal Aviation Administration established under section 4; and

(2) the term "Administrator" means the Administrator of the Federal Aviation Administration appointed under section 5(a).

SEC. 4. ESTABLISHMENT.

There is established as an independent establishment of the Government the Federal Aviation Administration. The Administration shall succeed the Federal Aviation Administration of the Department of Transportation in existence on the day before the effective date set forth in section 28(a).

SEC. 5. OFFICERS.

(a) The Administration shall be administered by an Administrator, who shall be appointed by the President to a 5-year term of office, by and with the advice and consent of the Senate. Under the supervision and direction of the President, the Administrator shall carry out all functions transferred to the Administrator by this Act and shall have authority and control over all personnel, programs, and activities of the Administration. The Administrator may be removed by

the President for neglect of duty or malfeasance in office. The Administrator shall be compensated at the rate prescribed for level I of the Executive Schedule pay rates.

(b) There shall be in the Administration a Deputy Administrator, who shall be appointed by the Administrator. The Deputy Administrator shall perform such functions, duties, and powers as the Administrator shall prescribe. The Deputy Administrator shall act for and perform the functions of the Administrator when the Administrator is absent or unable to serve, or when the office of the Administrator is vacant. The Deputy Administrator shall be compensated at the rate prescribed for level II of the Executive Schedule pay rates.

(c) There shall be in the Administration a maximum of 8 Assistant Administrators, who shall be appointed by the Administrator. The Assistant Administrators shall perform such functions as the Administrator shall prescribe. The Administrator shall designate the order in which the Assistant Administrators shall act for and perform the functions of the Administrator when the Administrator, or in the Administrator's place the Deputy Administrator, is absent or unable to serve, or when the offices of the Administrator and the Deputy Administrator are vacant. An Assistant Administrator shall be compensated at the rate prescribed for level IV in the Executive Schedule pay rates.

(d) There shall be in the Administration a Chief Counsel, who shall be appointed by the Administrator. The Chief Counsel shall be the chief legal officer for all legal matters arising from the conduct of the functions of the Administration. The Chief Counsel shall be compensated at the rate prescribed for level IV of the Executive Schedule pay rates.

(e) There shall be in the Administration an Inspector General appointed in accordance with the Inspector General Act of 1978, approved October 12, 1978 (5 App. U.S.C.). The Inspector General shall be compensated at the rate prescribed for level IV of the Executive Schedule pay rates.

(f)(1) Each of the officers referred to in this section must be a citizen of the United States. The Administrator must be a civilian.

(2) Such officers may not have a pecuniary interest in, or own stock in or bonds of, an aeronautical enterprise, or engage in another business, vocation, or employment.

SEC. 6. POWERS.

(a) The Administration shall be responsible for the exercise of all powers and the discharge of all duties of the Administration.

(b) In carrying out the functions of the Administration under this Act, the Administrator shall be governed by all applicable statutes, including the policy standards set forth in Subtitle VII of Title 49 United States Code.

(c) Nothing in this Act shall be construed to limit in any manner the authority of the Administrator to promote safety by establishing and administering accident prevention programs, encouraging airport development, educating the public on the importance of aeronautics, and encouraging the adoption of worldwide safety standards.

(d) Decisions of the Administrator made pursuant to the exercise of the functions enumerated in Subtitle VII of Title 49, United States Code, shall be administratively final, and appeals as currently authorized by law shall be taken directly to the National Transportation Safety Board or to any court of competent jurisdiction, as appropriate.

SEC. 7. TRANSFERS AND INCIDENTAL PROVISIONS.

(a) The following are transferred to the Administration:

(1) All functions vested by law in the Federal Aviation Administration of the Department of Transportation or its Administrator, and all functions vested by law in the Secretary of Transportation or the Department of Transportation which are administered through the Federal Aviation Administration, including those exercised under Subtitle VII of Title 49, United States Code, except for those functions exercised under section 40104 of title 49, United States Code, relative to fostering the development of civil aeronautics and air commerce, and exercised by the Secretary of Transportation under Part A, Subpart II (Economic Regulation) of such Subtitle.

(2) The functions of the Department of Transportation or the Federal Aviation Administration of the Department of Transportation necessary and appropriate for the performance of the functions transferred by paragraph (1) of this subsection.

(3) So much of the personnel, property, records, funds, accounts, and unexpended balances of appropriations, allocations, and other moneys of the Department of Transportation as are employed, used, held available, or to be made available in connection with the functions transferred by paragraphs (1) and (2) of this subsection.

(b) The personnel transferred under this section shall be so transferred without reduction in classification or compensation, except that after such transfer, such personnel shall be subject to changes in classification or compensation in the same manner, to the same extent, and according to the same procedure, as provided by law.

(c) The Administrator shall exercise all functions transferred by subsection (a) of this section and any other function vested in the Federal Aviation Administration or the Administrator of the Federal Aviation Administration by and law enacted on or after the date of enactment of this Act. The Administrator may from time to time make such provisions as the Administrator shall deem appropriate authorizing the performance by any other officer, employee, or office of the Administration of such functions.

SEC. 8. DEVELOPMENT PLAN.

The Administrator shall prepare a 3-year development plan outlining goals and objectives for personnel, technology, and regulation in such areas as air traffic control, aviation standards, airport security, airport and airway development, and research and development. The plan shall, not later than January 1, 1996, be submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation in the House of Representatives, and updated plans shall be so submitted every 3 years thereafter.

SEC. 9. RULES; REGULATIONS.

(a) In the performance of the functions of the Administrator and the Administration, the Administrator is authorized to make, promulgate, issue, rescind, and amend rules and regulations. The promulgation of such rules and regulations shall be governed by the provisions of chapter 5 of title 5, United States Code.

(b) The Administrator shall consider comments and recommendations submitted by the Secretary of Transportation in response to any notice of proposed rulemaking by the Administrator, and shall address the comments raised by the Secretary during the course of the rulemaking, providing an explanation of any decision not to adopt a recommendation by the Secretary.

SEC. 10. DELEGATION.

Except as otherwise provided in this Act, the Administrator may delegate any function to such officers and employees of the Administration as the Administrator may designate, and may authorize such successive redelegations of such functions in the Administration as may be necessary or appropriate. No delegation of functions by the Administrator under this section or under any other provision of this Act shall relieve the Administrator of responsibility for the administration of such functions.

SEC. 11. PERSONNEL AND SERVICES.

(a) In the performance of the functions of the Administrator and in addition to the officers provided for by section 5, the Administrator is authorized to appoint, transfer, and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Administrator and the Administration. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and compensated in accordance with title 5, United States Code.

(b) The Administrator is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(c) The Administrator is authorized to pay transportation expenses, and per diem in lieu of subsistence expenses, in accordance with chapter 57, of title 5, United States Code.

(d) The Administrator is authorized to utilize, on a reimbursable basis, the services of personnel of any Federal agency.

(e)(1)(A) The Administrator is authorized to accept voluntary and uncompensated services without regard to the provisions of section 1342 of title 31, United States Code, if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(B) The Administrator is authorized to accept volunteer service in accordance with the provisions of section 3111 of title 5, United States Code.

(2) The Administrator is authorized to provide for incidental expenses, including transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under this subsection shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(f)(1) The Administrator is authorized to grant to any employee of the Administration an incentive allowance of not to exceed 20 percent of the basic pay of the employee if necessary to provide safe and efficient service in major facilities which the Administrator finds—

(A) are critical to the national airspace system;

(B) have been chronically understaffed; or

(C) are in remote or high cost locations.

(2) An incentive allowance may be granted under paragraph (1) only of—

(A) the Administrator transmits a full written explanation of the proposed allowance and the reasons therefor, including the basis for each required determination and finding, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives; and

(B) the 60-day period immediately following the transmission of such written explanation has expired.

(g) The Administrator shall study ways to compensate or otherwise provide additional

incentives to encourage employees to seek, accept, and remain in supervisory and managerial positions, including compensation opportunities that are at least as substantial as those available to employees in nonsupervisory and nonmanagerial positions of comparable grades within the General Schedule. The Administrator shall, not later than 6 months after the effective date of this section, report to Congress on the results of such study, including any recommendations for legislative action.

SEC. 12. CONTRACTS.

The Administrator is authorized to enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the functions of the Administrator and the Administration. The Administrator may enter into such contracts, leases, agreements, and transactions with any Federal agency or any instrumentality of the United States, or with any State, territory, or possession, or with any political subdivision thereof, or with any person, firm, association, corporation, or educational institution, on such terms and conditions as the Administrator may consider appropriate. The authority of the Administrator to enter into contracts and leases under this section shall be to such extent or in such amounts as are provided in appropriation Acts.

SEC. 13. FINANCE AND BUDGET.

(a)(1) There is established in the Treasury of the United States a trust fund to be known as the "Aviation Trust Fund Account", consisting of such amounts as may be appropriated or credited to the Aviation Trust Fund Account as provided in this subsection and section 9502(a) of the Internal Revenue Code of 1986 (26 U.S.C. 9502(a)), as amended by paragraph (2) of this subsection.

(2) There are appropriated to the Aviation Trust Fund Account amounts determined by the Secretary of the Treasury to be equivalent to those taxes described in section 9502(b) of the Internal Revenue Code of 1986 (26 U.S.C. 9502(b)) received after September 30, 1995.

(3) There are authorized to be appropriated to the Aviation Trust Fund Account such additional sums as may be required to make the expenditures referred to in paragraph (5) of this subsection.

(4) The Secretary of the Treasury shall invest such portion of the Aviation Trust Fund Account as is not, in the Secretary's judgment, required to meet current withdrawals. The interest on, and the proceeds from, any such investments shall be credited to and form a part of the Aviation Trust Fund Account.

(5) Amounts in the Aviation Trust Fund Account shall be available, without further appropriation, for making expenditures after October 1, 1995, to meet those obligations of the United States incurred by the Administration—

(A) under subtitle VII of title 49, United States Code; or

(B) for administrative expenses attributable to the activities described in subparagraphs (A) and (B).

(2)(A) Section 9502(a) of the Internal Revenue Code of 1986 (26 U.S.C. 9502(a)) is amended by inserting immediately before the period at the end the following: ", except that the interest and proceeds received after October 1, 1995, as a result of Trust Fund investments under section 9602(b) shall be credited to the Aviation Trust Fund Account established by section 14 of the Federal Aviation Administration Independent Establishment Act of 1994.".

79-059 O—97 Vol. 140 (Pt. 21) 10

(B) Section 9502(b) of the Internal Revenue Code of 1986 (26 U.S.C. 9502(b)) is amended by striking "January 1, 1991" each place it appears and inserting in lieu thereof "October 1, 1995".

(C) Section 9502(d) of the Internal Revenue Code of 1986 (26 U.S.C. 9502(d)) is amended—

(1) in paragraph (2) by inserting "and before October 1, 1995," immediately after "August 31, 1982,"; and

(2) in paragraph (3) by inserting "and before October 1, 1995" immediately after "August 31, 1982".

(D) Section 9502 of the Internal Revenue Code of 1986 (26 U.S.C. 9502) is amended by adding at the end the following new subsection:

"(e) TERMINATION OF AIRPORT AND AIRWAY TRUST FUND.—The Airport and Airway Trust Fund shall terminate on October 1, 1996, and all amounts in such Trust Fund shall be transferred upon termination to the Aviation Trust Fund Account established by section 14 of the Federal Aviation Administration Independent Establishment Act of 1994.".

(b) Notwithstanding any other provision of law, the receipts and disbursements of the Aviation Trust Fund Account shall not, for any fiscal year—

(1) be counted in calculating the deficit under section 3(6) of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) for purposes of comparison with the maximum deficit amount under the Balanced Budget and Emergency Deficit Control Act of 1985;

(2) be counted in calculating the excess deficit for purposes of sections 251 and 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 and 902); or

(3) be subject to sequestration or reduction under such sections 251 and 252.

(c)(1) Each year the Administrator shall prepare a budget for the Administration, which shall contain estimates of the financial condition and operations of the Administration for the current and ensuing four fiscal years, and the actual condition and results of operations for the last completed fiscal year. Such budget shall be submitted to the Office of Management and Budget, under such rules and regulations as the President may establish as to the date of submission, the form and content, the classification of data, and the manner in which such reports shall be prepared and presented. The budget shall identify separately the programs, projects, and activities determined by the Administrator to be appropriate for obligation from the Trust Fund pursuant to the provisions of this section. The budget submission shall also include a statement of income and expenses, and analysis of surplus or deficit, and any other such supplementary information as is necessary or desirable to make known about the financial condition and operations of the Administration. The annual budget shall be included in the budget submitted by the President pursuant to chapter 11 of title 31, United States Code.

(2) For fiscal years beginning after September 30, 1995, the Director of the Office of Management and Budget, after consulting with the Director of the Congressional Budget Office and the Joint Committee on Taxation, shall prepare an estimate of revenues and receipts that will be appropriated or credited to the Aviation Trust Fund Account established by subsection (a) of this section. In no event shall expenditures authorized by the Administrator for any fiscal year exceed the amount of such revenues and receipts estimated for that year pursuant to this subsection.

(3) In the budget prepared pursuant to paragraph (1) of this subsection, the Administrator shall identify all expected expenditures from the Aviation Trust Fund Account by program, project, or activity.

(4) The Administrator shall report to the appropriate committees of the Senate and House of Representatives by April 15 of each year on any changes in planned expenditures from the Aviation Trust Fund Account for the upcoming fiscal year pursuant to paragraph (3) of this subsection. Consistent with the provisions of this section, the Administrator may thereafter modify the report and shall advise in writing the appropriate committees of the Senate and House of Representatives regarding any such modification.

(d)(1) In preparing the budget report pursuant to subsection (c) of this section and in approving for expenditures from the Aviation Trust Fund Account for programs, projects, and activities under this section, the Administrator shall—

(A) approve for obligation capital projects in amounts up to the limit of authorizations provided by law, and

(B) from available funds not obligated under subparagraph (A), approve for obligation non-capital activities authorized by law.

(2) The budgetary resources available for obligation for each fiscal year after September 30, 1995, from the Aviation Trust Fund Account shall be obligated in accordance with the most recent report of the Administrator pursuant to subsections (c) and (d) of this section.

(e) For fiscal years beginning after September 30, 1995, committees in the Senate and House of Representatives with jurisdiction to authorize and appropriate new budget authority for programs of the Administration shall authorize and appropriate such new budget authority for periods of two fiscal years.

SEC. 14. USE OF FACILITIES.

With their consent, the Administrator may, with or without reimbursement, use the services, equipment, personnel, and facilities of Federal agencies and other public and private agencies, and may cooperate with other public and private agencies and instrumentalities in the use of services, equipment, personnel, and facilities. The head of each Federal agency shall cooperate fully with the Administrator in making the services, equipment, personnel, and facilities of the Federal agency available to the Administrator. The head of a Federal agency is authorized, notwithstanding any other provision of law, to transfer to or to receive from the Administration, without reimbursement, supplies and equipment other than administrative supplies or equipment.

SEC. 15. ACQUISITION AND MAINTENANCE OF PROPERTY.

(a) The Administrator is authorized—

(1) to acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain—

(A) air traffic control facilities and equipment;

(B) research and testing sites and facilities; and

(C) such other real and personal property (including office space and patents), or any interest therein within and outside the continental United States, as the Administrator considers necessary;

(2) to lease to others such real and personal property; and

(3) to provide by contract or otherwise for eating facilities and other necessary facilities for the welfare of employees of the Administration at its installations and to purchase and maintain equipment for such facilities.

(b) Title to any property or interest therein acquired pursuant to this section shall be in the United States.

(c) The authority granted by subsection (a) shall be available only with respect to facilities of a special purpose nature which the Administrator determines cannot readily be reassigned from similar Federal activities and are not otherwise available for assignment to the Administration by the Administrator of General Services.

(d) The authority of the Administrator to enter into contracts and leases under this section shall be to such extent or in such amounts as are provided in appropriation Acts.

SEC. 16. FACILITIES AT REMOTE LOCATIONS.

(a) The Administrator is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) meeting facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for school-age dependents of employees to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under subsection (a)(1) and the furnishing of services and supplies under subsection (a)(2) shall be at prices reflecting reasonable value as determined by the Administrator.

(c) Proceeds derived from reimbursements under this section shall be deposited in the Treasury and may be withdrawn by the Administrator to pay directly the cost of work or services provided under this section, to repay or make advances to appropriations of funds which do or will bear all or a part of such cost, or to refund excess sums when necessary, except that such payments may be credited to a service or working capital fund otherwise established by law, and used under the law governing such funds if the fund is available for use by the Administrator for performing the work or services for which payment is received.

SEC. 17. ADVISORY COMMITTEE.

(a) There is established an advisory committee which shall be known as the Federal Aviation Advisory Committee (hereafter in this section referred to as the "Advisory Committee").

(b) The Advisory Committee shall consist of 5 members, who shall consist of—

(1) the Secretary of Transportation (who shall serve as Chairman);

(2) 2 members appointed by the Chairman and Ranking Minority Member of the Committee on Commerce, Science, and Transportation of the Senate; and (3) 2 members appointed by the Chairman and Ranking Minority Member of the Committee on Public Works and Transportation of the House of Representatives.

(c) Each individual appointed under subsection (b)(2) and (3) as a member of the Advisory Committee shall be knowledgeable about matters involving aviation.

(d) The Advisory Committee shall provide advice and counsel to the Administrator on issues which affect or are affected by the operations of the Administration.

(e) Members of the Advisory Committee, including replacement members appointed to fill a vacancy, shall be appointed to serve until the Advisory Committee is terminated pursuant to subsection (h).

(f) Each member of the Advisory Committee shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his or her usual place of residence, in accordance with section 5703 of title 5, United States Code.

(g) The Administrator shall make available to the Advisory Committee such staff, information, and administrative services and assistance as may reasonably be required to enable the Advisory Committee to carry out its responsibilities under this section.

(h) The Advisory Committee shall cease to be in effect on the date that is 2 years after the effective date of this section.

SEC. 18. TRANSFERS OF FUNDS FROM OTHER FEDERAL AGENCIES.

The Administrator is authorized to accept transfers from other Federal agencies to funds which are available to carry out functions transferred by this Act to the Administrator or functions assigned by law to the Administrator on or after the date of enactment of this Act.

SEC. 19. SEAL OF ADMINISTRATION.

The Administrator shall cause a seal of office to be made for the Administration of such design as the Administrator shall approve. Judicial notice shall be taken of such seal.

SEC. 20. STATUS OF ADMINISTRATION UNDER CERTAIN LAWS.

For purposes of section 551 of title 5, United States Code, the Administration is an agency. For purposes of chapter 9 of such title, the Administration is an independent regulatory agency.

SEC. 21. SAVINGS PROVISIONS.

(a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, on or after the date of enactment of this Act, in regard to functions which are transferred under this Act to the Administration, and

(2) which are in effect at the time of the effective date set forth in section 28(a), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Administrator or other authorized officials, a court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending at the time of the effective date set forth in section 28(a); and such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceeding shall continue in effect until modified, terminated, suspended, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c)(1) The provisions of this Act shall not affect suits commenced prior to the effective date set forth in section 28(a).

(2) In all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) In any case involving one or more officers required by this Act to be appointed by and with the advice and consent of the Senate who shall not have entered upon office on the effective date set forth in section 28(a), the President may designate any officer whose appointment was required to be made by and with the advice and consent of the Senate, and who was such an officer immediately prior to the effective date set forth in section 28(a), to act in such office until the office is filled as provided in this Act. While so acting, any such person shall receive compensation at the rates provided by this Act of the respective office in which he or she acts.

SEC. 22. LAWS AND REGULATIONS.

Except to the extent otherwise provided in this Act, all laws, rules, and regulations in effect and applicable to the Federal Aviation Administration of the Department of Transportation and to the Administrator of such Administration on the date immediately preceding the effective date set forth in section 28(a) shall, on and after such effective date, be applicable to the Federal Aviation Administration and the Administrator established by this Act, until such law, rule, or regulation is repealed or otherwise modified or amended.

SEC. 23. AMENDMENT TO INSPECTOR GENERAL ACT OF 1978.

Section 2 of the Inspector General Act of 1978, approved October 12, 1978 (5 App. U.S.C.) is amended by inserting "Federal Aviation Administration," immediately after "Veterans' Administration,".

SEC. 24. AMENDMENTS TO GENERAL SCHEDULE.

(A) Section 5312 of title 5, United States Code, is amended by adding at the end the following:

"Administrator, Federal Aviation Administration.".

(b) Section 5313 of title 5, United States Code, is amended by striking "Administrator, Federal Aviation Administration." and inserting in lieu thereof the following: "Deputy Administrator, Federal Aviation Administration.".

(c) Section 5315 of title 5, United States Code, is amended by striking "Deputy Administrator, Federal Aviation Administration." and inserting in lieu thereof the following: "Assistant Administrators, Federal Aviation Administration (8).

"Chief Counsel, Federal Aviation Administration.".

(d) Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"Inspector General, Federal Aviation Administration.".

SEC. 25. EFFECTIVE DATES.

The provisions of this Act shall take effect upon the expiration of the 180-day period following the date of enactment of this Act.

By Mr. SIMON:

S. 2547. A bill to amend title I of the Employee Retirement Income Security Act of 1974, to improve enforcement of

such title by adding certain provisions with respect to the auditing of employee benefit plans, and for other purposes; to the Committee on Labor and Human Resources.

ERISA AUDIT IMPROVEMENT ACT OF 1994

• Mr. SIMON. Mr. President, I introduce the ERISA Audit Improvement Act of 1994. Congress passed ERISA in 1974 in order to protect the interest of participants and beneficiaries for the purposes of protecting the interests of participants and beneficiaries of employee benefit plans. This bill proposes to improve ERISA enforcement.

Over the last several years, both Congress and the inspector general's office at the Department of Labor have become increasingly concerned over the Department of Labor's oversight of ERISA. In response, this new legislation offers a common sense approach to ensuring its implementation. It calls for the law to be amended on three fronts: Limited-scope audits, peer review requirements, compliance audits, and the reporting of crimes and intentional misstatements. These proposals are offered without imposing unreasonable burdens on plan sponsors. As enunciated by D. George Bell, the former Assistant Secretary for Pension and Welfare Benefits at the Department of Labor under the Bush administration, "The goal is to strike a balance between the interests of plan sponsors on the one hand and participants and beneficiaries on the other."

I understand that those in the accounting profession have raised concerns regarding the proposed reporting requirements and potential liability. I intend to work with accountants and accounting firms to address those concerns, while still protecting the interests of beneficiaries and the public-at-large.

American workers who participate and benefit from pension plans deserve the protection that ERISA requires. This legislation helps to accomplish this goal. I ask for unanimous consent that a brief summary of the bill be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ERISA AUDIT IMPROVEMENT ACT OF 1994

SECTION 1: TITLE

SECTION 2: REPEAL OF LIMITED SCOPE AUDIT

Under current law, ERISA plan auditors are permitted to exclude plan assets when they are invested in regulated institutions such as banks, insurance companies or similar entities pursuant to the so-called "limited scope exemption". Section 2 amends ERISA to require the inclusion of plan assets which are held by these institutions within the accountant's audit of the plan. This requirement does not necessarily mean that the plan's accountant will duplicate the work of the bank or insurance company's accountant. It is expected that the ERISA plan accountant will rely on the reports of the financial institution which speak to the reliability of the audit.

SECTION 3: PEER REVIEW

There is no external quality control review requirement for public accountants who perform ERISA audits under current law. Section 3 amends ERISA to require that public accountants participate in an external quality control review of the accountant's practices relevant to employee benefit plans. This provision will be effective three years after enactment to provide the profession with sufficient time to prepare for this requirement.

SECTION 4: REPORTING OF CERTAIN EVENTS

Under current law, there is no duty for an ERISA plan administrator or an accountant to disclose to the Secretary information indicating that a crime or intentional misstatement may have occurred. Section 4 creates a reporting process whereby an accountant who learns of certain crimes is required to notify the plan administrator within 5 days. If the plan administrator does not notify the Secretary of Labor within that time frame, the accountant is required to provide notice to the Secretary.

If the accountant has reason to believe that the plan administrator may have been involved in the crime, then the accountant shall notify the Secretary directly.•

By Mr. DODD (for himself and Mr. D'AMATO):

S. 2548. A bill to amend the Federal Deposit Insurance Act to exclude certain bank products from the definition of a deposit; to the Committee on Banking, Housing, and Urban Affairs.

BANK INSURANCE FUND AND DEPOSITOR PROTECTION

• Mr. DODD. Mr. President, I introduce the Bank Insurance Fund and Depositor Protection Act of 1994. Sponsoring this legislation with me is my colleague, Senator ALFONSE D'AMATO, the ranking member of the Senate Banking Committee.

The Bank Insurance Fund and Depositor Protection Act of 1994 is simple and straightforward. It prohibits Federal deposit insurance coverage for a new financial product that recently emerged from a small corner of the retail banking world. This first of its kind product, called a retirement CD, has been been cleverly constructed to receive both the benefits of Federal deposit insurance and tax deferral.

Earlier this year, the Office of the Comptroller of the Currency [OCC] and the Federal Deposit Insurance Corporation [FDIC] sanctioned the sale of the retirement CD by Blackfeet National bank, a small national bank in Montana. In separate letters dated May 12, 1994, the FDIC and the OCC stated that they had no objection to the sale of the retirement CD by Blackfeet. I would note that the Internal Revenue Service has not issued a similar opinion on the tax status of the retirement CD.

At this time, Blackfeet is the only insured depository institution going forward with the sale of the retirement CD to consumers. However, it is my understanding that approximately eight other institutions have signed licensing agreements to sell the retirement CD and may begin offering the product within the next few weeks. Many others are carefully examining the retirement CD with an eye toward offering it at some time in the future.

Mr. President, as it is currently structured, the retirement CD is not an appropriate product to be covered by Federal deposit insurance. The retirement CD raises significant policy issues related to consumer protection, safety and soundness, regulatory control, and competitive equity. I believe that if it is allowed to proliferate as it is currently structured, the retirement CD could have a tremendously negative impact on consumer confidence in our financial institutions and on the stability of our deposit insurance system.

I have described in detail most of my concerns about the retirement CD in a June 20, 1994, letter that I and several of my Banking Committee colleagues sent to the OCC and the FDIC. I would like to include that letter along with the regulators' responses in the RECORD.

I will not reiterate all the concerns described in that letter, but will briefly mention a couple of the more troubling issues that arise in connection with the retirement CD.

First, there is enormous potential for customer confusion about the retirement CD's terms and conditions. This product is not a plain vanilla certificate of deposit; it is not a simple annuity. It is a complex newfangled hybrid that has both CD and annuity features.

The retirement CD pays a fixed rate of interest for up to 5 years, after which the rate is adjusted at the sole discretion of the bank. This rate is never supposed to fall below 3 percent. Interest ceases to be posted upon maturity. The customer may withdraw up to two-thirds of the balance at maturity, and the remainder will be disbursed in fixed periodic payments for life, incorporating the imputed interest rate.

Consumers must understand that the interest rate is set at the sole discretion of the bank. While there is a 3 percent floor during the period when interest accrues, there is no similar threshold during the payout phase. This raises the prospect that a customer may not know what the imputed rate is tied to, and that the bank could offer a fixed payout at an extremely unfavorable rate.

Second, a consumer must understand that this retirement CD, unlike traditional certificates of deposit, contains a component that is not FDIC insured. FDIC insurance only applies to the balance that is not withdrawn at maturity, less the full dollar amount of any payments received. If a bank that issues a retirement CD fails at a point when the customer had already received the full value of the account through lump-sum distribution and monthly payments, the FDIC would neither insure nor continue to pay the monthly payments for the rest of the

customer's life. This is the case despite the fact that the promotional material claims to guarantee payments for life.

Mr. President, the OCC and the FDIC share many of my concerns about the likelihood of customer confusion, the existence of misleading marketing information, and the impact of this product on bank safety and soundness. They outlined these concerns in their respective no objection letters I referred to earlier. However, the regulators chose not to prevent Blackfeet from going forward with the issuance of the retirement CD, as long as the bank complied with a lengthy list of conditions.

Mr. President, I think this was ill-advised. There is already strong evidence of substantial customer confusion regarding the insurance status of non-deposit investment products like mutual funds and annuity products being sold by banks and other insured depository institutions. These products are much less complex than the retirement CD. The regulators themselves have helped to collect compelling evidence about the ongoing problem of customer confusion. At a time when we are wrestling with how to eliminate this problem, I find it difficult to understand why the regulators gave their stamp of approval to the sale of this new complex product which can only make a bad situation worse.

Mr. President, for this and many other reasons, the retirement CD as it's currently structured should not be offered by banks to the public. The legislation I am introducing today will exclude the retirement CD from the definition of a deposit under the Federal Deposit Insurance Act. The retirement CD will therefore not be covered by Federal deposit insurance.

The legislation does not prohibit banks from offering the retirement CD. It simply denies the product deposit status under the Federal Deposit Insurance Act.

The legislation is not intended to eliminate existing levels of deposit insurance coverage to deposit accounts established in connection with certain individual retirement accounts, Keogh plans, eligible deferred compensation plans, pension plans, or similar employee benefit plans which may be maintained at an insured depository institution. This legislation eliminates Federal deposit insurance coverage for products which expose the issuing insured depository institution, and ultimately the deposit insurance funds, to liabilities that are annuity contracts and are tax deferred under section 72 of the Internal Revenue Code of 1986.

The provisions of this act do not apply to any liability which is not an annuity contract, whether or not tax deferred under section 72 of the Internal Revenue Code. For example, a liability other than an annuity contract which is part of an individual retirement account would not be affected by the provisions of this act even though the tax liability is deferred under section 72 of the Internal Revenue Code of 1986 because section 408(d) of the code incorporates section 72 only by reference.

Mr. President, the retirement CD may be cleverly packaged. It may be a tempting new business opportunity for the banking industry. But because it raises serious public policy concerns that have not been fully explored, it must not be provided the protection of the Federal safety net—at least until it is more closely examined by Congress, the banking regulators, and the Internal Revenue Service. I hope that the Banking Committee will hold hearings on this matter early next year.

I ask unanimous consent that the Bank Insurance Fund and Consumer Protection Act of 1994 be printed in the RECORD along with the three letters.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2548

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bank Insurance Fund and Depositor Protection Act of 1994".

SEC. 2. DEFINITION OF DEPOSIT.

Section 3(*l*)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(*l*)(5)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and "; and

(3) by adding at the end the following new subparagraph:

"(C) any liability of an insured depository institution that arises under an annuity contract, the income on which is tax deferred under section 72 of the Internal Revenue Code of 1986.".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall apply to any liability of an insured depository institution that arises under an annuity contract issued on or after October 6, 1994.

U.S. SENATE, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,

Washington, DC, June 20, 1994.

Hon. EUGENE LUDWIG,
Comptroller of the Currency, Washington, DC.

Hon. ANDREW C. HOVE,
Acting Chairman, Federal Deposit Insurance Corporation, Washington, DC.

DEAR MR. LUDWIG AND CHAIRMAN HOVE: We are following with great interest and concern the efforts of the Blackfeet National Bank ("Blackfeet") of Browning, Montana to offer to the general public a new "Retirement CD." We are disappointed that the OCC and the FDIC, by separate correspondence dated May 12, 1994, have in effect sanctioned, with certain conditions, plans to market and offer this Retirement CD investment product.

We are very troubled that the OCC and FDIC would react favorably to a product with such enormous ramifications for the banking system, the Bank Insurance Fund, the insurance industry—and, most importantly, for the consumers of financial products—without consultation with Congress and without requesting more specific commitments and information from American Deposit Corp. or Blackfeet.

The Retirement CD product raises a number of significant concerns which we have detailed below. We strongly believe these matters need to be thoroughly addressed by the regulators and Congress before this investment product is offered to the public.

1. CONSUMER PROTECTION ISSUES

The OCC and FDIC letters clearly indicate that both regulators have rather significant reservations about the consumer-protection implications of the Retirement CD. Both letters contain suggestions or conditions aimed at ensuring customer understanding and adequate disclosure. This insured deposit product combines features of both certificates of deposit and annuities, and it is enormously complex. Consumers may not fully comprehend how it works, the interest rate structure or the extent of FDIC insurance coverage.

The Retirement CD will pay a fixed rate of interest for up to five years, after which the rate becomes adjustable until the agreed-upon maturity date. The only assurance given to the consumers with respect to this variable interest rate is that it will be at least 3 percent. Upon maturity, the customer may withdraw up to two-thirds of the account balance, and the remainder of the account will be dispersed for life in fixed payments. These periodic payments incorporate an imputed interest rate. The consumer must understand that the interest rate, during much of the accumulation period (prior to the agreed-upon maturity date) and all of the payout phase, will be determined at the sole discretion of the bank. Furthermore, as we understand this product during the payout phase, there will be no minimum imputed interest rate, similar to the three percent floor in the accumulation phase. This raises an ominous prospect: that a customer will not know exactly what the "imputed" rate is keyed to and that the bank could offer a fixed payout at an extremely unfavorable rate.

As we understand the product, FDIC insurance would only apply to the balance (principal plus accrued interest) that was not withdrawn on the date of maturity, less the full dollar amount of any payments received during the pay-out period. Therefore, a customer would have to understand that if the bank were to fail at a point when the customer had already received the full value of the account through lump-sum distribution and monthly payments, the FDIC would neither insure, nor continue to pay, the monthly payments for the rest of the customer's life.

The OCC and the FDIC have expressed consumer protection concerns with respect to depository institution sales of uninsured non-deposit investment products, such as mutual fund shares. There is evidence that banking consumers do not always understand the simple fact that some of the products that banks offer are not FDIC-insured. With respect to the Retirement CD, we are concerned that consumers will not be able to fully-understand that a product that is called a "certificate of deposit"—a traditional insured deposit product—contains a component that is not FDIC-insured (although we understand that the promotional materials misleadingly "guarantee" payments for life).

Even the regulators seem somewhat uncertain about how the Retirement CD works.

The respective letters from the OCC and the FDIC differ in their descriptions of one of the most important basic terms of the product—mainly, at what point the payout is agreed to. The OCC letter states, "[o]n the maturity date the customer will select from various options for repayment" (p. 2, emphasis added). The FDIC letter states, "[u]pon opening the account, the customer also chooses his/her payout options" (p. 1-2, emphasis added). If the regulators are confused, certainly the potential for consumer confusion is enormous.

We must ask this question: Do the regulators honestly believe that this product—that contains variable interest rates, certain tax benefits, and partial FDIC-insured deposit status—will not create substantially greater confusion that non-deposit investment products?

2. REGULATORY ISSUES

Annuities are currently subject to state regulations enforced by state insurance officials. It is unclear if state insurance regulatory requirements will apply to the Retirement CD. Both customers and the bank should know this. If state regulations do not apply, it should be determined whether banks and bank regulators currently have the ability or resources to safeguard these accounts, and what policies and procedures are necessary to train bank personnel about annuities and about appropriate sales practices.

3. SAFETY AND SOUNDNESS ISSUES

Blackfeet and other banks that may offer the Retirement CD clearly will be acting as an underwriter of what is essentially an annuity. Although clever lawyering has gained this annuity product designation as a "deposit", it poses much greater risk to the bank than a traditional deposit. National banks will be assuming an unprecedented and inappropriate risk as a result of having to make a fixed payout for the life of a customer. Ultimately, these payments could exceed the consumer's balance on deposit at maturity. While the OCC suggests that Blackfeet's business plan should indicate how it will manage the risk associated with the annuity payment, the OCC requires no specific showing that the bank has the capability to quantify or manage this long-term liability of unknown proportions.

This "deposit" is structured so that at the date of maturity, the bank must determine the fixed lifetime payout for the customer using a complex and not entirely-discernible process to achieve a proper rate of return. The Congress has opted not to authorize banks to assume the type of risk Blackfeet would assume in offering the Retirement CD. The OCC and the FDIC seem willing to disregard this consistent record of Congressional reluctance to allow federally-insured depository institutions to engage in such high-risk activities. The OCC and FDIC also seem too willing to take it on faith that a small national bank (armed with a software program) will have the business acumen and operational know-how to handle the risk of underwriting this annuity product.

4. COMPETITIVE EQUALITY ISSUES

The proliferation of the Retirement CD will produce an unfair competitive advantage for banks. It is reasonable to expect that consumers will be drawn to a tax-deferred annuity that also offers federal deposit insurance. By allowing national banks to underwrite, market and sell a tax-deferred annuity that is FDIC-insured, the FDIC is granting a substantial competitive advantage over similar annuity products that do not come with a government guarantee.

In expanding future opportunities for all financial service providers and consumers, the Federal government's goal should be to encourage competition on a free and fair basis. Balance sheet strength, customer service and other market-determined characteristics, not market-distorting government guarantees, should determine success. Given the recent savings and loan crisis, and the regulators' concerns over the abuse of deposit insurance, it would seem ill-advised to extend the reach of the federal safety net to a product that raises so many regulatory, competitive and consumer protection concerns.

The OCC and the FDIC have made it very clear that when given the opportunity, they will usually take the most expansive and creative view of bank powers under current law. We strongly support the view that, to the maximum extent possible, an explicit statutory mandate must exist before the regulators authorize expanded powers for banks, or any other financial intermediaries. For this reason, we continue to support comprehensive modernization of our entire financial system. Until this can be accomplished by Congress, we urge the OCC and FDIC to balance the proclivity to expand bank powers through regulatory channels against the legitimate public policy concerns of consumer protection, safety and soundness, and competitive equality. Products that raise serious public policy concerns deserve great scrutiny, regardless of how cleverly they are packaged or how attractive they may be to the banking industry. The Retirement CD is clearly one such product.

We do not share your view that this product, as it is currently structured, is an appropriate product for national banks to offer to retail customers. Therefore, we are developing, and will soon introduce, legislation to prohibit the sale of this investment product. Pending consideration of this legislation by Congress, we urge the OCC and the FDIC to reconsider their respective positions on the Retirement CD.

Sincerely,

CHRISTOPHER J. DODD.
RICHARD H. BRYAN.
ALFONSE M. D'AMATO.
LAUCH FAIRCLOTH.

COMPTROLLER OF THE CURRENCY,
ADMINISTRATOR OF NATIONAL BANKS,
Washington, DC, August 18, 1994.

Hon. CHRISTOPHER J. DODD,
Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR DODD: I am responding to your June 20, 1994, letter addressed jointly to me and Andrew C. Hove, Acting Chairman, Federal Deposit Insurance Corporation ("FDIC"), concerning our recent letters to the Blackfeet National Bank (the "Bank") regarding its new Retirement CD. I appreciate this opportunity to address the concerns expressed in your letter relating to this bank product. Since your letter was also signed by them, we have sent identical responses to Senators Bryan, D'Amato and Faircloth.

Your letter states you are troubled that the OCC "would react favorably to a product with such enormous ramifications for the banking system, the Bank Insurance Fund, the insurance industry—and, most importantly, for the consumers of financial products—without consultation with Congress and without requesting more specific commitments and information from American Deposit Corp. or Blackfeet."

Please be assured that during the OCC's review of the Bank's November 8, 1993, letter in which the Bank informed us of its intention to market the Retirement CD, our staff had numerous telephone conversations with blackfeet and its legal counsel, and did request a substantial amount of additional information. On the basis of that information and our own research, we found no reason in law or supervisory policy to prohibit the offering of this product. Accordingly, we issued our no-objection letter to the Bank. Our administrative process does not routinely involve consultation with Congress. However, we are available to discuss the Blackfeet matter with you and the members of your staff at your convenience.

1. CONSUMER PROTECTION ISSUES

The consumer protection issues generally arise from the mix of features that comprise the Retirement CD, and the ability of the Bank to explain and of consumers adequately to understand this combination of features. You are concerned that the product's structure may prevent consumers from fully comprehending how the product works, its interest rate structure and the extent to which the product is covered by FDIC insurance. In addition, your letter indicates that consumers may not be able to understand a product that is called a certificate of deposit but contains a non-FDIC insured component. Moreover, you ask whether we believe that the Retirement CD, which contains variable interest rates, tax benefits, and partial FDIC-insured deposit status, will create substantially greater confusion than nondeposit investment products.

The OCC is concerned about any bank product that potentially may confuse customers. I understand your concern that the combination of certain attributes of the Retirement CD, including variable interest rates, tax benefits, partial FDIC-insured deposit status presents complications and could create customer confusion. We fully agree that it is important customers not misunderstand the nature of financial products offered to them. This is a problem to which we and the other federal banking agencies have been sensitive in our evaluation of bank sales of all types of nondeposit investments products. While the Retirement CD's complexities do not present a legal basis for preventing its offer and sale by the Bank, they do raise supervisory concerns. In response to those concerns we imposed conditions on the operation of Bank sales programs to address the potential problem of customer confusion.

Our legal review of the Retirement CD rested upon an analysis of the powers of national banks to engage in the business of banking. We concluded that offering the product represents the exercise by the Bank of its express authorizations to receive deposits and enter into contracts, coupled with its powers to incur liabilities and fund its operations. By offering the Retirement CD, the Bank is engaging in the business of banking, an activity federal law authorizes it to undertake.

The Bank did not seek and the OCC did not issue a formal approval of the product. Because offering the Retirement CD lies within the business of banking, the Bank does not need specific OCC approval to offer the product. Even so, the Bank may not ignore safety and soundness and customer protection concerns when it actually sells the product. We therefore advised the Bank that the OCC would not object to the offering of the Retirement CD only if the Bank met certain supervisory and consumer protection related conditions.

To address consumer-related concerns, our letter cautioned the Bank that the OCC expects it accurately to represent the "product's risks and economics, deposit insurance status and tax treatment in dealing with actual and prospective customers." We also stipulated twelve conditions that concern adequate disclosure and customer protection. Among these conditions are requirements that the Bank—(1) take steps to assure that its representations to customers regarding the FDIC insured status of the product are fair and accurate (condition #6); (2) make specific disclosures concerning the tax aspects of the product (conditions #9–10); (3) adequately explain the product's mechanics and economics (condition #12); (4) properly explain the calculation of the applicable interest rate (condition #13); and (5) implement an appropriate training program for personnel who will be involved in marketing the product, OCC examiners will periodically evaluate the Bank's compliance with these conditions.

In addition to the conditions detailed to our letter concerning disclosures, we informed the Bank that the Interagency Statement on Retail Sales of Nondeposit Investments Products, NR 94–21 (February 17, 1994) is applicable to the non-FDIC insured portion of the product. We have also advised the Bank of the applicability of 12 U.S.C. §4301 et seq. and 12 C.F.R. §230 et seq. (Truth in Savings).

You also set forth your understanding that during the payout phase of the Retirement CD there will be no minimum imputed interest rate, similar to the three percent floor in the accumulation phase. This is not our understanding. The Bank has represented to us that at the end of the accumulation phase, a monthly payment amount is calculated for the depositor based primarily on three elements—(1) the balance left in the account after the depositor has made any withdrawals; (2) an imputed interest rate that cannot be below three percent; and (3) the depositor's life expectancy. Once the payment amount is determined, it remains fixed for life of the depositor. Thus, there is a minimum imputed interest rate of three percent used in calculating the monthly payments.

Another concern expressed in your letter relates to the fact that FDIC insurance only applies to the balance (principal plus accrued interest) that is left in the account at the end of the accumulation phase. Your concern is that depositors may not understand that if the Bank fails after the depositor has received payments equal to this balance, the FDIC would neither insure, nor continue to pay, the monthly payments for the rest of the customer's life. We addressed this specific concern in condition #6 of our letter where we directed the Bank to take steps to assure that representations to customers concerning the FDIC insured status of the product are fair and accurate, and that any limitations on FDIC insurance are conspicuously indicated.

You also expressed concern that the Bank's promotional materials contained the phrase "guaranteed payments for life." This language was contained in an early draft of the Bank's materials, and we strongly objected to it. (See condition #8 in our letter.) The phrase has been deleted from the current draft promotional materials and the term "guaranteed" now is used only with respect to the three percent guaranteed minimum interest rate. We are discussing use of the term in this context with the Bank's counsel to make sure its use is not confusing to investors.

Finally as to consumer issues, you point out an apparent discrepancy between our letter and the FDIC's with respect to the time at which consumers may select from various options for repayment. The FDIC's letter states the selection is made "upon opening the account" whereas our letter states the selection is made "on the maturity date." The depositor is actually allowed to select the terms for repayment on either date. We viewed the maturity date as the most effective time for this selection, and that is why we used that date in our letter. However, the FDIC is correct in stating that depositors may make their selections upon opening the account.

2. REGULATORY ISSUES

You state that annuities are currently subject to State regulations enforced by state insurance officials, and note that it is unclear if State insurance regulatory requirements will apply to the Retirement CD. In addition, you believe that customers should know whether State regulations apply to the product. If they do not, you suggest we consider whether banks and bank regulators currently have the ability or resources to safeguard these accounts, and what policies and procedures are necessary to train Bank personnel about annuities and appropriate sales practices.

Our legal analysis and conclusions to date have been limited to a determination of the Bank's authority to conduct the business of banking under the National Bank Act. State regulatory officials may conclude that State insurance laws also apply to the Retirement CD or any other activity which we interpret as being authorized by the National Bank Act. Such a conclusion, however, does not affect our interpretation of that Act. The applicability of any particular State law to the Retirement CD will have to be reviewed on a case by case basis.

We believe the OCC has the expertise fully to examine and evaluate Bank practices to mitigate the risks associated with the Retirement CD. The most significant concerns associated with the Retirement CD, in our view, relate to liquidity and funding. Written procedures and formal training presently available to, and extensively used by, OCC examiners address a variety of issues relevant to the supervision of bank obligations, including the evaluation of bank liquidity and funding issues. In the event additional guidance of training is necessary, it will be provided to examiners.

Condition #15 of our no-objection letter specifically requires the Bank to implement a program for training personnel who will be involved in marketing the Retirement CD. The training program must ensure a thorough understanding of the product so that customer questions are answered properly, and investment risks are adequately conveyed. The OCC has focused, and will continue to focus, on the Bank's training efforts in this regard, as well as its other efforts to mitigate the risks associated with the product.

3. SAFETY AND SOUNDNESS ISSUES

You state that offering the Retirement ED is tantamount to acting as an underwriter of an annuity. The risks associated with the product you believe are much greater to the Bank than a traditional deposit. This risk you state comes from the "unprecedented and inappropriate risk" a bank assumes by agreeing to make a fixed payout for the life of a customer. You are also troubled that the OCC "requires no showing that the bank has the capability to quantify or manage this long-term liability of unknown proportions."

Our letter to the Blackfeet National Bank prescribed conditions for the Bank, including the need for Bank expertise in designing and implementing product controls and systems to mitigate the risks associated with the product. We directed the Bank to pay particular attention to adequate planning for the use of funds generated from the product, accurate estimation of product payouts, and proper design of internal controls. Additionally, we required that the Bank adequately manage its funding sources for the payout obligations that will arise from the Retirement CD, considering the financial risks associated with the product.

We directed the Bank to take appropriate steps to deal with the risks it will assume by offering the Retirement CD and required the Bank to furnish us with a detailed business plan. The OCC will review the business plan and will evaluate the manner in which the Bank utilizes funds received from the Retirement CD and funds these obligations.

We believe these steps adequately and responsibly address the supervisory concerns you have expressed with the payment risks associated with the Retirement CD. As with any bank product, we will continue to review the Bank's implementation of these procedures and evaluate the Bank's effectiveness in dealing with the risks associated with the product. Should we determine at any point that the Bank is materially not in compliance with these requirements, we would direct it to cease offering the product until it took appropriate corrective actions.

4. COMPETITIVE EQUALITY ISSUES

You state your belief that the proliferation of the Retirement CD will result in an unfair competitive advantage for banks over annuity products offered by insurance companies. Given the wide and growing range of products that could be viewed as competitive in this area, and uncertainties as to the popularity of the product, it is hard to tell whether any competitive advantage will actually be present. But the potential for competitive implications does not affect the Bank's legal authority to offer the product.

I hope this letter addresses the questions and concerns you expressed in your letter concerning the Blackfeet Retirement CD. Should you have any questions or need any additional information, please let me know.

Sincerely,

EUGENE A. LUDWIG,
Comptroller of the Currency.

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, July 8, 1994.

Hon. CHRISTOPHER J. DODD,
Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR DODD: Thank you for your letter concerning the Retirement CD, a produce developed by American Deposit Corporation which is being offered by Blackfeet National Bank, Browning, Montana. Your letter expresses reservations regarding the Federal Deposit Insurance Corporation's position, as expressed in our Legal Division's May 12, 1994 advisory opinion. We appreciate the opportunity to address your concerns. Similar letters will be sent to Senators D'Amato, Bryan and Faircloth.

Your primary concern is the "consumer protection implications of the Retirement CD." The FDIC shares your concern that potential customers not be misled with regard to the workings of and the federal deposit insurance coverage afforded to the Retirement CD. That is precisely why the advisory opinion discusses these issues in such detail. The

advisory opinion expressly states that the "FDIC therefore strongly believes that all promotional materials, advertisements, agreements and other customer materials concerning the Retirement CD should clearly and conspicuously state that the lifetime monthly annuity payments are not guaranteed by the FDIC." The opinion then goes on to discuss, in great detail, the Legal Division's concerns regarding the customer promotional materials which it reviewed, including explicit suggestions to revise certain portions of the text which were found to be inaccurate and possibly misleading. The advisory opinion also states that the offering bank should follow the applicable provisions of the "Interagency Statement on Retail Sales of Nondeposit Investment Products."

Your letter questions whether (i) State insurance laws and regulations apply to the Retirement CD and (ii) a national bank may offer this type of product. Our advisory opinion makes it quite clear that since the FDIC was addressing these questions as insurer, not as the primary Federal regulator of Blackfeet National Bank, the only questions considered by the Legal Division were whether the Retirement CD is a "deposit" as that term is defined in section 3(*l*) of the FDI Act and, if so, the extent to which it is insured by the FDIC. Thus, the FDIC did not consider and has taken no position on these other issues. Your letter also asserts that the FDIC has "sanctioned" and "reacted favorably" to the Retirement CD. While the FDIC has determined that the Retirement CD is a "deposit" as that term is defined in the FDI Act and, therefore, is entitled to a certain level of deposit insurance coverage, the advisory opinion explicitly provides that it "should in no way be represented or construed as an endorsement or approval by the FDIC of this product."

You suggest in your letter that the regulators seem uncertain about how the Retirement CD works since the FDIC's and OCC's descriptions of the choice of payout options differ slightly. While our advisory opinion does state that the customer chooses his/her payout option when the account is opened, it goes on to explain that this election may be changed at any time up until thirty days prior to the maturity date. Thus, the FDIC and OCC share a common understanding of the product's parameters.

Section 11(a)(1)(A) of the FDI Act requires the FDIC to insure the deposits of all insured depository institutions. Since our staff determined that the Retirement CD qualifies as a deposit—to the extent described in the advisory opinion—we are required by law to insure it. In making its determination, the Legal Division considered all applicable statutory factors. The FDI Act does not require, or even permit, the FDIC to consider the "ramifications for the . . . insurance industry."

If you have any further questions or need any additional information, please let us know.

Sincerely,

ANDREW C. HOVE, Jr.,
Acting Chairman.●

● Mr. D'AMATO. Mr. President, I am pleased to cosponsor the Bank Insurance Fund and Depositor Protection Act of 1994 with my distinguished colleague from Connecticut, Senator DODD. This bill makes a necessary and important refinement to our banking laws. This bill would clarify the definition of a deposit in the Federal Deposit Insurance Act to make clear that certain annuity products are not FDIC-insured deposits. This legislation would provide necessary guidance to the banking regulators, make the law more precise, and protect the bank insurance fund from potential unquantifiable losses.

Mr. President, recently there has been a lot of marketing hype about a new investment product—the retirement CD. This product will operate much like a traditional annuity, but will be underwritten by a bank under the rubric of certificate of deposit. In short, a federally-insured hybrid investment vehicle—and a potential roll-of-the-dice with Uncle Sam's implicit backing. The Comptroller of the Currency and the FDIC will permit this so-called CD to be offered to depositors, with FDIC protection, under current law. Senator DODD and I, along with several of our colleagues on the Senate Banking Committee, wrote to the OCC and the FDIC to express our concern about this product, a product that would be marketed with the market-enhancing lure of FDIC insurance.

This bill has been refined in an attempt to avoid any undesired effect on standard deposit products that banks commonly offer today. For instance, qualified plans and individual retirement accounts are not intended to be covered by this legislation, to the extent that they do not generate depository institution liabilities that constitute annuity contracts. This is so even if the depository institution liability has tax-deferred status under section 72 of the Internal Revenue Code.

Again, I support this bill with the hope that it will protect consumers of financial products, safeguard FDIC funds, and promote safe-and-sound banking practices.●

By Mr. LEVIN (for himself, Mr. DURENBERGER, Mr. GRAHAM, Mr. BINGAMAN, Mr. KOHL, and Mr. FEINGOLD):

S. 2549. A bill to amend the National Trails System Act to expand Federal authority relating to land acquisition for the majority of the trails, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL TRAILS SYSTEM ACT AMENDMENTS

● Mr. LEVIN. Mr. President, today I am introducing a bill to correct a problem with the National Trails System Act. I am pleased to be joined by Senators DURENBERGER, GRAHAM, BINGAMAN, KOHL, and FEINGOLD, in sponsoring this bill.

The bill removes the current statutory prohibition on the Federal Government's ability to acquire lands or interest in lands from willing sellers for seven national trails. This puts these trails on equal footing with the Appalachian Trail, and nine other national trails, where acquisition is allowed. But, this bill explicitly states that any acquisition would require the consent of the owner of the land. The affected trails are the Continental Divide National Scenic Trail, the North Country National Scenic Trail, the Ice Age National Scenic Trail, the Oregon National Historic Trail, the Mormon Pioneer National Historic Trail, the Lewis and Clark National Historic Trail, or the Iditarod National Historic Trail.

Providing the Federal Government with acquisition authority to purchase land from willing sellers for these trails will help address increasing development pressures that threaten the long-range continuity of the National System in many areas. With voluntary acquisition as an additional tool, the Federal Government can more efficiently participate in the trail building process, and direct resources toward protecting vulnerable trail segments.

The bill does not mandate or provide funds for acquisition. It simply authorizes acquisition from willing sellers, subject to appropriations.

Mr. President, this country's scenic beauty and precious natural resources deserve protection. I am committed to that effort, and believe that a strong and extensive National Trails System is an important component of it. This bill will help bring us closer to achieving that goal.●

By Mr. ROTH:

S. 2552. A bill to amend the Internal Revenue Code for 1986 to deny the earned income credit to illegal aliens and to prevent fraudulent claims for the earned income credit; to the Committee on Finance.

THE ILLEGAL ALIEN CREDIT DENIAL ACT

● Mr. ROTH. Mr. president, I am introducing a bill today that is part of what will be a bigger plan to overhaul problems in the earned income tax credit, as well as problems with our immigration laws.

As many now know, President Clinton's 1993 tax increase also included a plan that will approximately double primarily an outlay program of the Federal Government—earned income tax credit, or EITC. Under prior law, the program cost about $10 billion annually, but under the new legislation passed last year, we will soon be spending about $20 billion annually.

Earlier this year, in response to an inquiry from Delaware, I asked the Internal Revenue Service what their estimate of noncompliance in the EITC was, and what kind of resources they were committing to resolving problems. They responded that noncompliance, including outright fraud, was "between 30 percent and 40 percent nationally". In other words, about $8 billion annually is being lost to fraud and other noncompliance in the EITC Program—this is about $40 billion over a 5-year period—a massive problem.

I immediately called for a full scale investigation of the EITC Program by

the General Accounting Office. They have been working on my request for several months, and I expect to have a great many possible reforms as a result of their work with my staff and me on this issue. Already, I have a legislative proposal that surely every American can agree on.

Under current law, there is no requirement that EITC claimants must be legal residents of this country. When we are spending $20 billion annually on a program, and we have a large Federal deficit, I cannot understand how we can afford to spend scarce resources on people that should not even be in this country. My proposal is very simple. I would simply deny the EITC for any illegal alien. In addition, it would provide procedures so that the Treasury Secretary would no longer supply temporary social security numbers.

As a result of the Secretary temporarily assigning social security numbers, I believe that a significant number of illegal aliens and ineligible recipients do receive a large amount of EITC money. Currently, a claimant often files for the EITC and either leaves the social security number (taxpayer identification number—TIN) blank, or writes in §205(c). I asked why any one would write in §205(c), and I learned that many tax preparers do this because it is the section of the Social Security law that states that you do not qualify for a social security number. Often, it is believed, these claimants cannot get a TIN because they are illegal. This must be stopped.

Only the Social Security Administration should be allowed to issue social security numbers, and under my bill, that is what will happen. When the EITC is claimed in the future, without a social security number, then the Treasury Secretary will refer those taxpayers to Social Security to first get a number assigned. My bill provides for an expedited process so that those who are legally allowed to claim the credit are not burdened by these new rules.

It seems only to be good government for us to set out procedures so that we can cut waste and abuse in this program. It is clear that undeserving individuals often try to game the tax system so that they can claim a new cash benefit from the Government. On the House side, hearings have been held showing that the electronic refund system is being gamed by using the EITC to cheat the Government out of millions and millions of dollars. I have no doubt that some of this is being done by illegal aliens.

We know there is a significant amount of revenue to be raised by my legislation. I hope we will move early next year to enact this bill, and move forward with more EITC reforms to improve the program and make it more efficient. I hope my colleagues will join me in this effort.

I would ask that a copy of my bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2552

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Illegal Alien Credit Denial Act."

SEC. 2. DENIAL OF EARNED INCOME CREDIT TO ILLEGAL ALIENS.

(a) IN GENERAL.—Paragraph (1) of section 32(c) of the Internal Revenue Code of 1986 (defining eligible indi vidual) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR ILLEGAL ALIENS.—The term 'eligible individual' does not include any individual who is an illegal alien as of the close of the taxable year."

(b) ILLEGAL ALIEN DEFINED.—Section 32(c) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(4) ILLEGAL ALIEN.—

"(A) IN GENERAL.—The term 'illegal alien' means an individual who is not—

"(i) a citizen or national of the United States, or

"(ii) an alien permanently residing in the United States under color of law.

"(B) ALIEN PERMANENTLY RESIDING IN THE UNITED STATES UNDER COLOR OF LAW.—For purposes of subparagraph (A), the term 'alien permanently residing in the United States under color of law' means an alien lawfully admitted for permanent residence (within the meaning of section 101(a)(20) of the Immigration and Nationality Act), and includes any of the following:

"(i) An alien who is admitted as a refugee under section 207 of the Immigration and Nationality Act.

"(ii) An alien who is granted asylum under section 208 of such Act.

"(iii) An alien whose deportation is withheld under section 243(h) of such Act.

"(iv) An alien who is admitted for temporary residence under section 210, 210A, or 245A of such Act.

"(v) An alien who has been paroled into the United States under section 212(d)(5) of such Act for an indefinite period or who has been granted extended voluntary departure as a member of a nationality group.

"(vi) An alien who is the spouse or unmarried child under 21 years of age of a citizen of the United States, or the parent of such a citizen if the citizen is over 21 years of age, and with respect to whom an application for adjustment to lawful permanent residence is pending."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1993.

SEC. 3. VERIFICATION OF IDENTITY OF INDIVIDUALS CLAIMING EARNED INCOME CREDIT.

(a) IN GENERAL.—Section 32 of the Internal Revenue Code of 1986 (relating to earned income credit) is amended by adding at the end the following new subsection:

"(k) VERIFICATION OF TAXPAYER IDENTIFICATION NUMBERS.—No credit shall be allowed under subsection (a) to any taxpayer unless the Secretary has verified that the taxpayer identification numbers of the taxpayer and any qualifying children set forth on the return claiming the credit are valid."

(b) EXPEDITED PROCEDURES.—The Secretary of the Treasury and the Secretary of Health and Human Services shall establish procedures under which—

(1) the taxpayer identification numbers of individuals claiming the earned income credit under section 32 of the Internal Revenue Code of 1986 are verified, and

(2) the issuance of taxpayer identification numbers to individuals claiming such credit and entitled to such numbers is expedited.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1994.●

By Mrs. BOXER:

S. 2553. A bill to amend the Endangered Species Act of 1973 to authorize the Secretary of the Interior to enter into cooperative agreements with States and political subdivisions of States to provide assistance for habitat acquisition to carry out conservation plans, and for other purposes; to the Committee on Environment and Public Works.

THE FEDERAL-STATE COOPERATION ACQUISITION ASSISTANCE ACT OF 1994

● Mrs. BOXER. Mr. President, I am pleased today to introduce the Cooperative Planning Assistance Act of 1994.

This legislation will help local governments in California, and throughout the country, meet the goals of the Endangered Species Act by supporting their habitat conservation efforts. Moreover, by supporting these efforts, this bill will reinforce the partnership between local, State, and Federal governments that is so crucial to the future success of the Endangered Species Act.

I strongly believe in the goals of the Endangered Species Act. I also believe that the act must be made to work for people as well as the plants and animals it is designed to protect. Unfortunately, the act's species-by-species focus has often led to redundant, inefficient, and onerous preservation measures.

Several southern Californian counties, including Riverside, San Diego, and Orange, have taken the lead in developing a way out of this species-by-species trap. They have taken the practical step of developing habitat conservation plans to map the most important habitat for a group of species. They then use these plans to balance development and conservation by preserving some habitat while clearing the way for development on other land.

It is disappointing however, that these counties, and other local governments across the country, have had to go it alone. The Federal Government has provided very little direct support for these innovative efforts. The legislation I am introducing today will give these local planning efforts a significant shot of Federal support and encourage their use elsewhere.

The Cooperative Planning Assistance Act of 1994 would amend the Endangered Species Act to allow the Secretary of the Interior to pay the interest on certain local government land

acquisition debt. Under this legislation, local governments who take on debt to purchase habitat under a conservation plan can ask the Secretary of the Interior to enter into an agreement. Under the terms of such an agreement, the local government would retain responsibility for payment of that debt's principal, while the Federal Government would take on the associated interest payments. The bill would leave the decision on whether to enter into such an agreement largely within the discretion of the Interior Secretary.

This legislation ensures that debt serviced under its authority only be used for habitat conservation under a federally approved habitat conservation plan. It also provides that if a local government defaults on a loan, it must pay the Federal Government back for any interest payments made on its behalf. Finally, the bill would give the Federal Government the opportunity to assume ownership of the land for conservation purposes once the habitat acquisition debt had been paid off.

I strongly believe that both California's and the Nation's biological diversity are tied to our long-term economic future. It is crucial that we develop long-range strategies for preserving natural diversity. These strategies must focus on habitat, rather than species, and prevent species from reaching threatened status. Since local governments have taken the lead in implementing such an approach on the ground, I feel that the Federal Government has the obligation to support that leadership. It is time for the Federal Government to begin to meet this obligation. I urge my colleagues' support for this legislation.

Mr. President, I ask unanimous consent that a copy of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cooperative Planning Assistance Act of 1994".

SEC. 2. ASSISTANCE FOR HABITAT ACQUISITION.

Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is amended by adding at the end the following new subsection:

"(k) ASSISTANCE FOR HABITAT ACQUISITION.—

"(1) IN GENERAL.—In accordance with this subsection, the Secretary may enter into a cooperative agreement with a State, political subdivision of a State, or group of States or political subdivisions of a State (referred to in this subsection as an 'entity') to provide assistance for the acquisition of habitat required to carry out a conservation plan approved pursuant to subsection (a)(2), including assisting the entity with meeting the requirement of subsection (a)(2)(B)(iii).

"(2) COOPERATIVE AGREEMENTS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may pay to an entity that is a party to a cooperative agreement under paragraph (1), the full amount of interest on—

"(i) a loan obtained by the entity;

"(ii) a bond issued by the entity; or

"(iii) any other debt instrument that the Secretary determines to be appropriate;

that is approved by the Secretary before entering into the cooperative agreement.

"(B) CONDITIONS FOR ENTERING INTO COOPERATIVE AGREEMENTS.—

"(i) IN GENERAL.—Subparagraph (A) shall apply only in the case of a loan, bond, or other debt instrument that is used solely to cover the cost of acquisition of habitat identified in a conservation plan approved by the Secretary pursuant to subsection (a)(2).

"(ii) DEMONSTRATION OF ABILITY TO REPAY.—Before entering into a cooperative agreement with the Secretary under this subsection, the entity that is a party to the cooperative agreement shall demonstrate, to the satisfaction of the Secretary, the ability of the entity to repay the amount of principal of the debt incurred through the debt instrument—

"(I) in a timely manner; and

"(II) from a source, other than the general tax revenue of the entity, that is dedicated to the repayment of the amount of principal of the debt.

"(C) FACTORS.—In making a determination whether to enter into a cooperative agreement under this subsection, the Secretary may take into consideration—

"(i) the number of species for which the approved conservation plan under subsection (a)(2) was developed;

"(ii) the quantity of habitat that will be preserved under the conservation plan;

"(iii) the history of the commitment of the entity that intends to enter into a cooperative agreement to conserve habitat;

"(iv) the participation of diverse interests, including government, business, environmental and landowner interests, in the planning process that produced the approved conservation plan;

"(v) the amount of funds other than the funds obtained through the debt instrument under the cooperative agreement that the entity has expended or will expend to set aside and preserve habitat;

"(vi) the likelihood of success of the conservation plan; and

"(vii) such other factors as the Secretary considers to be appropriate.

"(3) CONDITIONS DURING COOPERATIVE AGREEMENTS.—

"(A) IN GENERAL.—The conditions described in this paragraph shall apply to a cooperative agreement entered into under this subsection.

"(B) PAYMENT OF INTEREST.—The sole obligation to be paid by the Secretary pursuant to the cooperative agreement shall be the interest on the debt described in paragraph (2). The Secretary shall pay the interest at the time the interest becomes due.

"(C) PAYMENT OF PRINCIPAL.—The entity that is a party to the cooperative agreement shall pay the amount of principal of the debt described in paragraph (2) in the manner described in paragraph (2)(B)(ii).

"(D) EFFECT OF DEFAULT ON PAYMENT OF PRINCIPAL.—If the entity that is a party to the cooperative agreement defaults on the payment of an amount of principal of the debt described in paragraph (2) and the default continues for a period of 2 years or more—

"(i) the obligation of the Secretary to pay interest shall terminate; and

"(ii) the defaulting entity shall be required to repay the Secretary all interest payments made pursuant to the terms of the cooperative agreement.

"(E) CONVEYANCE TO THE UNITED STATES.—On full payment of the debt described in paragraph (2), and at the request of the Secretary, the habitat purchased by the entity with funds obtained through the debt instrument pursuant to the cooperative agreement shall be conveyed to the United States pursuant to paragraph (4).

"(4) CONVEYANCE TO THE SECRETARY.—

"(A) RIGHT OF SECRETARY.—The Secretary shall have the right to assume ownership of the real property purchased as habitat as described in paragraph (3)(E) at such time as—

"(i) the purchase of habitat financed through a debt instrument that is the subject of a cooperative agreement under this subsection has been carried out; and

"(ii) the debt incurred for the purchase of the habitat has been paid in full.

"(B) TRANSFER.—If the Secretary exercises the authority described in subparagraph (A)—

"(i) the entity shall transfer title to the property to the Secretary; and

"(ii) the use of the property shall be dedicated to the protection of species and the preservation of any wilderness areas of the property.".●

By Mr. PELL:

S. 2554. A bill to establish the position of United States Special Envoy for Tibet, and for other purposes; to the Committee on Foreign Relations.

THE TIBET SPECIAL ENVOY ACT OF 1994

Mr. PELL. Mr. President, I send to the floor for consideration a bill that would establish the position of United States Special Envoy for Tibet within the Department of State.

President Clinton, at the time of his decision in May to delink trade and human rights, acknowledged that among the areas he had sought improvement by the Chinese Government with regard to its human rights record, Tibet stood out as the one area where China had made no progress.

I believe the President and his emissaries made a strong effort to promote negotiations between the Dalai Lama and his representatives and senior representatives of the Chinese Government on the future of Tibet. I recognize the emphasis they put on this important issue, and I commend their commitment to continue to seek new ways, in consultation with the Congress, to pursue this issue with the Chinese. It is in this spirit of working together, that I introduce legislation that would establish the position of United States Special Envoy for Tibet.

In spite of President Clinton's commitment to the issue of Tibet, I recall how difficult it was to engage previous administrations in serious, knowledgeable discussions on Tibet and how the Congress and the administration were unable to pursue a foreign policy that reflected mutual concerns about China's policies in Tibet, the Dalai Lama, or the survival of Tibetan culture.

A Special Envoy for Tibet would ensure that this important element of United States-China relations was continually reflected in policy discussions on a senior level. Moreover, it would assure that the same administration official would be available to the Congress for consultation on a thorough and consistent basis. As it stands now, the Tibet brief is juggled around with the effect that no single official has command of the intricate and strategic understandings of this issue.

Mr. President, I am aware that the creation of a new position at the State Department is a matter for careful consideration, and I look forward to discussing this posting with my colleagues. However, if the administration is indeed committed to having the Chinese end human rights abuses in Tibet and engage in good faith negotiations with the Dalai Lama, a Special envoy could be one very useful and effective tool.

By Mr. DECONCINI:

S. 2555. A bill to establish Cooperative Units of Research in Infectious Disease [CURID] to evaluate the potential etiology of chronic inflammatory diseases with emphasis upon arthritis and chronic lung disease; to the Committee on Labor and Human Resources.

THE COOPERATIVE UNITS OF RESEARCH IN INFECTIOUS DISEASES ACT

• Mr. DECONCINI. Mr. President, I introduce the cooperative units of research in infectious diseases bill. This proposed legislation addresses the need for a new approach to research in chronic diseases of possible infectious etiology.

I believe that one of the Federal Government's best investments is the commitment of funds to biomedical research. The National Institutes of Health is rightfully a source of great national pride.

In the past decade, tremendous strides have been made in the biomedical research field. While we still have not been able to unlock the mystery of Acquired Immune Disease Syndrome [AIDS], the intensive research into the cause of this terrible disease has produced powerful new technology for detection of infectious agents and increased our understanding of the potential role they may play in chronic diseases like rheumatoid arthritis and chronic lung disease.

For example, we have advanced our understanding of how the body's defense mechanisms function as well as learned that the final outcome of an infection is influenced by both the genetic background of the patient and genetic composition of the infecting agent. This new knowledge is quickly changing the traditional way in which chronic diseases have been viewed. Researcher are beginning to believe that numerous chronic diseases of humans for which the causes are now unknown may be triggered by an infectious agent.

Recent animal model research data suggest that some cases of rheumatoid arthritis, juvenile arthritis, and reactive arthritis may have infectious origins. I understand that results from antibiotic treatment trials in humans also indicate this may be true but we need not only more research but coordinated research to determine if chronic illnesses like arthritis, chronic lung disease and certain forms of coronary artery disease are caused by infectious agents. In the event that the research establishes infectious agents as the cause of these diseases, more successful therapy protocols can be designed.

The bill I am proposing would provide authority to the National institutes of Health and the Centers for Disease Control and Prevention to support collaborative research groups using intramural and extramural scientists. These research groups would be composed of researchers who are highly skilled in clinical and epidemiological investigation. This approach will ensure a coordinated investigative effort by the research groups into single chronic disease entities.

A need for an indepth long-term approach to exploring the role of infectious agents is crucial to ensure that all potential causes of these debilitating diseases, which rob millions of people of the most productive periods of their lives, are investigated. We need to take all steps possible to prevent the 1994 National Centers for Disease Control and Prevention forecasts, that by the year 2020, 54.9 million people will suffer from arthritis, from becoming a reality. We need to take steps which may help us to slow today's alarming rate of increase of asthma in all age groups and eliminate chronic lung disease from the top 10 leading causes of death for adults.

I urge my colleagues to consider the new approach to chronic disease research proposed by this bill.•

ADDITIONAL COSPONSORS

S. 1379

At the request of Mr. WOFFORD, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1379, a bill to limit the continued availability of foreign assistance funds for obligation and expenditure.

S. 1976

At the request of Mr. DODD, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1976, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

S. 2411

At the request of Mr. DOLE, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 2411, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 2441

At the request of Mr. HEFLIN, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2441, a bill to provide for an independent review of the implementation of the National Implementation Plan for modernization of the National Weather Service at specific sites, and for other purposes.

S. 2511

At the request of Mr. LIEBERMAN, the names of the Senator from Louisiana [Mr. BREAUX], the Senator from New Mexico [Mr. DOMENICI], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Oregon [Mr. HATFIELD], and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 2511, a bill to specifically exclude certain programs from provisions of the Electronic Funds Transfer Act.

SENATE JOINT RESOLUTION 181

At the request of Mr. SIMON, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Virginia [Mr. WARNER], the Senator from Delaware [Mr. ROTH], the Senator from Pennsylvania [Mr. SPECTER], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 181, a joint resolution to designate the week of May 8, 1994, through May 14, 1994, as "United Negro College Fund Week."

SENATE JOINT RESOLUTION 220

At the request of Mr. BIDEN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Joint Resolution 220, a joint resolution to designate October 19, 1994, as "National Mammography Day."

SENATE JOINT RESOLUTION 222

At the request of Mr. LAUTENBERG, the names of the Senator from Oregon [Mr. PACKWOOD] and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 222, a joint resolution to designate October 19, 1994, as "Mercy Otis Warren Day," and for other purposes.

SENATE JOINT RESOLUTION 224

At the request of Mr. SIMON, the names of the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from New York [Mr. MOYNIHAN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Louisiana [Mr. BREAUX], the Senator from Hawaii [Mr. AKAKA], the Senator from Rhode Island [Mr. CHAFEE], the Senator from North Dakota [Mr. DORGAN], the Senator from Minnesota [Mr. DURENBERGER], the

Senator from Maine [Mr. COHEN], the Senator from Kentucky [Mr. FORD], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 224, a joint resolution designating November 1, 1994, as "National Family Literacy Day."

SENATE CONCURRENT RESOLUTION 80

At the request of Mr. LEVIN, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Concurrent Resolution 80, a concurrent resolution to correct technical errors in the enrollment of the bill (S. 349), and for other purposes.

SENATE RESOLUTION 270

At the request of Mr. COATS, his name was added as a cosponsor of Senate Resolution 270, a resolution to express the sense of the Senate concerning U.S. relations with Taiwan.

SENATE RESOLUTION 277—RELATIVE TO THE SCHINDLER PROJECT

Mr. SPECTER (for himself, Mr. CHAFEE, Mr. COHEN, Mr. COVERDELL, Mr. DANFORTH, Mr. DECONCINI, Mr. GORTON, Mr. GRAMM, Mr. HARKIN, Mr. HOLLINGS, Mrs. HUTCHISON, Mr. KOHL, Mr. LAUTENBERG, Mr. MATHEWS, Ms. MOSELEY-BRAUN, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. PRESSLER, Mr. SHELBY, Mr. SIMON, Mr. STEVENS, Mr. WARNER, and Mr. WOFFORD) submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 277

Whereas the Schindler Project is a nonprofit organization founded by Marian Ungar Davis under the auspices of the Holocaust Center of the United Jewish Federation of Greater Pittsburgh;

Whereas the Schindler Project has developed a national program to provide every high school senior in the United States with the opportunity to view the feature film, "Schindler's List" and then to discuss their views with Holocaust survivors;

Whereas education is the foundation on which we form a strong society;

Whereas teaching future generations about the Holocaust and its lessons for humanity serves as the best assurance that such atrocities will be prevented in the future;

Whereas the movie "Schindler's List" depicts the moral catharsis of its central figure Oskar Schindler, from an indifferent observer of the Holocaust to the savior of more than 1,200 Jews; and

Whereas the depiction of Oskar Schindler's actions show in a very compelling way, the profound impact one person's actions can have on the lives of others: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the feature film "Schindler's List" is an important tool in educating high school seniors about the Holocaust; and

(2) the Senate supports the efforts of the Schindler Project to provide students with the opportunity to view the film and discuss its historical implications and the application of those lessons to contemporary society.

Mr. SPECTER. Madam President, I turn to the submission of the Schindler Project to educate high school seniors about the horrors of Nazism and the holocaust against Jewry, and to enable our youth to bring those lessons to bear on contemporary society.

I offer this resolution on behalf of myself and 22 Senators: Senator CHAFEE, Senator COHEN, Senator COVERDELL, Senator DANFORTH, Senator DECONCINI, Senator GORTON, Senator GRAMM, Senator HARKIN, Senator HOLLINGS, Senator HUTCHISON, Senator KOHL, Senator LAUTENBERG, Senator MATHEWS, Senator MOSELY-BRAUN, Senator MURKOWSKI, Senator PACKWOOD, Senator PRESSLER, Senator SHELBY, Senator SIMON, Senator STEVENS, Senator WOFFORD and Senator WARNER.

Madam President, the Schindler Project is a nonprofit organization founded by a very distinguished Pennsylvanian, Mrs. Marion Ungar Davis, who is in the Senate gallery today along with her father, Mr. Ungar, who traveled from Pittsburgh to be present at the introduction of this resolution.

The Schindler Project has developed a national program to provide high school seniors with the opportunity to view the feature film "Schindler's List" and then to discuss their views with Holocaust survivors.

The regrettable fact of historical life, Madam President, is that although the Holocaust was an occurrence of recent origin during World War II, during my lifetime—I am not sure about the younger Presiding Officer, if it was during her lifetime as well—she nods in the affirmative—notwithstanding the horror of the mutilation and annihilation, murder of 6 million Jews by the Nazis, already there are historical revisionists who say it never happened.

Already we are seeing a revival of antisemitism in Germany. We see it in Italy today. We see it across Europe. And regrettably we continue to see it in the United States.

As a young man growing up, born in Wichita, KS, I saw it. I saw it in the small community of Russell, KS; 5,000 people. And I saw it even with greater intensity when I came to the University of Pennsylvania and became a Pennsylvanian, and lived in Philadelphia.

One of the efforts which I have made personally, earlier referring to Reverend Halverson and our Wednesday morning prayer group, in discussing the issue with my colleagues, very few of whom are Jewish, is to talk about the subject of the Old Testament and the impact on young Jewish children of the New Testament talking about Jews being responsible for killing Christ. It was a revelation to some of my colleagues to know that on certain religious holidays there would be that consequence. But it is a fact of life. The problems of intolerance, the problems of discrimination, the problems of bigotry are issues that we have to face and we have to fight every day of our lives.

When we look at prejudice we see it all around us, and I think it is indispensable that we confront prejudice. And when we find an event like the Holocaust, with the murder of 6 million Jews, an effort at genocide, it is something that we cannot forget. Steven Spielberg's movie, "Schindler's List," has the artistic and theatrical direction to be a powerful implement to acquaint young men and young women of America about the nature of the issue.

Madam President, I think my time has probably expired but I do not see my colleague, Senator GRAMM, who has the remainder of the time so I ask unanimous consent I may be permitted to proceed for up to 5 more minutes. If Senator GRAMM appears, I will abbreviate that time and yield the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized for an additional 5 minutes.

Mr. SPECTER. Madam President, this project on the display and showing of "Schindler's List" is one of enormous importance. There has already been an effort to show it to some 300,000 students in the United States, in some 23 States. Some more than $200,000 has been raised on its behalf. There is a distribution of a curriculum on how to teach the Holocaust. And the showing of the movie has been done in conjunction with having Holocaust survivors come to the school. So, I am pleased to offer this resolution on behalf of 22 U.S. Senators and myself. The resolution concludes with the resolved clause that;

It is the sense of the Senate that the feature film "Schindlers List" is an important tool in educating high school seniors about the Holocaust and the Senate supports the efforts of the Schindler Project to provide students with the opportunity to view the film and discuss its historical implications and the application of those lessons to contemporary society.

Mr. President, to reiterate, today I am submitting along with 22 of my colleagues a resolution acknowledging the efforts of the Schindler Project to educate high school seniors about the horrors of Nazism and the Holocaust against Jewry and to enable our youth to bring those lessons to bear upon contemporary society.

The Schindler Project is a nonprofit organization based in Pittsburgh, PA, that was founded by Mrs. Marion Ungar Davis under the auspices of the Holocaust Center of the United Jewish Federation of Greater Pittsburgh. This program offers high school seniors nationwide the opportunity to view the film "Schindler's List" and to discuss the film—the history it depicts and the lessons it teaches—with a Holocaust survivor.

The horrors of the Holocaust are incontestable, and Steven Spielberg's

award winning film "Schindler's List" has further etched those horrors upon our national conscience with great vividness and emotion. Now, thanks to the efforts of Marion Ungar Davis and the Schindler Project, out Nation's young people are being given the opportunity to learn more about a chapter of terror that preceded them, about the difference that one man, Oskar Schindler, was able to make in the midst of that terror, and about how we all might apply those lessons to our own lives today. If we are to avoid another Holocaust, we must educate our young people about the Holocaust of World War II, and the Schindler project is taking a significant step in that direction.

Marion Ungar Davis and the Schindler Project are surely worthy of our recognition, Mr. President, and I offer this resolution today as a means of doing so.

Mr. CHAFEE. Mr. President, I am pleased to be an original cosponsor of a resolution offered today by Senator SPECTER that acknowledges the enormous contribution of the Schindler project to educating our Nation's children about the effects of prejudice and intolerance. This project is intended to help American students to understand the unimaginable horror and brutality of the Holocaust.

The Schindler project was begun by Marian Ungar Davis who, after seeing Steven Spielberg's Academy Award winning film "Schindler's List," concluded that every teenager should have an opportunity to experience this extraordinary movie.

She began by raising funds from her friends and neighbors to purchase tickets for high school seniors in her community of Allegheny County, PA. She was so successful that she expanded her goal to include all students graduating from high school in the United States. She has received cooperation from Mr. Spielberg and the film distribution company, as well as from a number of theater chains. To date, 200,000 high school students from 23 States have participated in the project, and Ms. Ungar Davis has had inquiries from high schools in more than a dozen other States to express interest in participating in the Schindler project.

If just a handful of the students who view this film as a result of Ms. Ungar Davis' efforts realize that they have the ability, through courage and strength of character, to have a positive effect on the lives of others, the Schindler project will be an enormous success. Similarly, if these students—who have grown up during a time in which we have seen a rise in intolerance and an increase in so-called hate crimes—come to a better understanding of the principles of equality and tolerance, then the Schindler project will be of inestimable value.

Oskar Schindler saved 1,100 Jews from death. Ms. Ungar Davis hopes to save our Nation's children from ignorance and prejudice.

SENATE RESOLUTION 278—RELATING TO PAKISTAN

Mr. ROBB submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 278

Mr. ROBB. Mr. President, I rise this morning to introduce a resolution calling on the State Department to carefully assess recent allegations regarding Pakistan's nuclear weapons program and support for terrorism abroad. I have serious concerns on both fronts because information that has come to light, if accurate, suggests that Pakistan's actions are directly contrary to our official nonproliferation and antiterrorism policies.

Mr. President, on August 23, 1994, former Pakistan Prime Minister Nawaz Sharif stated that Pakistan had produced a nuclear weapon. That represents a sharp departure from statements made by Pakistan Government officials in the past that Islamabad has the technology to construct a nuclear device but did not maintain such a weapon in its arsenal.

I am not unaware of Prime Minister Benazir Bhutto's denial of her predecessor's charges, nor am I unmindful of the political rivalries extant between herself and the former Prime Minister. I do not, however, lightly dismiss his remarks. Mr. Sharif would have direct knowledge of the scope of Pakistan's nuclear weapons program as former leader of the country and I believe he is a credible figure.

Mr. Leonard Spector, a nonproliferation specialist at the Carnegie Endowment, observed in late August that Mr. Sharif's charge was "the first time a person of this rank has been as specific" about the exact status of Pakistan's nuclear weapons program. Accordingly, I would strongly urge the State Department to redouble its efforts to ensure that Pakistan is not proceeding to a more advanced stage with its nuclear program.

Equally troubling, Mr. President, are allegations that Pakistan played a role in terrorist bombings that occurred in Bombay in early 1993. According to the Indian Interior Minister, a leading suspect in the case captured by Indian authorities, Mr. Takub Menom, has implicated Pakistan's Inter Service Intelligence Agency (ISI) in the bombings that devastated central Bombay on March 12, 1993, killing over 300 people.

Mr. Menom accuses the ISI of providing him materiel support to carry out the bombing attacks in Bombay. Moreover, there are allegations that the ISI directly assisted Mr. Menom, his brother and their associates on where to locate the bombs within the city and provided transportation to and from Pakistan for group members.

Mr. President, I believe these alleged activities are troublesome and serious. In early 1993, Pakistan was subject to active continuing review for possible inclusion on the terrorist watch list compiled by the State Department. On July 14, 1993, Pakistan was removed from the watch list because Pakistan had implemented a policy of ending official support for terrorists in India.

Given these recent developments, I urge the State Department to reconsider Pakistan's status and whether it should be cited for sponsoring overseas terrorist activities. I believe a fair and impartial review of the Bombay bombings and any other Pakistani actions relevant to conducting terrorism abroad, specifically in India, is warranted at this time, and I look forward to following up with State Department officials to ensure this occurs.

I ask that the full text of the resolution appear in the RECORD following this statement.

The resolution follows:

Whereas the United States government has longstanding policies opposing the spread of terrorism and narcotics trafficking;

Whereas the United States government has committed massive amounts of funding through the years to combat both of these problems;

Whereas on January 7, 1993, the Islamic Republic of Pakistan was placed on the State Department's watch list of nations suspected of supporting terrorism;

Whereas on July 14, 1993, the State Department removed the Islamic Republic of Pakistan from the watch list;

Whereas former Pakistan Prime Minister Narwaz Sharif recently alleged that his Army Chief of Staff, General Aslam Beg, and General Asad Durrani, head of the Inter Service Intelligence agency, had informed him while in office that the Pakistani Army and ISI planned to conduct covert acts of terrorism in other countries and fund these activities through large scale narcotics sales;

Whereas 317 Indian citizens were killed in March 1993, in a series of bombings of the Bombay Stock Exchange and other sites in Bombay;

Whereas a leading suspect in the bombing has publicly implicated the Pakistan government in the bombings by alleging that the ISI provided weapons, money and explosives for the attacks in Bombay;

Whereas former Prime Minister Sharif recently stated that Pakistan has possessed nuclear weapons for several years;

Whereas in 1985 the United States Congress enacted legislation prohibiting foreign assistance to Pakistan unless the President certified that Pakistan does not possess a nuclear explosive device;

Whereas President Bush and President Clinton have been unable to certify that Pakistan does not possess a nuclear explosive device;

Therefore, it is the sense of the Senate that:

(1) The United States condemns the alleged involvement of Pakistan in acts of terrorism in other countries;

(2) The United States condemns any involvement by Pakistan in the illegal manufacture, sale, transportation or distribution of any narcotic substance;

(3) The Administration should review the 1993 State Department decision to remove

Pakistan from the Watch List of nations suspected of involvement in terrorism abroad;

(4) The United States reaffirms current law prohibiting foreign assistance to Pakistan in light of Prime Minister Sharif's claim that Pakistan has possessed a nuclear weapon for several years.

SENATE RESOLUTION 279—RELATIVE TO AMERICAN INSTITUTIONS OF HIGHER LEARNING IN JAPAN

Mr. ROTH. Mr. President, I rise today to support the efforts of American college and university branch campuses in Japan seeking to gain official status as American institutions of higher education from the Government of Japan. I strongly urge that Japan cease its discriminatory policy toward American branch campuses in Japan, and that the United States and Japanese Governments immediately commence negotiations toward a satisfactory resolution of this important issue.

Currently, Japan has approximately 45,000 students studying in the United States. The United States, however, only has 1,500 students studying in Japan. This gross imbalance is detrimental to the best interests of the United States as well as Japan.

The importance of educational and cultural exchange between our two countries cannot be overemphasized. Through such exchange, people from two very different countries learn to work and cooperate with one another. In current global economy, moreover, it is essential that the United States have citizens with the skills that permit our country to compete better with Japan.

For these reasons, Japan must eliminate the arbitrary and unreasonable restraints they have imposed on student exchange. Tokyo must make the policy changes necessary to enable greater numbers of American students to study in Japan.

Japanese Government officials at the highest level have repeatedly called for increased grassroots exchange between the United States and Japan. American colleges and universities, partly in response to these calls, established overseas branch campuses in Japan in order to facilitate such educational and cultural exchange. These programs provide a unique opportunity for American students to study Japanese social, political, and economic systems firsthand in Japan. They also provide a unique opportunity for Japanese students to pursue their own interests in America studies.

To study at Japanese universities, Americans must first possess advanced language skills. Branch campuses have no such prerequisite. Indeed, they provide opportunities for Americans to acquire Japanese language skills in the best place to gain them—Japan itself.

Unfortunately, Japan's current policies deny student visas to most American students wishing to attend American branch campuses. Mr. President, the greatest irony in this matter is that Japan has repeatedly promised to change its policies. Indeed, this Senator has received several written promises from appropriate officials that changes have actually been made. But the facts show otherwise. I urge my colleagues to support this resolution to send a message to Japan, and to assist American students encounter who wish to study there.

I ask that the full text of the resolution appear in the RECORD following the statement.

The resolution follows:

S. RES. 279

Whereas Japan sends approximately 45,000 students to study in the United States, but hosts only 1,500 American students study in Japan;

Whereas increased educational and cultural exchange between the United States and Japan is mutually beneficial to both countries;

Whereas Japanese government officials at the highest level have repeatedly called for cooperative ventures between the United States and Japan in educational and cultural exchange and stressed the need to foster the development of mutual understanding of each country's social, political and economic systems;

Whereas certain U.S. institutions of higher education established overseas branch campuses in Japan in order to facilitate such educational and cultural exchange;

Whereas the Association of American Colleges and Universities in Japan (AACUJ) was formed to ensure the academic quality of American branch campuses in Japan and to enhance the educational contributions by American branch campuses in Japan;

Whereas AACUJ-approved campuses in Japan have been fully accredited by appropriate accrediting agencies in the United States;

Whereas the Government of Japan has unreasonably refused to accord official status to AACUJ-approved branch campuses in Japan as accredited American institutions of higher education;

Whereas the Government of Japan, by its refusal to accord official status to AACUJ-approved campuses in Japan as American institutions of higher education, degrades the status of AACUJ-approved branch campuses of the rights and privileges available to students attending similar Japanese institutions of higher education, including transportation pass discounts, student visas and other rights and benefits accompanied by student visas;

Whereas foreign students wishing to attend AACUJ-approved branch campuses in Japan are not eligible for student visas and almost all American students must instead apply for "enhanced cultural activities visas" in order to study at these branch campuses in Japan;

Whereas the process for securing "enhanced cultural visas" has not been regularized and is unnecessarily burdensome, time-consuming, and subject to procedural surprises, irregularities, uncertainty and delay;

Whereas the policy of the Government of Japan constitutes unreasonable restrictions on the number of American students studying in Japan and contributes to the disproportionate disparity between the number of Japanese students studying in the United States and the number of American students studying in Japan;

Whereas Japanese university branch campuses in the United States receive appropriate recognition through accreditation by American accrediting agencies in the same way as American universities;

Whereas the Government of the United States grants foreign students attending Japanese branch campuses in the United States student visas with the same rights and privileges available to students attending similar American institutions of higher education: Now, therefore, be it

Resolved, That is the sense of the Senate that:

(1) the Government of Japan immediately cease its discriminatory policy toward AACUJ-approach branch campuses in Japan;

(2) the Government of Japan accord official status to AACUJ-approved branch campuses in Japan as American institutions of higher education and grant them all the rights and privileges enjoyed by similar Japanese educational institutions; and

(3) the Government of Japan grant student visas to students wishing to attend AACUJ-approved branch campuses in Japan and accord them all the rights and privileges available to students attending similar Japanese educational institutions.

SENATE RESOLUTION 280—RELATIVE TO THE SENATE ARMS CONTROL OBSERVER GROUP

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 280

Resolved, That subsection (a) of the first section of Senate Resolution 149, agreed to October 5, 1993 (103d Congress, 1st Session) is amended by striking "until December 31, 1994" and inserting "until December 31, 1996".

SENATE RESOLUTION 281—RELATIVE TO THE SENATE LEGAL COUNSEL

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 281

Whereas, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs has been conducting an investigation into the management and operations of the Blue Cross and Blue Shield insurance network;

Whereas, a law enforcement entity has requested testimony from Alan Edelman, counsel to the Subcommittee, about the Subcommittee's investigation;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the

Senate may direct its counsel to represent employees of the Senate with respect to requests for testimony made to them in their official capacities: Now, therefore, be it *Resolved*, That Alan Edelman, and any other Subcommittee staff from whom testimony may be necessary, are authorized to provide testimony about the Subcommittee's investigation into the management and operations of the Blue Cross and Blue Shield insurance network, sought in conjunction with law enforcement investigations or related proceedings, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent employees of the Senate in connection with the testimony authorized by section 1 of this resolution.

SENATE RESOLUTION 282—TO DIRECT THE SENATE LEGAL COUNSEL

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 282

Whereas, in the case of *Rhonda Farmer* v. *Office of Senate Fair Employment Practices*, No. 94-6005, pending in the United States Court of Appeals for the Federal Circuit, the Office of Senate Fair Employment Practices is the respondent in a proceeding under section 309 of the Civil Rights Act of 1991, 2 U.S.C. §1209, to review a final decision concerning allegations of discrimination in Senate employment;

Whereas, section 303(f) of the Civil Rights Act of 1991, 2 U.S.C. §1203(f), provides that for the purpose of representation by the Senate Legal Counsel, the Office of Senate Fair Employment Practices shall be deemed a committee within the meaning of title VII of the Ethics in Government Act of 1978, 2 U.S.C. §288, et seq.;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its Counsel to defend a committee of the Senate in any civil action in which there is placed in issue any action taken by such committee in its official capacity;

Whereas, in accordance with 28 U.S.C. §2348, as made applicable by section 309(b) of the Civil Rights Act of 1991, 2 U.S.C. §1209(b), the Office of the Sergeant at Arms of the United States Senate, as a party in interest in the underlying proceeding within the Senate, may intervene on judicial review of the final decision in that proceeding. Now, therefore, be it

Resolved, The Senate Legal Counsel is directed to represent the Office of Senate Fair Employment Practices in the case of *Rhoda Farmer* v. *Office of Senate Fair Employment Practices*.

SEC. 2. The Office of the Sergeant at Arms of the United States Senate may as a matter of statutory right intervene and be represented by its counsel of choice in the case of *Rhonda Farmer* v. *Office of the Senate Fair Employment Practices*.

SENATE RESOLUTION 283—RELATIVE TO THE U.S. CAPITOL PRESERVATION COMMISSION

Mr. BYRD submitted the following resolution; which was considered and agreed to:

S. RES. 283

Resolved, That the Senate Co-chairman of the Commission may appoint an executive secretary of the Senate Membership of the Commission from public or private life to serve without compensation and to advise and assist the Senate Members of the Commission at the direction of the Senate Co-chairman.

AMENDMENTS SUBMITTED

INTERNATIONAL NARCOTICS CONTROL CORRECTIONS ACT OF 1994

BROWN AND OTHERS AMENDMENT NO. 2639

Mr. SIMPSON (for Mr. BROWN for himself, Mr. SIMON, and Ms. MIKULSKI) proposed an amendment to the bill (H.R. 5030) to amend the Foreign Assistance Act of 1961 to make certain corrections relating to international narcotics control activities, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE —NATO PARTICIPATION ACT OF 1994

SEC. 01. SHORT TITLE.

This title may be cited as the "NATO Participation Act of 1994".

SEC. 02. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) the leaders of the NATO member nations are to be commended for reaffirming that NATO membership remains open to Partnership for Peace countries emerging from communist domination and for welcoming eventual expansion of NATO to include such countries;

(2) full and active participants in the Partnership for Peace in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area should be invited to become full NATO members in accordance with Article 10 of such Treaty at an early date, if such participants—

(A) maintain their progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(B) remain committed to protecting the rights of all their citizens and respecting the territorial integrity of their neighbors;

(3) the United States, other NATO member nations, and NATO itself should furnish appropriate assistance to facilitate the transition to full NATO membership at an early date of full and active participants in the Partnership for Peace; and

(4) in particular, Poland, Hungary, the Czech Republic, and Slovakia have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law since the fall of their previous communist governments.

SEC. 03. AUTHORITY FOR PROGRAM TO FACILITATE TRANSITION TO NATO MEMBERSHIP.

(a) IN GENERAL.—The President may establish a program to assist the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to subsection (d).

(b) CONDUCT OF PROGRAM.—The program established under subsection (a) shall facilitate the transition to full NATO membership of the countries described in such subsection by supporting and encouraging, inter alia—

(1) joint planning, training, and military exercises with NATO forces;

(2) greater interoperability of military equipment, air defense systems, and command, control, and communications systems; and

(3) conformity of military doctrine.

(c) TYPE OF ASSISTANCE.—In carrying out the program established under subsection (a), the President may provide to the countries described in such subsection the following types of security assistance:

(1) The transfer of excess defense articles under section 516 of the Foreign Assistance Act of 1961, without regard to the restrictions in paragraphs (1) through (3) of subsection (a) of such section (relating to the eligibility of countries for such articles under such section).

(2) The transfer of nonlethal excess defense articles under section 519 of the Foreign Assistance Act of 1961, without regard to the restriction in subsection (a) of such section (relating to the justification of the foreign military financing program for the fiscal year in which a transfer is authorized).

(3) Assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training).

(4) Assistance under section 23 of the Arms Export Control Act (relating to the "Foreign Military Financing Program").

(d) DESIGNATION OF PARTNERSHIP FOR PEACE COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President may designate countries emerging from communism and participating in the Partnership for Peace, especially Poland, Hungary, the Czech Republic, and Slovakia, to receive assistance under the program established under subsection (a) if the President determines and reports to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that such countries—

(1) are full and active participants in the Partnership for Peace;

(2) have made significant progress toward establishing democratic institutions, a free market economy, civilian control of their armed forces, and the rule of law;

(3) are likely (in the near future) to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area; and

(4) are not selling or transferring defense articles to a state that has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j) of the Export Administration Act of 1979.

(e) NOTIFICATION.—At least 15 days before designating any country pursuant to subsection (d), the President shall notify the appropriate congressional committees in accordance with the procedures applicable under section 634A of the Foreign Assistance Act of 1961.

(f) DETERMINATION.—It is hereby determined that Poland, Hungary, the Czech Republic, and Slovakia meet the criteria required in paragraphs (1), (2), and (3) of subsection (d).

SEC. 04. ADDITIONAL AUTHORITIES.

(a) ARMS EXPORT CONTROL ACT.—The President is authorized to exercise the authority of sections 63 and 65 of the Arms Export Control Act with respect to any country designated under section 03(d) of this title on the same basis authorized with respect to NATO countries.

(b) OTHER NATO AUTHORITIES.—The President should designate any country designated under section 03(d) of this title as eligible under sections 2350c and 2350f of title 10, United States Code.

(c) SENSE OF CONGRESS.—It is the sense of Congress that, in the interest of maintaining stability and promoting democracy in Poland, Hungary, the Czech Republic, Slovakia, and any other Partnership for Peace country designated under section 03(d) of this title, those countries should be included in all activities under section 2457 of title 10, United States Code, related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.

SEC. 05. REPORTING REQUIREMENT.

The President shall include in the report required by section 514(a) of Public Law 103-236 (22 U.S.C. 1928 note) the following:

(1) A description of all assistance provided under the program established under section 03(a), or otherwise provided by the United States Government to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to section 03(d).

(2) A description on the basis of information received from NATO, of all assistance provided by other NATO member nations or NATO itself to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to section 03(d).

KERRY ADMENDMENT NO. 2640

Mr. BREAUX (for Mr. KERRY) proposed an amendment to the bill, H.R. 5030, supra; as follows:

On page 8, line 21, delete the period and insert in lieu thereof the following: "except for the title heading and section 4702 (a) through (f)."

THE OFFICE OF SPECIAL COUNSEL REAUTHORIZATION ACT OF 1994

LEVIN (AND OTHERS) AMENDMENT NO. 2641

Mr. BREAUX (for Mr. LEVIN for himself, Mr. PRYOR, and Mr. COHEN) proposed an amendment to the bill (H.R. 2970) to reauthorize the Office of Special Counsel, and for other purposes; as follows.

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

(a) MERIT SYSTEMS PROTECTION BOARD.—Section 8(a)(1) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 101-12; 103 Stat. 34) is amended by striking out "1989, 1990, 1991, 1992, 1993, and 1994" and inserting in lieu thereof "1993, 1994, 1995, 1996, and 1997".

(b) OFFICE OF SPECIAL COUNSEL.—Section 8(a)(2) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note; Public Law 101-12; 103 Stat. 34) is amended by striking out "1989, 1990, 1991, and 1992" and inserting in lieu thereof "1993, 1994, 1995, 1996, and 1997".

SEC. 2. REASONABLE ATTORNEY FEES IN CERTAIN CASES.

Section 1204 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(m)(1) Except as provided in paragraph (2) of this subsection, the Board, or an administrative law judge or other employee of the Board designated to hear a case arising under section 1215, may require payment by the agency involved of reasonable attorney fees incurred by an employee or applicant for employment if the employee or applicant is the prevailing party and the Board, administrative law judge, or other employee (as the case may be) determines that payment by the agency is warranted in the interest of justice, including any case in which a prohibited personnel practice was engaged in by the agency or any case in which the agency's action was clearly without merit.

"(2) If an employee or applicant for employment is the prevailing party of a case arising under section 1215 and the decision is based on a finding of discrimination prohibited under section 2302(b)(1) of this title, the payment of attorney fees shall be in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)).".

SEC. 3. OFFICE OF SPECIAL COUNSEL.

(a) SUCCESSION.—Section 1211(b) of title 5, United States Code, is amended by inserting after the first sentence: "The Special Counsel may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that the Special Counsel may not continue to serve for more than one year after the date on which the term of the Special Counsel would otherwise expire under this subsection.".

(b) LIMITATIONS ON DISCLOSURES.—Section 1212(g) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking out "provide information concerning" and inserting in lieu thereof "disclose any information from or about"; and

(2) in paragraph (2), by striking out "a matter described in subparagraph (A) or (B) of section 2302(b)(2) in connection with a" and inserting in lieu thereof "an evaluation of the work performance, ability, aptitude, general qualifications, character, loyalty, or suitability for any personnel action of any".

(c) STATUS REPORT BEFORE TERMINATION OF INVESTIGATION.—Section 1214(a) of title 5, United States Code, is amended—

(1) in paragraph (1) by adding at the end thereof the following new subparagraph:

"(D) No later than 10 days before the Special Counsel terminates any investigation of a prohibited personnel practice, the Special Counsel shall provide a written status report to the person who made the allegation of the proposed findings of fact and legal conclusions. The person may submit written comments about the report to the Special Counsel. The Special Counsel shall not be required to provide a subsequent written status report under this subparagraph after the submission of such written comments."; and

(2) in paragraph (2)(A)—

(A) in clause (ii) by striking out "and" after the semicolon;

(B) in clause (iii) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new clause:

"(iv) a response to any comments submitted under paragraph (1)(D).".

(d) DETERMINATIONS.—Seciton 1214(b)(2) of title 5, United States Code, is amended—

(1) by redesignating subparagraphs (A), (B) and (C) as subparagraphs (B), (C) and (D), respectively;

(2) by inserting before subparagraph (B) (as redesignated by paragraph (1) of this subsection) the following:

"(A)(i) Except as provided under clause (ii), no later than 240 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(ii) If the Special Counsel is unable to make the required determination within the 240-day period specified under clause (i) and the person submitting the allegation of a prohibited personnel practice agrees to an extension of time, the determination shall be made within such additional period of time as shall be agreed upon between the Special Counsel and the person submitting the allegation."; and

(3) by inserting after subparagraph (D) (as redesignated by paragraph (1) of this subsection) the following new subparagraph:

"(E) A determination by the Special Counsel under this paragraph shall not be cited or referred to in any proceeding under this paragraph or any other administrative or judicial proceeding for any purpose, without the consent of the person submitting the allegation of a prohibited personnel practice.".

(e) REPORTS.—Seciton 1218 of title 5, United States Code, is amended by inserting "cases in which it did not make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken within the 240-day period specified in section 1214(b)(2)(A)(i)," after "investigations conducted by it,".

SEC. 4. INDEPENDENT RIGHT OF ACTION.

(a) SUBPOENAS.—Section 1221(d) of title 5, United States Code is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (a), the Board shall issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that the testimony or production requested is not unduly burdensome and appears reasonably calculated to lead to the discovery of admissible evidence."

(b) CORRECTIVE ACTIONS.—Section 1221(e)(1) is amended by adding after the last sentence: "The employee may demonstrate that the disclosure was a contributing factor in the personnel action through circumstantial evidence, such as evidence that—

"(A) the official taking the personnel action knew of the disclosure; and

"(B) the personnel action occurred within a period of time such that a reasonable person could conclude that the disclosure was a contributing factor in the personnel action."

(c) REFERRALS.—Section 1221(f) of title 5, United States Code, is amended by adding after paragraph (2) the following new paragraph.

"(3) If, based on evidence presented to it under this section, the Merit Systems Protection Board determines that there is reason to believe that a current employee may have committed a prohibited personnel practice, the Board shall refer the matter to the Special Counsel to investigate and take appropriate action under section 1215.".

SEC. 5. PROHIBITED PERSONNEL PRACTICES.

(a) PERSONNEL ACTIONS.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(1) in clause (ix) by striking out "and" after the semicolon;

(2) by striking out clause (x) and inserting in lieu thereof the following:

"(x) a decision to order psychiatric testing or examination; and

"(xi) any other significant change in duties, responsibilities, or working conditions;"; and

(3) in the matter following designated clause (xi) (as added by paragraph (2) of this subsection) by inserting before the semicolon the following: ", and in the case of an alleged prohibited personnel practice described in subsection (b)(8), an employee or applicant for employment in a Government corporation as defined in section 9101 of title 31".

(b) COVERED POSITIONS.—Section 2302(a)(2)(B) of title 5, United States Code, is amended to read as follows:

"(B) 'covered position' means, with respect to any personnel action, any position in the competitive service, a career appointee position in the Senior Executive Service, or a position in the excepted service, but does not include any position which is, prior to the personnel action—

"(i) excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

"(ii) excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration; and".

(c) AGENCIES.—Section 2303(a)(2)(C) of title 5, United States Code, is amended in clause (i) by inserting before the semicolon: ", except in the case of an alleged prohibited personnel practice described under subsection (b)(8)".

(d) INFORMATIONAL PROGRAM.—Section 2302(c) of title 5, United States Code, is amended in the first sentence by inserting before the period ", and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter 12 of this title".

SEC. 6. PERFORMANCE APPRAISALS.

Section 4313(5) of title 5, United States Code, is amended to read as follows:

"(5) meeting affirmative action goals, achievement of equal employment opportunity requirements, and compliance with the merit systems principles set forth under section 2301 of this title.".

SEC. 7. MERIT SYSTEMS APPLICATION TO CERTAIN VETERANS AFFAIRS PERSONNEL.

Section 2105 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) For purposes of sections 1212, 1213, 1214, 1215, 1216, 1221, 1222, 2302, and 7701, employees appointed under chapter 73 or 74 of title 38 shall be employees.".

SEC. 8. CORRECTIVE ACTIONS ORDERED BY THE MERIT SYSTEMS PROTECTION BOARD.

(a) IN GENERAL.—Section 1214 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) If the Board orders corrective action under this section, such corrective action may include—

"(1) that the individual be placed, as nearly as possible, in the position the individual would have been in had the prohibited personnel practice not occurred; and

"(2) reimbursement for attorney's fees, back pay and related benefits, medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential damages.".

(b) CERTAIN REPRISAL CASES.—Section 1221(g) of title 5, United States Code (as amended by section 4(d) of this Act) is further amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2) (as redesignated by paragraph (1) of this subsection) the following new paragraph:

"(1)(A) If the Board orders corrective action under this section, such corrective action may include—

"(i) that the individual be placed, as nearly as possible, in the position the individual would have been in had the prohibited personnel practice not occurred; and

"(ii) back pay and related benefits, medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential changes.

"(B) Corrective action shall include attorney's fees and cost as provided for under paragraphs (2) and (3).".

SEC. 9. AUTHORITIES RELATING TO ARBITRATORS AND CHOICE OF REMEDIES NOT INVOLVING JUDICIAL REVIEW.

(a) AUTHORITIES WHICH MAY BE EXTENDED TO ARBITRATORS.—Section 7121(b) of title 5, United States Code, is amended—

(1) by redesignating subparagraphs (A) through (C) of paragraph (3) as clauses (i) through (iii), respectively;

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by striking "(b)" and inserting "(b)(1)"; and

(4) by adding at the end the following:

"(2)(A) The provisions of a negotiated grievance procedure providing for binding arbitration in accordance with paragraph (1)(C)(iii) shall, if or to the extent that an alleged prohibited personnel practice is involved, allow the arbitrator to order—

"(i) a stay of any personnel action in a manner similar to the manner described in section 1221(c) with respect to the Merit Systems Protection Board; and

"(ii) the taking, by an agency, of any disciplinary action identified under section 1215(a)(3) that is otherwise within the authority of such agency to take.

"(B) Any employee who is the subject of any disciplinary action ordered under subparagraph (A)(ii) may appeal such action to the same extent and in the same manner as if the agency had taken the disciplinary action absent arbitration.".

(b) CHOICE OF REMEDIES PROVISION NOT INVOLVING JUDICIAL REVIEW—Section 7121 of title 5, United States Code, is amended by adding at the end the following:

"(g)(1) This subsection applies with respect to a prohibited personnel practice other than a prohibited personnel practice to which subsection (d) applies.

"(2) An aggrieved employee affected by a prohibited personnel practice described in paragraph (1) may elect not more than one of the remedies described in paragraph (3) with respect thereto. For purposes of the preceding sentence, a determination as to whether a particular remedy has been elected shall be made as set forth under paragraph (4).

"(3) The remedies described in this paragraph are as follows:

"(A) An appeal to the Merit Systems Protection Board under section 7701.

"(B) A negotiated grievance procedure under this section.

"(C) Procedures for seeking corrective action under subchapters II and III of chapter 12.

"(4) For the purpose of this subsection, a person shall be considered to have elected—

"(A) the remedy described in paragraph (3)(A) if such person has timely filed a notice of appeal under the applicable appellate procedures;

"(B) the remedy described in paragraph (3)(B) if such person has timely filed a grievance in writing, in accordance with the provisions of the parties' negotiated procedure; or

"(C) the remedy described in paragraph (3)(C) if such person has sought corrective action from the Office of Special Counsel by making an allegation under section 1214(a)(1).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 7121(a)(1) of title 5, United States Code, is amended—

(1) by striking "(d) and (e)" and inserting "(d), (e), and (g)"; and

(2) by inserting "administrative" after "exclusive".

SEC. 10. EXPENSES RELATED TO FEDERAL RETIREMENT APPEALS.

Section 8348(a) of title 5, United States Code, is amended—

(1) in paragraph (1)(B) by striking out "and" at the end thereof;

(2) in paragraph (2) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) is made available, subject to such annual limitation as the Congress may prescribe, for any expenses incurred by the Merit Systems Protection Board in the administration of appeals authorized under sections 8347(d) and 8461(e) of this title.".

SEC. 11. ELECTION OF APPLICATION OF LAWS BY EMPLOYEES OF THE RESOLUTION TRUST CORPORATION AND THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

(a) ELECTION OF PROVISIONS OF TITLE 5, UNITED STATES CODE.—If an individual who believes he has been discharged or discriminated against in violation of section 21a(q)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)(1)) seeks an administrative corrective action or judicial remedy for such violation under the provisions of chapters 12 and 23 of title 5, United States Code, the provisions of section 21a(q) of such Act shall not apply to such alleged violation.

(b) ELECTION OF PROVISIONS OF FEDERAL HOME LOAN BANK ACT.—If an individual files a civil action under section 21a(q)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)(2)), the provisions of chapters 12 and 23 of title 5, United States Code, shall not apply to any alleged violation of section 21a(q)(1) of such Act.

SEC. 12. IMPLEMENTATION.

(a) POLICY STATEMENT.—No later than 6 months after the date of enactment of this Act, the Special Counsel shall issue a policy statement regarding the implementation of the Whistleblower Protection Act of 1989. Such policy statement shall be made available to each person alleging a prohibited personnel practice described under section 2302(b)(8) of title 5, United States Code, and shall include detailed guidelines identifying specific categories of information they may (or may not) be communicated to agency officials for an investigative purpose, or for the purpose of obtaining corrective action

under section 1214 of title 5, United States Code, or disciplinary action under section 1215 of such title, the circumstances under which such information is likely to be disclosed, and whether or not the consent of any person is required in advance of any such communication.

(b) TERMINATION STATEMENT.—The Special Counsel shall include in any letter terminating an investigation under section 1214(a)(2) of title 5, United States Code, the name and telephone number of an employee of the Special Counsel who is available to respond to reasonable questions from the person regarding the investigation or review conducted by the Special Counsel, the relevant facts ascertained by the Special Counsel, and the law applicable to the person's allegations.

SEC. 13. ANNUAL SURVEY OF INDIVIDUALS SEEKING ASSISTANCE.

(a) IN GENERAL.—The Office of Special Counsel shall, after consulting with the Office of Policy and Evaluation of the Merit Systems Protection Board, conduct an annual survey of all individuals who contact the Office of Special Counsel for assistance. The survey shall—

(1) determine if the individual seeking assistance was fully apprised of their rights;

(2) determine whether the individual was successful either at the Office of Special Counsel or the Merit Systems Protection Board; and

(3) determine if the individual, whether successful or not, was satisfied with the treatment received from the Office of Special Counsel.

(b) REPORT.—The results of the survey conducted under subsection (a) shall be published in the annual report of the Office of Special Counsel.

SEC. 14. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall be effective on and after the date of the enactment of this Act.

FEGLI LIVING BENEFITS ACT

PRYOR AMENDMENT NO. 2642

Mr. BREAUX (for Mr. PRYOR) proposed an amendment to the bill (H.R. 512) to amend chapter 87 of title 5, United States Code, to provide that group life insurance benefits under such chapter may, upon application, be paid out to an insured individual who is terminally ill, and for other purposes; as follows:

At the end of the bill, add the following new sections:

SEC. 5. CONTINUATION OF HEALTH BENEFITS COVERAGE FOR INDIVIDUALS ENROLLED IN A PLAN ADMINISTERED BY THE OFFICE OF THE COMPTROLLER OF THE CURRENCY OR THE OFFICE OF THRIFT SUPERVISION.

(a) ENROLLMENT IN CHAPTER 89 PLAN.—For purposes of the administration of chapter 89 of title 5, United States Code, any period of enrollment under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision before the termination of such plans on January 7, 1995, shall be deemed to be a period of enrollment in a health benefits plan under chapter 89 of such title.

(b) CONTINUED COVERAGE.—(1) Any individual who, on January 7, 1995, is covered by a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision may enroll in an approved health benefits plan described under section 8903 or 8903a of title 5, United States Code—

(A) either as an individual or for self and family, if such individual is an employee, annuitant, or former spouse as defined under section 8901 of such title; and

(B) for coverage effective on and after January 8, 1995.

(2) An individual who, on January 7, 1995, is entitled to continued coverage under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision—

(A) shall be deemed to be entitled to continued coverage under section 8905a of title 5, United States Code, for the same period that would have been permitted under the plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision; and

(B) may enroll in an approved health benefits plan described under section 8903 or 8903a of such title in accordance with section 8905a of such title for coverage effective on and after January 8, 1995.

(3) An individual who, on January 7, 1995, is covered as an unmarried dependent child under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision and who is not a member of family as defined under section 8901(5) of title 5, United States Code—

(A) shall be deemed to be entitled to continued coverage under section 8905a of such title as though the individual had, on January 7, 1995, ceased to meet the requirements for being considered an unmarried dependent child under chapter 89 of such title; and

(B) may enroll in an approved health benefits plan described under section 8903 or 8903a of such title in accordance with section 8905a for continued coverage effective on and after January 8, 1995.

(c) TRANSFERS TO THE EMPLOYEES HEALTH BENEFITS FUND.—The Office of the Comptroller of the Currency and the Office of Thrift Supervision shall transfer to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, amounts determined by the Director of the Office of Personnel Management, after consultation with the Office of the Comptroller of the Currency and the Office of Thrift Supervision, to be necessary to reimburse the Fund for the cost of providing benefits under this section not otherwise paid for by the individuals covered by this section. The amounts so transferred shall be held in the Fund and used by the Office in addition to amounts available under section 8906(g)(1) of such title.

(d) ADMINISTRATION AND REGULATIONS.—The Office of Personnel Management—

(1) shall administer the provisions of this section to provide for—

(A) a period of notice and open enrollment for individuals affected by this section; and

(B) no lapse of health coverage for individuals who enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with this section; and

(2) may prescribe regulations to implement this section.

INTERNATIONAL ANTITRUST ENFORCEMENT ASSISTANCE ACT OF 1994

METZENBAUM AMENDMENT NO. 2643

Mr. BREAUX (for Mr. METZENBAUM, for himself and Mr. THURMOND) proposed an amendment to the bill (S. 2297) to facilitate obtaining foreign-located antitrust evidence by authorizing the Attorney General of the United States and the Federal Trade Commission to provide, in accordance with antitrust mutual assistance agreements, antitrust evidence to foreign antitrust authorities on a reciprocal basis; and for other purposes; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Antitrust Enforcement Assistance Act of 1994".

SEC. 2. DISCLOSURE TO A FOREIGN ANTITRUST AUTHORITY OF ANTITRUST EVIDENCE.

In accordance with an antitrust mutual assistance agreement in effect under this Act, subject to section 8, and except as provided in section 5, the Attorney General of the United States and the Federal Trade Commission may provide to a foreign antitrust authority with respect to which such agreement is in effect under this Act, antitrust evidence to assist the foreign antitrust authority—

(1) in determining whether a person has violated or is about to violate any of the foreign antitrust laws administered or enforced by the foreign antitrust authority, or

(2) in enforcing any of such foreign laws.

SEC. 3. INVESTIGATIONS TO ASSIST A FOREIGN ANTITRUST AUTHORITY IN OBTAINING ANTITRUST EVIDENCE.

(a) REQUEST FOR INVESTIGATIVE ASSISTANCE.—A request by a foreign antitrust authority for investigative assistance under this section shall be made to the Attorney General, who may deny the request in whole or in part. No further action shall be taken under this section with respect to any part of a request that has been denied by the Attorney General.

(b) AUTHORITY TO INVESTIGATE.—In accordance with an antitrust mutual assistance agreement in effect under this Act, subject to section 8, and except as provided in section 5, the Attorney General and the Commission may, using their respective authority to investigate possible violations of the Federal antitrust laws, conduct investigations to obtain antitrust evidence relating to a possible violation of the foreign antitrust laws administered or enforced by the foreign antitrust authority with respect to which such agreement is in effect under this Act, and may provide such antitrust evidence to the foreign antitrust authority, to assist the foreign antitrust authority—

(1) in determining whether a person has violated or is about to violate any of such foreign antitrust laws, or

(2) in enforcing any of such foreign antitrust laws.

(c) SPECIAL SCOPE OF AUTHORITY.—An investigation may be conducted under subsection (b), and antitrust evidence obtained through such investigation may be provided, without regard to whether the conduct investigated violates any of the Federal antitrust laws.

(d) RIGHTS AND PRIVILEGES PRESERVED.—A person may not be compelled in connection with an investigation under this section to give testimony or a statement, or to produce a document

or other thing, in violation of any legally applicable right or privilege.

(e) CONFORMING AMENDMENTS.—

(1) ANTITRUST CIVIL PROCESS ACT.—The Antitrust Civil Process Act (15 U.S.C. 1311 et seq.) is amended—

(A) in section 2—

(i) in subsection (d)—

(I) by striking "or any" and inserting ", any", and

(II) by inserting before the semicolon "or, with respect to the International Antitrust Enforcement Assistance Act of 1994, any of the foreign antitrust laws", and

(ii) by adding at the end the following:

"(k) The term 'foreign antitrust laws' has the meaning given such term in section 12 of the International Antitrust Enforcement Assistance Act of 1994.", and

(B) in the first sentence of section 3(a)—

(i) by inserting "or, with respect to the International Antitrust Enforcement Assistance Act of 1994, an investigation authorized by section 3 of such Act" after "investigation", and

(ii) by inserting "by the United States" after "proceeding".

(2) FEDERAL TRADE COMMISSION ACT.—The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended—

(A) in section 6 by inserting after subsection (h) the following:

"(i) With respect to the International Antitrust Enforcement Assistance Act of 1994, to conduct investigations of possible violations of foreign antitrust laws (as defined in section 12 of such Act).";

(B) in section 20(a) by amending paragraph (8) to read as follows:

"(8) The term 'antitrust violation' means—

"(A) any unfair method of competition (within the meaning of section 5(a)(1));

"(B) any violation of the Clayton Act or of any other Federal statute that prohibits, or makes available to the Commission a civil remedy with respect to, any restraint upon or monopolization of interstate or foreign trade or commerce;

"(C) with respect to the International Antitrust Enforcement Assistance Act of 1994, any violation of any of the foreign antitrust laws (as defined in section 12 of such Act) with respect to which a request is made under section 3 of such Act; or

"(D) any activity in preparation for a merger, acquisition, joint venture, or similar transaction, which if consummated, may result in any such unfair method of competition or in any such violation.".

SEC. 4. JURISDICTION OF THE DISTRICT COURTS OF THE UNITED STATES.

(a) AUTHORITY OF THE DISTRICT COURTS.—On the application of the Attorney General made in accordance with an antitrust mutual assistance agreement in effect under this Act, the United States district court for the district in which a person resides, is found, or transacts business may order such person to give testimony or a statement, or to produce a document or other thing, to the Attorney General to assist a foreign antitrust authority with respect to which such agreement is in effect under this Act—

(1) in determining whether a person has violated or is about to violate any of the foreign antitrust laws administered or enforced by the foreign antitrust authority, or

(2) in enforcing any of such foreign antitrust laws.

(b) CONTENTS OF ORDER.—

(1) USE OF APPOINTEE TO RECEIVE EVIDENCE.—(A) An order issued under subsection (a) may direct that testimony or a statement be given, or a document or other thing be produced, to a person who shall be recommended by the Attorney General and appointed by the court.

(B) A person appointed under subparagraph (A) shall have power to administer any necessary oath and to take such testimony or such statement.

(2) PRACTICE AND PROCEDURE.—(A) An order issued under subsection (a) may prescribe the practice and procedure for taking testimony and statements and for producing documents and other things.

(B) Such practice and procedure may be in whole or in part the practice and procedure of the foreign state, or the regional economic integration organization, represented by the foreign antitrust authority with respect to which the Attorney General requests such order.

(C) To the extent such order does not prescribe otherwise, any testimony and statements required to be taken shall be taken, and any documents and other things required to be produced shall be produced, in accordance with the Federal Rules of Civil Procedure.

(c) RIGHTS AND PRIVILEGES PRESERVED.—A person may not be compelled under an order issued under subsection (a) to give testimony or a statement, or to produce a document or other thing, in violation of any legally applicable right or privilege.

(d) VOLUNTARY CONDUCT.—This section does not preclude a person in the United States from voluntarily giving testimony or a statement, or producing a document or other thing, in any manner acceptable to such person for use in an investigation by a foreign antitrust authority.

SEC. 5. LIMITATIONS ON AUTHORITY.

Sections 2, 3, and 4 shall not apply with respect to the following antitrust evidence:

(1) Antitrust evidence that is received by the Attorney General or the Commission under section 7A of the Clayton Act (15 U.S.C. 18a), as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976. Nothing in this paragraph shall affect the ability of the Attorney General or the Commission to disclose to a foreign antitrust authority antitrust evidence that is obtained otherwise than under such section 7A.

(2) Antitrust evidence that is matter occurring before a grand jury and with respect to which disclosure is prevented by Federal law, except that for the purpose of applying Rule 6(e)(3)(C)(iv) of the Federal Rules of Criminal Procedure with respect to this section—

(A) a foreign antitrust authority with respect to which a particularized need for such antitrust evidence is shown shall be considered to be an appropriate official of any of the several States, and

(B) a foreign antitrust law administered or enforced by the foreign antitrust authority shall be considered to be a State criminal law.

(3) Antitrust evidence that is specifically authorized under criteria established by Executive Order 12356, or any successor to such order, to be kept secret in the interest of national defense or foreign policy, and—

(A) that is classified pursuant to such order or such successor, or

(B) with respect to which a determination of classification is pending under such order or such successor.

(4) Antitrust evidence that is classified under section 142 of the Atomic Energy Act of 1954 (42 U.S.C. 2162).

SEC. 6. EXCEPTION TO CERTAIN DISCLOSURE RESTRICTIONS.

Section 4 of the Antitrust Civil Process Act (15 U.S.C. 1313), and sections 6(f) and 21 of the Federal Trade Commission Act (15 U.S.C. 46, 57b–2), shall not apply to prevent the Attorney General or the Commission from providing to a foreign antitrust authority antitrust evidence in accordance with an antitrust mutual assistance agreement in effect under this Act and in accordance with the other requirements of this Act.

SEC. 7. PUBLICATION REQUIREMENTS APPLICABLE TO ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.

(a) PUBLICATION OF PROPOSED ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.—Not less than 45 days before an antitrust mutual assistance agreement is entered into, the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register—

(1) the proposed text of such agreement and any modification to such proposed text, and

(2) a request for public comment with respect to such text or such modification, as the case may be.

(b) PUBLICATION OF PROPOSED AMENDMENTS TO ANTITRUST MUTUAL ASSISTANCE AGREEMENTS IN EFFECT.—Not less than 45 days before an agreement is entered into that makes an amendment to an antitrust mutual assistance agreement, the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register—

(1) the proposed text of such amendment, and

(2) a request for public comment with respect to such amendment.

(c) PUBLICATION OF ANTITRUST MUTUAL ASSISTANCE AGREEMENTS, AMENDMENTS, AND TERMINATIONS.—Not later than 45 days after an antitrust mutual assistance agreement is entered into or terminated, or an agreement that makes an amendment to an antitrust mutual assistance agreement is entered into, the Attorney General, with the concurrence of the Commission, shall publish in the Federal Register—

(1) the text of the antitrust mutual assistance agreement or amendment, or the terms of the termination, as the case may be, and

(2) in the case of an agreement that makes an amendment to an antitrust mutual assistance agreement, a notice containing—

(A) citations to the locations in the Federal Register at which the text of the antitrust mutual assistance agreement that is so amended, and of any previous amendments to such agreement, are published, and

(B) a description of the manner in which a copy of the antitrust mutual assistance agreement, as so amended, may be obtained from the Attorney General and the Commission.

(d) CONDITION FOR VALIDITY.—An antitrust mutual assistance agreement, or an agreement that makes an amendment to an antitrust mutual assistance agreement, with respect to which publication does not occur in accordance with subsections (a), (b), and (c) shall not be considered to be in effect under this Act.

SEC. 8. CONDITIONS ON USE OF ANTITRUST MUTUAL ASSISTANCE AGREEMENTS.

(a) DETERMINATIONS.—Neither the Attorney General nor the Commission may conduct an investigation under section 3, apply for an order under section 4, or provide antitrust evidence to a foreign antitrust authority under an antitrust mutual assistance agreement, unless the Attorney General or the Commission, as the case may be, determines in the particular instance in which the investigation, application, or antitrust evidence is requested that—

(1) the foreign antitrust authority—

(A) will satisfy the assurances, terms, and conditions described in subparagraphs (A), (B), and (E) of section 12(2), and

(B) is capable of complying with and will comply with the confidentiality requirements applicable under such agreement to the requested antitrust evidence,

(2) providing the requested antitrust evidence will not violate section 5, and

(3) conducting such investigation, applying for such order, or providing the requested antitrust evidence, as the case may be, is consistent with the public interest of the United States, taking into consideration, among other factors, whether the foreign state or regional economic integration organization represented by the foreign antitrust authority holds any proprietary

interest that could benefit or otherwise be affected by such investigation, by the granting of such order, or by the provision of such antitrust evidence.

(b) LIMITATION ON DISCLOSURE OF CERTAIN ANTITRUST EVIDENCE.—Neither the Attorney General nor the Commission may disclose in violation of an antitrust mutual assistance agreement any antitrust evidence received under such agreement, except that such agreement may not prevent the disclosure of such antitrust evidence to a defendant in an action or proceeding brought by the Attorney General or the Commission for a violation of any of the Federal laws if such disclosure would otherwise be required by Federal law.

(c) REQUIRED DISCLOSURE OF NOTICE RECEIVED.—If the Attorney General or the Commission receives a notice described in section 12(2)(H), the Attorney General or the Commission, as the case may be, shall transmit such notice to the person that provided the evidence with respect to which such notice is received.

SEC. 9. LIMITATIONS ON JUDICIAL REVIEW.

(a) DETERMINATIONS.—Determinations made under paragraphs (1) and (3) of section 8(a) shall not be subject to judicial review.

(b) CITATIONS TO AND DESCRIPTIONS OF CONFIDENTIALITY LAWS.—Whether an antitrust mutual assistance agreement satisfies section 12(2)(C) shall not be subject to judicial review.

(c) RULES OF CONSTRUCTION.—

(1) ADMINISTRATIVE PROCEDURE ACT.—The requirements in section 7 with respect to publication and request for public comment shall not be construed to create any availability of judicial review under chapter 7 of title 5 of the United States Code.

(2) LAWS REFERENCED IN SECTION 5.—Nothing in this section shall be construed to affect the availability of judicial review under laws referred to in section 5.

SEC. 10. PRESERVATION OF EXISTING AUTHORITY.

(a) IN GENERAL.—The authority provided by this Act is in addition to, and not in lieu of, any other authority vested in the Attorney General, the Commission, or any other officer of the United States.

(b) ATTORNEY GENERAL AND COMMISSION.—This Act shall not be construed to modify or affect the allocation of responsibility between the Attorney General and the Commission for the enforcement of the Federal antitrust laws.

SEC. 11. REPORT TO THE CONGRESS.

In the 30-day period beginning 3 years after the date of the enactment of this Act and with the concurrence of the Commission, the Attorney General shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report—

(1) describing how the operation of this Act has affected the enforcement of the Federal antitrust laws,

(2) describing the extent to which foreign antitrust authorities have complied with the confidentiality requirements applicable under antitrust mutual assistance agreements in effect under this Act,

(3) specifying separately the identities of the foreign states, regional economic integration organizations, and foreign antitrust authorities that have entered into such agreements and the identities of the foreign antitrust authorities with respect to which such foreign states and such organizations have entered into such agreements,

(4) specifying the identity of each foreign state, and each regional economic integration organization, that has in effect a law similar to this Act,

(5) giving the approximate number of requests made by the Attorney General and the Commission under such agreements to foreign antitrust authorities for antitrust investigations and for antitrust evidence,

(6) giving the approximate number of requests made by foreign antitrust authorities under such agreements to the Attorney General and the Commission for investigations under section 3, for orders under section 4, and for antitrust evidence, and

(7) describing any significant problems or concerns of which the Attorney General is aware with respect to the operation of this Act.

SEC. 12. DEFINITIONS.

For purposes of this Act:

(1) The term "antitrust evidence" means information, testimony, statements, documents, or other things that are obtained in anticipation of, or during the course of, an investigation or proceeding under any of the Federal antitrust laws or any of the foreign antitrust laws.

(2) The term "antitrust mutual assistance agreement" means a written agreement, or written memorandum of understanding, that is entered into by the United States and a foreign state or regional economic integration organization (with respect to the foreign antitrust authorities of such foreign state or such organization, and such other governmental entities of such foreign state or such organization as the Attorney General and the Commission jointly determine may be necessary in order to provide the assistance described in subparagraph (A)), or jointly by the Attorney General and the Commission and a foreign antitrust authority, for the purpose of conducting investigations under section 3, applying for orders under section 4, or providing antitrust evidence, on a reciprocal basis and that includes the following:

(A) An assurance that the foreign antitrust authority will provide to the Attorney General and the Commission assistance that is comparable in scope to the assistance the Attorney General and the Commission provide under such agreement or such memorandum.

(B) An assurance that the foreign antitrust authority is subject to laws and procedures that are adequate to maintain securely the confidentiality of antitrust evidence that may be received under section 2, 3, or 4 and will give protection to antitrust evidence received under such section that is not less than the protection provided under the laws of the United States to such antitrust evidence.

(C) Citations to and brief descriptions of the laws of the United States, and the laws of the foreign state or regional economic integration organization represented by the foreign antitrust authority, that protect the confidentiality of antitrust evidence that may be provided under such agreement or such memorandum. Such citations and such descriptions shall include the enforcement mechanisms and penalties applicable under such laws and, with respect to a regional economic integration organization, the applicability of such laws, enforcement mechanisms, and penalties to the foreign states composing such organization.

(D) Citations to the Federal antitrust laws, and the foreign antitrust laws, with respect to which such agreement or such memorandum applies.

(E) Terms and conditions that specifically require using, disclosing, or permitting the use or disclosure of, antitrust evidence received under such agreement or such memorandum only—

(i) for the purpose of administering or enforcing the foreign antitrust laws involved, or

(ii) with respect to a specified disclosure or use requested by a foreign antitrust authority and essential to a significant law enforcement objective, in accordance with the prior written consent that the Attorney General or the Commission, as the case may be, gives after—

(I) determining that such antitrust evidence is not otherwise readily available with respect to such objective,

(II) making the determinations described in paragraphs (2) and (3) of section 8(a), with respect to such disclosure or use, and

(III) making the determinations applicable to a foreign antitrust authority under section 8(a)(1) (other than the determination regarding the assurance described in subparagraph (A) of this paragraph), with respect to each additional governmental entity, if any, to be provided such antitrust evidence in the course of such disclosure or use, after having received adequate written assurances applicable to each such governmental entity.

(F) An assurance that antitrust evidence received under section 2, 3, or 4 from the Attorney General or the Commission, and all copies of such evidence, in the possession or control of the foreign antitrust authority will be returned to the Attorney General or the Commission, respectively, at the conclusion of the foreign investigation or proceeding with respect to which such evidence was so received.

(G) Terms and conditions that specifically provide that such agreement or such memorandum will be terminated if—

(i) the confidentiality required under such agreement or such memorandum is violated with respect to antitrust evidence, and

(ii) adequate action is not taken both to minimize any harm resulting from the violation and to ensure that the confidentiality required under such agreement or such memorandum is not violated again.

(H) Terms and conditions that specifically provide that if the confidentiality required under such agreement or such memorandum is violated with respect to antitrust evidence, notice of the violation will be given—

(i) by the foreign antitrust authority promptly to the Attorney General or the Commission with respect to antitrust evidence provided by the Attorney General or the Commission, respectively, and

(ii) by the Attorney General or the Commission to the person (if any) that provided such evidence to the Attorney General or the Commission.

(3) The term "Attorney General" means the Attorney General of the United States.

(4) The term "Commission" means the Federal Trade Commission.

(5) The term "Federal antitrust laws" has the meaning given the term "antitrust laws" in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)) but also includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(6) The term "foreign antitrust authority" means a governmental entity of a foreign state or of a regional economic integration organization that is vested by such state or such organization with authority to enforce the foreign antitrust laws of such state or such organization.

(7) The term "foreign antitrust laws" means the laws of a foreign state, or of a regional economic integration organization, that are substantially similar to any of the Federal antitrust laws and that prohibit conduct similar to conduct prohibited under the Federal antitrust laws.

(8) The term "person" has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(9) The term "regional economic integration organization" means an organization that is constituted by, and composed of, foreign states, and on which such foreign states have conferred sovereign authority to make decisions that are binding on such foreign states, and that are directly applicable to and binding on persons within such foreign states, including the decisions with respect to—

(A) administering or enforcing the foreign antitrust laws of such organization, and

(B) prohibiting and regulating disclosure of information that is obtained by such organization in the course of administering or enforcing such laws.

SEC. 13. AUTHORITY TO RECEIVE REIMBURSEMENT.

The Attorney General and the Commission are authorized to receive from a foreign antitrust authority, or from the foreign state or regional economic integration organization represented by such foreign antitrust authority, reimbursement for the costs incurred by the Attorney General or the Commission, respectively, in conducting an investigation under section 3 requested by such foreign antitrust authority, applying for an order under section 4 to assist such foreign antitrust authority, or providing antitrust evidence to such foreign antitrust authority under an antitrust mutual assistance agreement in effect under this Act with respect to such foreign antitrust authority.

FEDERAL EMPLOYEES FAMILY FRIENDLY LEAVE ACT

PRYOR AMENDMENT NO. 2644

Mr. BREAUX (for Mr. PRYOR) proposed an amendment to the bill (H.R. 4361) to amend title 5, United States Code, to provide that an employee of the Federal Government may use sick leave to attend to the medical needs of a family member; to modify the voluntary leave transfer program with respect to employees who are members of the same family; and for other purposes, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Family Friendly Leave Act".

SEC. 2. USE OF SICK LEAVE FOR PURPOSES RELATING TO A FAMILY MEMBER.

Section 6307 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) For the purpose of this subsection, the term 'family member' shall have such meaning as the Office of Personnel Management shall by regulation prescribe, except that such term shall include any individual who meets the definition given that term, for purposes of the leave transfer program under subchapter III, under regulations prescribed by the Office (as in effect on January 1, 1993).

"(2) Subject to paragraph (3) and in addition to any other allowable purpose, sick leave may be used by an employee—

"(A) to give care or otherwise attend to a family member having an illness, injury, or other condition which, if an employee had such condition, would justify the use of sick leave by such an employee; or

"(B) for purposes relating to the death of a family member, including to make arrangements for or attend the funeral of such family member.

"(3)(A) Sick leave may be used by an employee for the purposes provided under paragraph (2) only to the extent the amount used for such purposes does not exceed—

"(i) 40 hours in any year, plus

"(ii) up to an additional 64 hours in any year, but only to the extent the use of such additional hours does not cause the amount of sick leave to the employee's credit to fall below 80 hours.

"(B) In the case of a part-time employee or an employee on an uncommon tour of duty, the Office of Personnel Management shall establish limitations that are proportional to those prescribed under subparagraph (A).

"(4)(A) This subsection shall be effective during the 3-year period that begins upon the expiration of the 2-month period that begins on the date of the enactment of this subsection.

"(B) Not later than 6 months before the date on which this subsection is scheduled to cease to be effective, the Office shall submit a report to Congress in which it shall evaluate the operation of this subsection and make recommendations as to whether or not this subsection should be continued beyond such date.".

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT TECHNICAL AMENDMENTS

SIMON AMENDMENT NO. 2645

Mr. BREAUX (for Mr. SIMON) proposed an amendment to the bill (H.R. 3160) to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to make technical corrections necessitated by the enactment of Public Law 102–586, and for other purposes; as follows:

On page 4 strike line 17 through the "(B)" on page 5 line 3.

On page 6, strike line 13 and insert the following:

SEC. 3. DRUG EDUCATION AND PREVENTION RELATING TO YOUTH GANGS.

Section 3505 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11805) is amended—

(1) by striking "$16,000,000 for fiscal year 1992 and"; and

(2) by striking "1993 and 1994" and inserting "1995".

SEC. 4. PROGRAMS FOR RUNAWAY AND HOMELESS YOUTH.

Section 3513 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11823) is amended—

(1) by striking "$16,000,000 for fiscal year 1992 and"; and

(2) by striking "1993 and 1994" and inserting "1995".

SEC. 5. EFFECTIVE DATES.

At the appropriate place insert the following:

SECTION 1. FINDING AND PURPOSE.

(a) FINDING.—The Congress finds that Benchmark Rail Group, Inc., of St. Louis, Missouri, satisfactorily performed emergency work after the Northridge earthquake, but has not been reimbursed as a result of a technicality under California State law.

(b) PURPOSE.—The purpose of this Act is to fairly compensate Benchmark Rail Group, Inc., for the work for which, except for the technicality under California State law, it would otherwise have been paid under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

SEC. 2. PAYMENT

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the director of the Federal Emergency Management Agency shall pay to Benchmark Rail Group, Inc., of St. Louis, Missouri, an amount equal to the total amount owed to Benchmark Rail Group, Inc., by the Federal Emergency Management Agency and the State of California to compensate Benchmark Rail Group, Inc., for the emergency work and services performed at the request of the Southern California Regional Rail Authority, to the extent that such work and services are otherwise eligible for reimbursement under the Robert T. Stafford Disaster and Emergency Assistance Act. The payment shall be made from funds appropriated to implement such Act.

(b) DEOBLIGATION OF FUNDS.—The Federal Emergency Management Agency shall deobligate an equal amount to that obligated previously for payment to the State of California to cover the costs of work performed for the Southern California Regional Rail Authority by Benchmark Rail Group, Inc., after the Northridge earthquake which would have been eligible for reimbursement under such Act.

SECTION 1. RELIEF OF WADE BOMAR.

The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, $100,000 to Mr. Wade Bomar in full settlement of a claim for injuries sustained by Mr. Bomar in the line of duty on August 6, 1989, while fighting the Pryor Gap fire, permanently depriving him of the use of his limbs.

Amend the title so as to read: "A bill for the relief of Wade Bomar, and for other purposes".

PROHIBITING THE WITHDRAWAL OF RECOGNITION OF INDIAN TRIBES OF ALASKA NATIVE GROUPS

STEVENS AMENDMENT NO. 2646

Mr. BREAUX (for Mr. STEVENS) proposed an amendment to the bill (H.R. 4180) to prohibit the withdrawal of acknowledgement or recognition of an Indian tribe or Alaska Native group or of the leaders of an Indian tribe or Alaska Native group, absent an Act of Congress; as follows:

At the appropriate place in the bill, add the following new section:

SEC. . AUTHORIZATION FOR INTEREST ON TRUST FUNDS.

(a) IN GENERAL.—There are authorized to be appropriated funds necessary to pay interest or earnings on any trust fund administered by the Secretary of the Interior for the benefit of Alaska Indian, Aleut or Eskimo people.

(b) DEPOSIT IN TRUST FUND.—Upon appropriation, the Secretary shall deposit in the appropriate trust fund such interest or earnings that have or should have accumulated during the period since any such trust fund was established.

(c) INTEREST OR EARNINGS.—Interest or earnings for each such trust fund shall be determined in accordance with section 9702 of Title 31, United States Code.

(d) INTEREST ACCRUED.—Nothing in this Section shall diminish any interest or earnings that have otherwise accrued on any trust funds administered by the Secretary for the benefit of Alaska Indian, Aleut, or Eskimo people.

Amend the title so as to read: "A bill to clarify the status of the Tlingit and Haida, and for other purposes.".

AKAKA AMENDMENT NO. 2647

Mr. BREAUX (for Mr. AKAKA) proposed an amendment to the bill, H.R. 4180, supra; as follows:

At the appropriate place insert the following new title:

TITLE ___HAWAIIAN HOME LANDS

SEC. ___01. SHORT TITLE.

This title may be cited as the "Hawaiian Home Lands Recovery Act".

SEC. ___02. DEFINITIONS.

As used in this title:

(1) AGENCY.—The term "agency" includes—

(A) any instrumentality of the United States;

(B) any element of an agency; and

(C) any wholly owned or mixed-owned corporation of the United States Government.

(2) BENEFICIARY.—The term "beneficiary" has the same meaning as is given the term "native Hawaiian" under section 201(7) of the Hawaiian Homes Commission Act.

(3) CHAIRMAN.—The term "Chairman" means the Chairman of the Hawaiian Homes Commission of the State of Hawaii.

(4) COMMISSION.—The term "Commission" means the Hawaiian Homes Commission established by section 202 of the Hawaiian Homes Commission Act.

(5) HAWAIIAN HOMES COMMISSION ACT.—The term "Hawaiian Homes Commission Act" means the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq., chapter 42).

(6) HAWAII STATE ADMISSION ACT.—The term "Hawaii State Admission Act" means the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4, chapter 339; 48 U.S.C. note prec. 491).

(7) LOST USE.—The term "lost use" means the value of the use of the land during the period when beneficiaries or the Hawaiian Homes Commission have been unable to use lands as authorized by the Hawaiian Homes Commission Act because of the use of such lands by the Federal Government after August 21, 1959.

(8) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 03. SETTLEMENT OF FEDERAL CLAIMS.

(a) DETERMINATION.—

(1) The Secretary shall determine the value of the following:

(A) Lands under the control of the Federal Government that—

(i) were initially designated as available lands under section 203 of the Hawaiian Homes Commission Act (as in effect on the date of enactment of such Act); and

(ii) were nevertheless transferred to or otherwise acquired by the Federal Government.

(B) The lost use of lands described in subparagraph (A).

(2)(A) Except as provided in subparagraph (B), the determinations of value made under this subsection shall be made not later than 1 year after the date of enactment of this Act. In carrying out this subsection, the Secretary shall use a method of determining value that—

(i) is acceptable to the Chairman; and

(ii) is in the best interest of the beneficiaries.

(B) The Secretary and the Chairman may mutually agree to extend the deadline for making determinations under this subparagraph beyond the date specified in subparagraph (A).

(3) The Secretary and the Chairman may mutually agree, with respect to the determinations of value described in subparagraphs (A) and (B) of paragraph (1), to provide—

(A) for making any portion of the determinations of value pursuant to subparagraphs (A) and (B) of paragraph (1); and

(B) for making the remainder of the determinations with respect to which the Secretary and the Chairman do not exercise the option described in subparagraph (A), pursuant to an appraisal conducted under paragraph (4).

(4)(A) Except as provided in subparagraph (C), if the Secretary and the Chairman do not agree on the determinations of values made by the Secretary under subparagraphs (A) and (B) of paragraph (1), or, pursuant to paragraph (3), mutually agree to determine the value of certain lands pursuant to this subparagraph, such values shall be determined by an appraisal. An appraisal conducted under this subparagraph shall be conducted in accordance with appraisal standards that are mutually agreeable to the Secretary and the Chairman.

(B) If an appraisal is conducted pursuant to this subparagraph, during the appraisal process—

(i) the Chairman shall have the opportunity to present evidence of value to the Secretary;

(ii) the Secretary shall provide the Chairman a preliminary copy of the appraisal;

(iii) the Chairman shall have a reasonable and sufficient opportunity to comment on the preliminary copy of the appraisal; and

(iv) the Secretary shall give consideration to the comments and evidence of value submitted by the Chairman under this subparagraph.

(C) The Chairman shall have the right to dispute the determinations of values made by an appraisal conducted under this subparagraph. If the Chairman disputes the appraisal, the Secretary and the Chairman may mutually agree to employ a process of bargaining, mediation, or other means of dispute resolution to make the determinations of values described in subparagraphs (A) and (B) of paragraph (1).

(b) AUTHORIZATION.—

(1) EXCHANGE.—Subject to paragraphs (2) and (5), the Secretary may convey Federal lands described in paragraph (5) to the Department of Hawaiian Home Lands in exchange for the continued retention by the Federal Government of lands described in subsection (a)(1)(A).

(2) VALUE OF LANDS.—(A) The value of any lands conveyed to the Department of Hawaiian Home Lands by the Federal Government in accordance with an exchange made under paragraph (1) may not be less than the value of the lands retained by the Federal Government pursuant to such exchange.

(B) For the purposes of this subsection, the value of any lands exchanged pursuant to paragraph (1) shall be determined as of the date the exchange is carried out, or any other date determined by the Secretary, with the concurrence of the Chairman.

(3) LOST USE.—Subject to paragraphs (4) and (5), the Secretary may convey Federal lands described in paragraph (5) to the Department of Hawaiian Home Lands as compensation for the lost use of lands determined under subsection (a)(1)(B).

(4) VALUE OF LOST USE.—(A) The value of any lands conveyed to the Department of Hawaiian Home Lands by the Federal Government as compensation under paragraph (3) may not be less than the value of the lost use of lands determined under subsection (a)(1)(B).

(B) For the purposes of this subparagraph, the value of any lands conveyed pursuant to paragraph (3) shall be determined as of the date that the conveyance occurs, or any other date determined by the Secretary, with the concurrence of the Chairman.

(5) FEDERAL LANDS FOR EXCHANGE.—(A) Subject to subparagraphs (B) and (C), Federal lands located in Hawaii that are under the control of an agency (other than lands within the National Park System or the National Wildlife Refuge System) may be conveyed to the Department of Hawaiian Home Lands under paragraphs (1) and (3). To assist the Secretary in carrying out this Act, the head of an agency may transfer to the Department of the Interior, without reimbursement, jurisdiction and control over any lands and any structures that the Secretary determines to be suitable for conveyance to the Department of Hawaiian Home Lands pursuant to an exchange conducted under this section.

(B) No Federal lands that the Federal Government is required to convey to the State of Hawaii under section 5 of the Hawaii State Admission Act may be conveyed under paragraph (1) or (3).

(C) No Federal lands that generate income (or would be expected to generate income) for the Federal Government may be conveyed pursuant to an exchange made under this paragraph to the Department of Hawaiian Home Lands.

(c) AVAILABLE LANDS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary shall require that lands conveyed to the Department of Hawaiian Home Lands under this Act shall have the status of available lands under the Hawaiian Home Commission Act.

(2) SUBSEQUENT EXCHANGE OF LANDS.—Notwithstanding any other provision of law, lands conveyed to the Department of Hawaiian Home Lands under this paragraph may subsequently be exchanged pursuant to section 204(3) of the Hawaiian Homes Commission Act.

(3) SALE OF CERTAIN LANDS.—Notwithstanding any other provision of law, the Chairman may, at the time that lands are conveyed to the Department of Hawaiian Home Lands as compensation for lost use under this Act, designate lands to be sold. The Chairman is authorized to sell such land under terms and conditions that are in the best interest of the beneficiaries. The proceeds of such a sale may only be used for the purposes described in section 207(a) of the Hawaiian Homes Commission Act.

(d) CONSULTATION.—In carrying out their respective responsibilities under this section, the Secretary and the Chairman shall—

(1) consult with the beneficiaries and organizations representing the beneficiaries; and

(2) report to such organizations on a regular basis concerning the progress made to meet the requirements of this section.

(e) HOLD HARMLESS.—Notwithstanding any other provision of law, the United States shall defend and hold harmless the Department of Hawaiian Home Lands, the employees of the Department, and the beneficiaries with respect to any claim arising from the ownership of any land or structure that is conveyed to the Department pursuant to an exchange made under this section prior to the conveyance to the Department of such land or structure.

(f) SCREENING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Defense and the Administrator of General Services shall, at the same time as notice is provided to Federal agencies that excess real property is being screened pursuant to applicable Federal laws (including regulations) for possible transfer to such agencies, notify the Chairman of any such screening of real property that is located within the State of Hawaii.

(2) RESPONSE TO NOTIFICATION.—Notwithstanding any other provision of law, not

later than 90 days after receiving a notice under paragraph (1), the Chairman may select for appraisal real property, or at the election of the Chairman, portions of real property, that is the subject of a screening.

(3) SELECTION.—Notwithstanding any other provision of law, with respect to any real property located in the State of Hawaii that, as of the date of enactment of this Act, is being screened pursuant to applicable Federal laws for possible transfer (as described in paragraph (1)) or has been screened for such purpose, but has not been transferred or declared to be surplus real property, the Chairman may select all, or any portion of, such real property to be appraised pursuant to paragraph (4).

(4) APPRAISAL.—Notwithstanding any other provision of law, the Secretary of Defense or the Administrator of General Services shall appraise the real property or portions of real property selected by the Chairman using the Uniform Standards for Federal Land Acquisition developed by the Interagency Land Acquisition Conference, or such other standard as the Chairman agrees to.

(5) REQUEST FOR CONVEYANCE.—Notwithstanding any other provision of law, not later than 30 days after the date of completion of such appraisal, the Chairman may request the conveyance to the Department of Hawaiian Home Lands of—

(A) the appraised property; or

(B) a portion of the appraised property, to the Department of Hawaiian Home Lands.

(6) CONVEYANCE.—Notwithstanding any other provision of law, upon receipt of a request from the Chairman, the Secretary of Defense or the Administrator of the General Services Administration shall convey, without reimbursement, the real property that is the subject of the request to the Department of Hawaiian Home Lands as compensation for lands identified under subsection (a)(1)(A) or lost use identified under subsection (a)(1)(B).

(7) REAL PROPERTY NOT SUBJECT TO RECOUPMENT.—Notwithstanding any other provision of law, any real property conveyed pursuant to paragraph (6) shall not be subject to recoupment based upon the sale or lease of the land by the Chairman.

(8) VALUATION.—Notwithstanding any other provision of law, the Secretary shall reduce the value identified under subparagraph (A) or (B) of subsection (a)(1), as determined pursuant to such subsection, by an amount equal to the appraised value of any excess lands conveyed pursuant to paragraph (6).

(9) LIMITATION.—No Federal lands that generate income (or would be expected to generate income) for the Federal Government may be conveyed pursuant to this subsection to the Department of Hawaiian Home Lands.

SEC. ___04. PROCEDURE FOR APPROVAL OF AMENDMENTS TO HAWAIIAN HOMES COMMISSION ACT.

(a) NOTICE TO THE SECRETARY.—Not later than 120 days after a proposed amendment to the Hawaiian Homes Commission Act is approved in the manner provided in section 4 of the Hawaii State Admission Act, the Chairman shall submit to the Secretary—

(1) a copy of the proposed amendment;

(2) the nature of the change proposed to be made by the amendment; and

(3) an opinion regarding whether the proposed amendment requires the approval of Congress under section 4 of the Hawaii State Admission Act.

(b) DETERMINATION BY SECRETARY.—Not later than 60 days after receiving the materials required to be submitted by the Chairman pursuant to subsection (a), the Secretary shall determine whether the proposed amendment requires the approval of Congress under section 4 of the Hawaii State Admission Act, and shall notify the Chairman and Congress of the determination of the Secretary.

(c) CONGRESSIONAL APPROVAL REQUIRED.—If, pursuant to subsection (b), the Secretary determines that the proposed amendment requires the approval of Congress, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives—

(1) a draft joint resolution approving the amendment;

(2) a description of the change made by the proposed amendment and an explanation of how the amendment advances the interests of the beneficiaries;

(3) a comparison of the existing law (as of the date of submission of the proposed amendment) that is the subject of the amendment with the proposed amendment;

(4) a recommendation concerning the advisability of approving the proposed amendment; and

(5) any documentation concerning the amendments received from the Chairman.

SEC. 05. LAND EXCHANGES.

(a) NOTICE TO THE SECRETARY.—If the Chairman recommends for approval an exchange of Hawaiian home lands, the Chairman shall submit a report to the Secretary on the proposed exchange. The report shall contain—

(1) a description of the acreage and fair market value of the lands involved in the exchange;

(2) surveys and appraisals prepared by the Department of Hawaiian Home Lands, if any; and

(3) an identification of the benefits to the parties of the proposed exchange.

(b) APPROVAL OR DISAPPROVAL.—

(1) IN GENERAL.—Not later than 120 days after receiving the information required to be submitted by the Chairman pursuant to subsection (a), the Secretary shall approve or disapprove the proposed exchange.

(2) NOTIFICATION.—The Secretary shall notify the Chairman, the Committee on Energy and Natural Resources of the Senate, and the Committee on Natural Resources of the House of Representatives of the reasons for the approval or disapproval of the proposed exchange.

(c) EXCHANGES INITIATED BY SECRETARY.—

(1) IN GENERAL.—The Secretary may recommend to the Chairman an exchange of Hawaiian home lands for Federal lands described in section ___03(b)(5), other than lands described in subparagraphs (B) and (C) of such section. If the Secretary initiates a recommendation for such an exchange, the Secretary shall submit a report to the Chairman on the proposed exchange that meets the requirements of a report described in subsection (a).

(2) APPROVAL BY CHAIRMAN.—Not later than 120 days after receiving a recommendation for an exchange from the Secretary under paragraph (1), the Chairman shall provide written notification to the Secretary of the approval or disapproval of a proposed exchange. If the Chairman approves the proposed exchange, upon receipt of the written notification, the Secretary shall notify the Committee on Energy and Natural Resources of the Senate, and the Committee on Natural Resources of the House of Representatives of the approval of the Chairman of the proposed exchange.

(3) EXCHANGE.—Upon providing notification pursuant to paragraph (2) of a proposed exchange that has been approved by the Chairman pursuant to this section, the Secretary may carry out the exchange.

(d) SELECTION AND EXCHANGE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may—

(A) select real property that is the subject of screening activities conducted by the Secretary of Defense or the Administrator of General Services pursuant to applicable Federal laws (including regulations) for possible transfer to Federal agencies; and

(B) make recommendations to the Chairman concerning making an exchange under subsection (b) that includes such real property.

(2) TRANSFER.—Notwithstanding any other provision of law, if the Chairman approves an exchange proposed by the Secretary under paragraph (1)—

(A) the Secretary of Defense or the Administrator of General Services shall transfer the real property described in paragraph (1)(A) that is the subject of the exchange to the Secretary without reimbursement; and

(B) the Secretary shall carry out the exchange.

(3) LIMITATION.—No Federal lands that generate income (or would be expected to generate income) for the Federal Government may be conveyed pursuant to this subsection to the Department of Hawaiian Home Lands.

(e) SURVEYS AND APPRAISALS.—

(1) REQUIREMENT.—The Secretary shall conduct a survey of all Hawaiian home lands based on the report entitled "Survey Needs for the Hawaiian Home Lands", issued by the Bureau of Land Management of the Department of the Interior, and dated July 1991.

(2) OTHER SURVEYS.—The Secretary is authorized to conduct such other surveys and appraisals as may be necessary to make an informed decision regarding approval or disapproval of a proposed exchange.

SEC. ___06. ADMINISTRATION OF ACTS BY UNITED STATES.

(a) DESIGNATION.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary shall designate an individual from within the Department of the Interior to administer the responsibilities of the United States under this title and the Hawaiian Homes Commission Act.

(2) DEFAULT.—If the Secretary fails to make an appointment by the date specified in paragraph (1), or if the position is vacant at any time thereafter, the Assistant Secretary for Policy, Budget, and Administration of the Department of the Interior shall exercise the responsibilities for the Department in accordance with subsection (b).

(b) RESPONSIBILITIES.—The individual designated pursuant to subsection (a) shall, in administering the laws referred to in such subsection—

(1) advance the interests of the beneficiaries; and

(2) assist the beneficiaries and the Department of Hawaiian Home Lands in obtaining assistance from programs of the Department of the Interior and other Federal agencies that will promote homesteading opportunities, economic self-sufficiency, and social well-being of the beneficiaries.

SEC. ___07. ADJUSTMENT.

The Act of July 1, 1932 (47 Stat. 564, chapter 369; 25 U.S.C. 386a) is amended by striking the period at the end and adding the following: ": *Provided further*, That the Secretary shall adjust or eliminate charges, defer collection of construction costs, and make no

assessment on behalf of such charges for beneficiaries that hold leases on Hawaiian home lands, to the same extent as is permitted for individual Indians or tribes of Indians under this section.".

SEC. ___08. REPORT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Chairman shall report to the Secretary concerning any claims that—

(1) involve the transfer of lands designated as available lands under section 203 of the Hawaiian Homes Commission Act (as in effect on the date of enactment of such Act); and

(2) are not otherwise covered under this title.

(b) REVIEW.—Not later than 180 days after receiving the report submitted under subsection (a), the Secretary shall make a determination with respect to each claim referred to in subsection (a), whether, on the basis of legal and equitable considerations, compensation should be granted to the Department of Hawaiian Home Lands.

(c) COMPENSATION.—If the Secretary makes a determination under subsection (b) that compensation should be granted to the Department of Hawaiian Home Lands, the Secretary shall determine the value of the lands and lost use in accordance with the process established under section ___03(a), and increase the determination of value made under subparagraphs (A) and (B) of section ___03(a)(1) by the value determined under this subsection.

SEC. ___09. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary for compensation to the Department of Hawaiian Home Lands for the value of the lost use of lands determined under section ___03. Compensation received by the Department of Hawaiian Home Lands from funds made available pursuant to this section may only be used for the purposes described in section 207(a) of the Hawaiian Homes Commission Act. To the extent that amounts are made available by appropriations pursuant to this section for compensation paid to the Department of Hawaiian Home Lands for lost use, the Secretary shall reduce the determination of value established under section ___03(a)(1)(B) by such amount.

INOUYE AMENDMENT NO. 2648

Mr. BREAUX (for Mr. INOUYE) proposed an amendment to the bill, H.R. 4180, supra; as follows:

Strike title I, and redesignate titles II and III as titles I and II, respectively.

After title II, as so redesignated, insert the following new titles:

TITLE III—MISCELLANEOUS

SEC. 301. EDUCATIONAL ASSISTANCE.

Notwithstanding any deadline established under section 5(a)(2) of the Act of September 30, 1950 (64 Stat. 1100, chapter 1124), the Secretary of Education shall accept, as if timely received, applications from the Window Rock, Arizona, local educational agency for funding under section 3 of such Act for fiscal years 1994 and 1995.

SEC. 302. PUEBLO DE TAOS.

(a) TRANSFER.—The parcel of land described in subsection (b) is hereby transferred without consideration to the Secretary of the Interior to be held in trust for the Pueblo de Taos. Such parcel shall be a part of the Pueblo de Taos Reservation and shall be managed in accordance with section 4 of the Act of May 31, 1933 (48 Stat. 109, chapter 45) (as amended, including as amended by Public Law 91-550 (84 Stat. 1437)).

(b) LAND DESCRIPTION.—The parcel of land referred to in subsection (a) is the land that is generally depicted on the map entitled "Lands transferred to the Pueblo of Taos—proposed" and dated September 1994. Such land comprises 764.33 acres, and is situated within sections 25, 26, 35, and 36, Township 27 North, Range 14 East, New Mexico Principal Meridian, within the Wheeler Peak Wilderness, Carson National Forest, Taos County, New Mexico.

(c) CONFORMING BOUNDARY ADJUSTMENTS.—The boundaries of the Carson National Forest and the Wheeler Peak Wilderness are hereby adjusted to reflect the transfer made by subsection (a).

(d) COMPLETION OF TRANSFER.—The Congress finds and declares that the lands described in subsection (b), which the United States shall hold in trust as part of the Pueblo de Taos Reservation pursuant to this section, complete the transfer effected by section 4 of the Act of May 31, 1933 (48 Stat. 109, chapter 45) (as amended, including as amended by Public Law 91-550 (84 Stat. 1437)).

ENERGY POLICY AND CONSERVATION ACT AMENDMENTS

NUNN AMENDMENT NO. 2649

Mr. BREAUX (for Mr. NUNN) proposed an amendment to the bill (H.R. 2461) to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes; as follows:

At the end of the bill, add the following new title:

TITLE V—PAPERWORK REDUCTION

SEC. 501. SHORT TITLE.

This title may be cited as the "Paperwork Reduction Act of 1994".

SEC. 502. COORDINATION OF FEDERAL INFORMATION POLICY.

Chapter 35 of title 44, United States Code, is amended to read as follows:

"CHAPTER 35—COORDINATION OF FEDERAL INFORMATION POLICY

"Sec.
"3501. Purposes.
"3502. Definitions.
"3503. Office of Information and Regulatory Affairs.
"3504. Authority and functions of Director.
"3505. Assignment of tasks and deadlines.
"3506. Federal agency responsibilities.
"3507. Public information collection activities; submission to Director; approval and delegation.
"3508. Determination of necessity for information; hearing.
"3509. Designation of central collection agency.
"3510. Cooperation of agencies in making information available.
"3511. Establishment and operation of Government Information Locator Service.
"3512. Public protection.
"3513. Director review of agency activities; reporting; agency response.
"3514. Responsiveness to Congress.
"3515. Administrative powers.
"3516. Rules and regulations.
"3517. Consultation with other agencies and the public.
"3518. Effect on existing laws and regulations.
"3519. Access to information.
"3520. Authorization of appropriations.

"§ 3501. Purposes

"The purposes of this chapter are to—

"(1) minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government;

"(2) ensure the greatest possible public benefit from and maximize the utility of information created, collected, maintained, used, shared and disseminated by or for the Federal Government;

"(3) coordinate, integrate, and to the extent practicable and appropriate, make uniform Federal information resources management policies and practices as a means to improve the productivity, efficiency, and effectiveness of Government programs, including the reduction of information collection burdens on the public and the improvement of service delivery to the public;

"(4) improve the quality and use of Federal information to strengthen decisionmaking, accountability, and openness in Government and society;

"(5) minimize the cost to the Federal Government of the creation, collection, maintenance, use, dissemination, and disposition of information;

"(6) strengthen the partnership between the Federal Government and State, local, and tribal governments by minimizing the burden and maximizing the utility of information created, collected, maintained, used, disseminated, and retained by or for the Federal Government;

"(7) provide for the dissemination of public information on a timely basis, on equitable terms, and in a manner that promotes the utility of the information to the public and makes effective use of information technology;

"(8) ensure that the creation, collection, maintenance, use, dissemination, and disposition of information by or for the Federal Government is consistent with applicable laws, including laws relating to—

"(A) privacy and confidentiality, including section 552a of title 5;

"(B) security of information, including the Computer Security Act of 1987 (Public Law 100-235); and

"(C) access to information, including section 552 of title 5;

"(9) ensure the integrity, quality, and utility of the Federal statistical system;

"(10) ensure that information technology is acquired, used, and managed to improve performance of agency missions, including the reduction of information collection burdens on the public; and

"(11) improve the responsibility and accountability of the Office of Management and Budget and all other Federal agencies to Congress and to the public for implementing the information collection review process, information resources management, and related policies and guidelines established under this chapter.

"§ 3502. Definitions

"As used in this chapter—

"(1) the term 'agency' means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the

executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but does not include—

"(A) the General Accounting Office;

"(B) Federal Election Commission;

"(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

"(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities;

"(2) the term 'burden' means time, effort, or financial resources expended by persons to generate, maintain, or provide information to or for a Federal agency, including the resources expended for—

"(A) reviewing instructions;

"(B) acquiring, installing, and utilizing technology and systems;

"(C) adjusting the existing ways to comply with any previously applicable instructions and requirements;

"(D) searching data sources;

"(E) completing and reviewing the collection of information; and

"(F) transmitting, or otherwise disclosing the information;

"(3) the term 'collection of information' means the obtaining, causing to be obtained, soliciting, or requiring the disclosure to third parties or the public, of facts or opinions by or for an agency, regardless of form or format, calling for either—

"(A) answers to identical questions posed to, or identical reporting or recordkeeping requirements imposed on, ten or more persons, other than agencies, instrumentalities, or employees of the United States; or

"(B) answers to questions posed to agencies, instrumentalities, or employees of the United States which are to be used for general statistical purposes;

"(4) the term 'Director' means the Director of the Office of Management and Budget;

"(5) the term 'independent regulatory agency' means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Energy Regulatory Commission, the Federal Housing Finance Board, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Mine Enforcement Safety and Health Review Commission, the National Labor Relations Board, the Nuclear Regulatory Commission, the Occupational Safety and Health Review Commission, the Postal Rate Commission, the Securities and Exchange Commission, and any other similar agency designated by statute as a Federal independent regulatory agency or commission;

"(6) the term 'information resources' means information and related resources, such as personnel, equipment, funds, and information technology;

"(7) the term 'information resources management' means the process of managing information resources to accomplish agency missions and to improve agency performance, including through the reduction of information collection burdens on the public;

"(8) the term 'information system' means a discrete set of information resources and processes, automated or manual, organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information;

"(9) the term 'information technology' has the same meaning as the term 'automatic data processing equipment' as defined by section 111(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(a)(2));

"(10) the term 'person' means an individual, partnership, association, corporation, business trust, or legal representative, an organized group of individuals, a State, territorial, or local government or branch thereof, or a political subdivision of a State, territory, or local government or a branch of a political subdivision;

"(11) the term 'practical utility' means the ability of an agency to use information, particularly the capability to process such information in a timely and useful fashion;

"(12) the term 'public information' means any information, regardless of form or format, that an agency discloses, disseminates, or makes available to the public; and

"(13) the term 'recordkeeping requirement' means a requirement imposed by or for an agency on persons to maintain specified records.

"§ 3503. Office of Information and Regulatory Affairs

"(a) There is established in the Office of Management and Budget an office to be known as the Office of Information and Regulatory Affairs.

"(b) There shall be at the head of the Office an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall delegate to the Administrator the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions. The Administrator shall serve as principal adviser to the Director on Federal information resources management policy.

"(c) The Administrator and employees of the Office of Information and Regulatory Affairs shall be appointed with special attention to professional qualifications required to administer the functions of the Office described under this chapter. Such qualifications shall include relevant education, work experience, or related professional activities.

"§ 3504. Authority and functions of Director

"(a)(1) The Director shall oversee the use of information resources to improve the efficiency and effectiveness of governmental operations to serve agency missions, including service delivery to the public. In performing such oversight, the Director shall—

"(A) develop, coordinate and oversee the implementation of Federal information resources management policies, principles, standards, and guidelines; and

"(B) provide direction and oversee—

"(i) the review of the collection of information and the reduction of the information collection burden;

"(ii) agency dissemination of and public access to information;

"(iii) statistical activities;

"(iv) records management activities;

"(v) privacy, confidentiality, security, disclosure, and sharing of information; and

"(vi) the acquisition and use of information technology.

"(2) The authority of the Director under this chapter shall be exercised consistent with applicable law.

"(b) With respect to general information resources management policy, the Director shall—

"(1) develop and oversee the implementation of uniform information resources management policies, principles, standards, and guidelines;

"(2) foster greater sharing, dissemination, and access to public information, including through—

"(A) the use of the Government Information Locator Service; and

"(B) the development and utilization of common standards for information collection, storage, processing and communication, including standards for security, interconnectivity and interoperability;

"(3) initiate and review proposals for changes in legislation, regulations, and agency procedures to improve information resources management practices;

"(4) oversee the development and implementation of best practices in information resources management, including training; and

"(5) oversee agency integration of program and management functions with information resources management functions.

"(c) With respect to the collection of information and the control of paperwork, the Director shall—

"(1) review proposed agency collections of information, and in accordance with section 3508, determine whether the collection of information by or for an agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

"(2) coordinate the review of the collection of information associated with Federal procurement and acquisition by the Office of Information and Regulatory Affairs with the Office of Federal Procurement Policy, with particular emphasis on applying information technology to improve the efficiency and effectiveness of Federal procurement and acquisition and to reduce information collection burdens on the public;

"(3) minimize the Federal information collection burden, with particular emphasis on those individuals and entities most adversely affected;

"(4) maximize the practical utility of and public benefit from information collected by or for the Federal Government; and

"(5) establish and oversee standards and guidelines by which agencies are to estimate the burden to comply with a proposed collection of information.

"(d) With respect to information dissemination, the Director shall develop and oversee the implementation of policies, principles, standards, and guidelines to—

"(1) apply to Federal agency dissemination of public information, regardless of the form or format in which such information is disseminated; and

"(2) promote public access to public information and fulfill the purposes of this chapter, including through the effective use of information technology.

"(e) With respect to statistical policy and coordination, the Director shall—

"(1) coordinate the activities of the Federal statistical system to ensure—

"(A) the efficiency and effectiveness of the system; and

"(B) the integrity, objectivity, impartiality, utility, and confidentiality of information collected for statistical purposes;

"(2) ensure that budget proposals of agencies are consistent with system-wide priorities for maintaining and improving the quality of Federal statistics and prepare an annual report on statistical program funding;

"(3) develop and oversee the implementation of Governmentwide policies, principles, standards, and guidelines concerning—

"(A) statistical collection procedures and methods;

"(B) statistical data classification;

"(C) statistical information presentation and dissemination;

"(D) timely release of statistical data; and

"(E) such statistical data sources as may be required for the administration of Federal programs;

"(4) evaluate statistical program performance and agency compliance with Governmentwide policies, principles, standards and guidelines;

"(5) promote the sharing of information collected for statistical purposes consistent with privacy rights and confidentiality pledges;

"(6) coordinate the participation of the United States in international statistical activities, including the development of comparable statistics;

"(7) appoint a chief statistician who is a trained and experienced professional statistician to carry out the functions described under this subsection;

"(8) establish an Interagency Council on Statistical Policy to advise and assist the Director in carrying out the functions under this subsection that shall—

"(A) be headed by the chief statistician; and

"(B) consist of—

"(i) the heads of the major statistical programs; and

"(ii) representatives of other statistical agencies under rotating membership; and

"(9) provide opportunities for training in statistical policy functions to employees of the Federal Government under which—

"(A) each trainee shall be selected at the discretion of the Director based on agency requests and shall serve under the chief statistician for at least 6 months and not more than 1 year; and

"(B) all costs of the training shall be paid by the agency requesting training.

"(f) With respect to records management, the Director shall—

"(1) provide advice and assistance to the Archivist of the United States and the Administrator of General Services to promote coordination in the administration of chapters 29, 31, and 33 of this title with the information resources management policies, principles, standards, and guidelines established under this chapter;

"(2) review compliance by agencies with—

"(A) the requirements of chapters 29, 31, and 33 of this title; and

"(B) regulations promulgated by the Archivist of the United States and the Administrator of General Services; and

"(3) oversee the application of records management policies, principles, standards, and guidelines, including requirements for archiving information maintained in electronic format, in the planning and design of information systems.

"(g) With respect to privacy and security, the Director shall—

"(1) develop and oversee the implementation of policies, principles, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for agencies;

"(2) oversee and coordinate compliance with sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

"(3) require Federal agencies, consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), to identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

"(h) With respect to Federal information technology, the Director shall—

"(1) in consultation with the Director of the National Institute of Standards and Technology and the Administrator of General Services—

"(A) develop and oversee the implementation of policies, principles, standards, and guidelines for information technology functions and activities of the Federal Government, including periodic evaluations of major information systems; and

"(B) oversee the development and implementation of standards under section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d));

"(2) monitor the effectiveness of, and compliance with, directives issued under sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759) and review proposed determinations under section 111(e) of such Act;

"(3) coordinate the development and review by the Office of Information and Regulatory Affairs of policy associated with Federal procurement and acquisition of information technology with the Office of Federal Procurement Policy;

"(4) ensure, through the review of agency budget proposals, information resources management plans and other means—

"(A) agency integration of information resources management plans, program plans and budgets for acquisition and use of information technology; and

"(B) the efficiency and effectiveness of inter-agency information technology initiatives to improve agency performance and the accomplishment of agency missions; and

"(5) promote the use of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of Federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

"§ 3505. Assignment of tasks and deadlines

"In carrying out the functions under this chapter, the Director shall—

"(1) in consultation with agency heads, set an annual Governmentwide goal for the reduction of information collection burdens by at least five percent, and set annual agency goals to—

"(A) reduce information collection burdens imposed on the public that—

"(i) represent the maximum practicable opportunity in each agency; and

"(ii) are consistent with improving agency management of the process for the review of collections of information established under section 3506(c); and

"(B) improve information resources management in ways that increase the productivity, efficiency and effectiveness of Federal programs, including service delivery to the public;

"(2) with selected agencies and non-Federal entities on a voluntary basis, conduct pilot projects to test alternative policies, practices, regulations, and procedures to fulfill the purposes of this chapter, particularly with regard to minimizing the Federal information collection burden;

"(3) in consultation with the Administrator of General Services, the Director of the National Institute of Standards and Technology, the Archivist of the United States, and the Director of the Office of Personnel Management, develop and maintain a Governmentwide strategic plan for information resources management, that shall include—

"(A) a description of the objectives and the means by which the Federal Government shall apply information resources to improve agency and program performance;

"(B) plans for—

"(i) reducing information burdens on the public, including reducing such burdens through the elimination of duplication and meeting shared data needs with shared resources;

"(ii) enhancing public access to and dissemination of, information, using electronic and other formats; and

"(iii) meeting the information technology needs of the Federal Government in accordance with the requirements of sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759), and the purposes of this chapter; and

"(C) a description of progress in applying information resources management to improve agency performance and the accomplishment of missions; and

"(4) in cooperation with the Administrator of General Services, issue guidelines for the establishment and operation in each agency of a process, as required under section 3506(h)(5) of this chapter, to review major information systems initiatives, including acquisition and use of information technology.

"§ 3506. Federal agency responsibilities

"(a)(1) The head of each agency shall be responsible for—

"(A) carrying out the agency's information resources management activities to improve agency productivity, efficiency, and effectiveness; and

"(B) complying with the requirements of this chapter and related policies established by the Director.

"(2)(A) Except as provided under subparagraph (B), the head of each agency shall designate a senior official who shall report directly to such agency head to carry out the responsibilities of the agency under this chapter.

"(B) The Secretary of the Department of Defense and the Secretary of each military department may each designate a senior official who shall report directly to such Secretary to carry out the responsibilities of the department under this chapter. If more than one official is designated for the military departments, the respective duties of the officials shall be clearly delineated.

"(3) The senior official designated under paragraph (2) shall head an office responsible for ensuring agency compliance with and prompt, efficient, and effective implementation of the information policies and information resources management responsibilities established under this chapter, including the reduction of information collection burdens on the public. The senior official and employees of such office shall be selected with special attention to the professional qualifications required to administer the functions described under this chapter.

"(4) Each agency program official shall be responsible and accountable for information resources assigned to and supporting the programs under such official. In consultation with the senior official designated under paragraph (2) and the agency Chief Financial Officer (or comparable official), each agency program official shall define program information needs and develop strategies, systems, and capabilities to meet those needs.

"(5) The head of each agency shall establish a permanent information resources management steering committee, which shall be

chaired by the senior official designated under paragraph (2) and shall include senior program officials and the Chief Financial Officer (or comparable official). Each steering committee shall—

"(A) assist and advise the head of the agency in carrying out information resources management responsibilities of the agency;

"(B) assist and advise the senior official designated under paragraph (2) in the establishment of performance measures for information resources management that relate to program missions;

"(C) select, control, and evaluate all major information system initiatives (including acquisitions of information technology) in accordance with the requirements of subsection (h)(5); and

"(D) identify opportunities to redesign business practices and supporting information systems to improve agency performance.

"(b) With respect to general information resources management, each agency shall—

"(1) develop information systems, processes, and procedures to—

"(A) reduce information collection burdens on the public;

"(B) increase program efficiency and effectiveness; and

"(C) improve the integrity, quality, and utility of information to all users within and outside the agency, including capabilities for ensuring dissemination of public information, public access to government information, and protections for privacy and security;

"(2) in accordance with guidance by the Director, develop and maintain a strategic information resources management plan that shall describe how information resources management activities help accomplish agency missions;

"(3) develop and maintain an ongoing process to—

"(A) ensure that information resources management operations and decisions are integrated with organizational planning, budget, financial management, human resources management, and program decisions;

"(B) develop and maintain an integrated, comprehensive and controlled process of information systems selection, development, and evaluation;

"(C) in cooperation with the agency Chief Financial Officer (or comparable official), develop a full and accurate accounting of information technology expenditures, related expenses, and results; and

"(D) establish goals for improving information resources management's contribution to program productivity, efficiency, and effectiveness, methods for measuring progress towards those goals, and clear roles and responsibilities for achieving those goals;

"(4) in consultation with the Director, the Administrator of General Services, and the Archivist of the United States, maintain a current and complete inventory of the agency's information resources, including directories necessary to fulfill the requirements of section 3511 of this chapter; and

"(5) in consultation with the Director and the Director of the Office of Personnel Management, conduct formal training programs to educate agency program and management officials about information resources management.

"(c) With respect to the collection of information and the control of paperwork, each agency shall—

"(1) establish a process within the office headed by the official designated under subsection (a), that is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved under this chapter, to—

"(A) review each collection of information before submission to the Director for review under this chapter, including—

"(i) an evaluation of the need for the collection of information;

"(ii) a functional description of the information to be collected;

"(iii) a plan for the collection of the information;

"(iv) a specific, objectively supported estimate of burden;

"(v) a test of the collection of information through a pilot program, if appropriate; and

"(vi) a plan for the efficient and effective management and use of the information to be collected, including necessary resources;

"(B) ensure that each information collection—

"(i) is inventoried, displays a control number and, if appropriate, an expiration date;

"(ii) indicates the collection is in accordance with the clearance requirements of section 3507; and

"(iii) contains a statement to inform the person receiving the collection of information—

"(I) the reasons the information is being collected;

"(II) the way such information is to be used;

"(III) an estimate, to the extent practicable, of the burden of the collection; and

"(IV) whether responses to the collection of information are voluntary, required to obtain a benefit, or mandatory; and

"(C) assess the information collection burden of proposed legislation affecting the agency;

"(2)(A) except as provided under subparagraph (B), provide 60-day notice in the Federal Register, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information, to solicit comment to—

"(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

"(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

"(iii) enhance the quality, utility, and clarity of the information to be collected; and

"(iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology; and

"(B) for any proposed collection of information contained in a proposed rule (to be reviewed by the Director under section 3507(d)), provide notice and comment through the notice of proposed rulemaking for the proposed rule and such notice shall have the same purposes specified under subparagraph (A) (i) through (iv); and

"(3) certify (and provide a record supporting such certification, including public comments received by the agency) that each collection of information submitted to the Director for review under section 3507—

"(A) is necessary for the proper performance of the functions of the agency, including that the information has practical utility;

"(B) is not unnecessarily duplicative of information otherwise reasonably accessible to the agency;

"(C) reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined under section 601(6) of title 5, the use of such techniques as—

"(i) establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond;

"(ii) the clarification, consolidation, or simplification of compliance and reporting requirements; or

"(iii) an exemption from coverage of the collection of information, or any part thereof;

"(D) is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond;

"(E) is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond;

"(F) contains the statement required under paragraph (1)(B)(iii);

"(G) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public;

"(H) uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and

"(I) to the maximum extent practicable, uses information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public.

"(d) With respect to information dissemination, each agency shall—

"(1) ensure that the public has timely and equitable access to the agency's public information, including ensuring such access through—

"(A) encouraging a diversity of public and private sources for information based on government public information, and

"(B) agency dissemination of public information in an efficient, effective, and economical manner;

"(2) regularly solicit and consider public input on the agency's information dissemination activities; and

"(3) not, except where specifically authorized by statute—

"(A) establish an exclusive, restricted, or other distribution arrangement that interferes with timely and equitable availability of public information to the public;

"(B) restrict or regulate the use, resale, or redissemination of public information by the public;

"(C) charge fees or royalties for resale or redissemination of public information; or

"(D) establish user fees for public information that exceed the cost of dissemination.

"(e) With respect to statistical policy and coordination, each agency shall—

"(1) ensure the relevance, accuracy, timeliness, integrity, and objectivity of information collected or created for statistical purposes;

"(2) inform respondents fully and accurately about the sponsors, purposes, and uses of statistical surveys and studies;

"(3) protect respondents' privacy and ensure that disclosure policies fully honor pledges of confidentiality;

"(4) observe Federal standards and practices for data collection, analysis, documentation, sharing, and dissemination of information;

"(5) ensure the timely publication of the results of statistical surveys and studies, including information about the quality and limitations of the surveys and studies; and

"(6) make data available to statistical agencies and readily accessible to the public.

"(f) With respect to records management, each agency shall implement and enforce applicable policies and procedures, including requirements for archiving information maintained in electronic format, particularly in the planning, design and operation of information systems.

"(g) With respect to privacy and security, each agency shall—

"(1) implement and enforce applicable policies, procedures, standards, and guidelines on privacy, confidentiality, security, disclosure and sharing of information collected or maintained by or for the agency;

"(2) assume responsibility and accountability for compliance with and coordinated management of sections 552 and 552a of title 5, the Computer Security Act of 1987 (40 U.S.C. 759 note), and related information management laws; and

"(3) consistent with the Computer Security Act of 1987 (40 U.S.C. 759 note), identify and afford security protections commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of information collected or maintained by or on behalf of an agency.

"(h) With respect to Federal information technology, each agency shall—

"(1) implement and enforce applicable Governmentwide and agency information technology management policies, principles, standards, and guidelines;

"(2) assume responsibility and accountability for any acquisitions made pursuant to a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759);

"(3) promote the use of information technology by the agency to improve the productivity, efficiency, and effectiveness of agency programs, including the reduction of information collection burdens on the public and improved dissemination of public information;

"(4) propose changes in legislation, regulations, and agency procedures to improve information technology practices, including changes that improve the ability of the agency to use technology to reduce burden; and

"(5) establish, and be responsible for, a major information system initiative review process, which shall be developed and implemented by the information resources management steering committee established under subsection (a)(5), consistent with guidelines issued under section 3505(4), and include—

"(A) the review of major information system initiative proposals and projects (including acquisitions of information technology), approval or disapproval of each such initiative, and periodic reviews of the development and implementation of such initiatives, including whether the projected benefits have been achieved;

"(B) the use by the committee of specified evaluative techniques and criteria to—

"(i) assess the economy, efficiency, effectiveness, risks, and priority of system initiatives in relation to mission needs and strategies;

"(ii) estimate and verify life-cycle system initiative costs; and

"(iii) assess system initiative privacy, security, records management, and dissemination and access capabilities;

"(C) the use, as appropriate, of independent cost evaluations of data developed under subparagraph (B); and

"(D) the inclusion of relevant information about approved initiatives in the agency's annual budget request.

"§3507. Public information collection activities; submission to Director; approval and delegation

"(a) An agency shall not conduct or sponsor the collection of information unless in advance of the adoption or revision of the collection of information—

"(1) the agency has—

"(A) conducted the review established under section 3506(c)(1);

"(B) evaluated the public comments received under section 3506(c)(2);

"(C) submitted to the Director the certification required under section 3506(c)(3), the proposed collection of information, copies of pertinent statutory authority, regulations, and other related materials as the Director may specify; and

"(D) published a notice in the Federal Register—

"(i) stating that the agency has made such submission; and

"(ii) setting forth—

"(I) a title for the collection of information;

"(II) a summary of the collection of information;

"(III) a brief description of the need for the information and the proposed use of the information;

"(IV) a description of the likely respondents and proposed frequency of response to the collection of information;

"(V) an estimate of the burden that shall result from the collection of information; and

"(VI) notice that comments may be submitted to the agency and Director;

"(2) the Director has approved the proposed collection of information or approval has been inferred, under the provisions of this section; and

"(3) the agency has obtained from the Director a control number to be displayed upon the collection of information.

"(b) The Director shall provide at least 30 days for public comment prior to making a decision under subsection (c), (d), or (h), except as provided under subsection (j).

"(c)(1) For any proposed collection of information not contained in a proposed rule, the Director shall notify the agency involved of the decision to approve or disapprove the proposed collection of information.

"(2) The Director shall provide the notification under paragraph (1), within 60 days after receipt or publication of the notice under subsection (a)(1)(D), whichever is later.

"(3) If the Director does not notify the agency of a denial or approval within the 60-day period described under paragraph (2)—

"(A) the approval may be inferred;

"(B) a control number shall be assigned without further delay; and

"(C) the agency may collect the information for not more than 2 years.

"(d)(1) For any proposed collection of information contained in a proposed rule—

"(A) as soon as practicable, but no later than the date of publication of a notice of proposed rulemaking in the Federal Register, each agency shall forward to the Director a copy of any proposed rule which contains a collection of information and any information requested by the Director necessary to make the determination required under this subsection; and

"(B) within 60 days after the notice of proposed rulemaking is published in the Federal Register, the Director may file public comments pursuant to the standards set forth in section 3508 on the collection of information contained in the proposed rule;

"(2) When a final rule is published in the Federal Register, the agency shall explain—

"(A) how any collection of information contained in the final rule responds to the comments, if any, filed by the Director or the public; or

"(B) the reasons such comments were rejected.

"(3) If the Director has received notice and failed to comment on an agency rule within 60 days after the notice of proposed rulemaking, the Director may not disapprove any collection of information specifically contained in an agency rule.

"(4) No provision in this section shall be construed to prevent the Director, in the Director's discretion—

"(A) from disapproving any collection of information which was not specifically required by an agency rule;

"(B) from disapproving any collection of information contained in an agency rule, if the agency failed to comply with the requirements of paragraph (1) of this subsection;

"(C) from disapproving any collection of information contained in a final agency rule, if the Director finds within 60 days after the publication of the final rule that the agency's response to the Director's comments filed under paragraph (2) of this subsection was unreasonable; or

"(D) from disapproving any collection of information contained in a final rule, if—

"(i) the Director determines that the agency has substantially modified in the final rule the collection of information contained in the proposed rule; and

"(ii) the agency has not given the Director the information required under paragraph (1) with respect to the modified collection of information, at least 60 days before the issuance of the final rule.

"(5) This subsection shall apply only when an agency publishes a notice of proposed rulemaking and requests public comments.

"(6) The decision by the Director to approve or not act upon a collection of information contained in an agency rule shall not be subject to judicial review.

"(e)(1) Any decision by the Director under subsection (c), (d), (h), or (j) to disapprove a collection of information, or to instruct the agency to make substantive or material change to a collection of information, shall be publicly available and include an explanation of the reasons for such decision.

"(2) Any written communication between the Office of the Director, the Administrator of the Office of Information and Regulatory Affairs, or any employee of the Office of Information and Regulatory Affairs and an agency or person not employed by the Federal Government concerning a proposed collection of information shall be made available to the public.

"(3) This subsection shall not require the disclosure of—

"(A) any information which is protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy; or

"(B) any communication relating to a collection of information which has not been approved under this chapter, the disclosure of which could lead to retaliation or discrimination against the communicator.

"(f)(1) An independent regulatory agency which is administered by 2 or more members of a commission, board, or similar body, may by majority vote void—

"(A) any disapproval by the Director, in whole or in part, of a proposed collection of information of an independent regulatory agency; or

"(B) an exercise of authority under subsection (d) of section 3507 concerning such an agency.

"(2) The agency shall certify each vote to void such disapproval or exercise to the Director, and explain the reasons for such vote. The Director shall without further delay assign a control number to such collection of information, and such vote to void the disapproval or exercise shall be valid for a period of 3 years.

"(g) The Director may not approve a collection of information for a period in excess of 3 years.

"(h)(1) If an agency decides to seek extension of the Director's approval granted for a currently approved collection of information, the agency shall—

"(A) conduct the review established under section 3506(c), including the seeking of comment from the public on the continued need for, and burden imposed by the collection of information; and

"(B) after having made a reasonable effort to seek public comment, but no later than 60 days before the expiration date of the control number assigned by the Director for the currently approved collection of information, submit the collection of information for review and approval under this section, which shall include an explanation of how the agency has used the information that it has collected.

"(2) If under the provisions of this section, the Director disapproves a collection of information contained in an existing rule, or recommends or instructs the agency to make a substantive or material change to a collection of information contained in an existing rule, the Director shall—

"(A) publish an explanation thereof in the Federal Register; and

"(B) instruct the agency to undertake a rulemaking within a reasonable time limited to consideration of changes to the collection of information contained in the rule and thereafter to submit the collection of information for approval or disapproval under this chapter.

"(3) An agency may not make a substantive or material modification to a collection of information after such collection has been approved by the Director, unless the modification has been submitted to the Director for review and approval under this chapter.

"(i)(1) If the Director finds that a senior official of an agency designated under section 3506(a) is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved and has sufficient resources to carry out this responsibility effectively, the Director may, by rule in accordance with the notice and comment provisions of chapter 5 of title 5, United States Code, delegate to such official the authority to approve proposed collections of information in specific program areas, for specific purposes, or for all agency purposes.

"(2) A delegation by the Director under this section shall not preclude the Director from reviewing individual collections of information if the Director determines that circumstances warrant such a review. The Director shall retain authority to revoke such delegations, both in general and with regard to any specific matter. In acting for the Director, any official to whom approval authority has been delegated under this section shall comply fully with the rules and regulations promulgated by the Director.

"(j)(1) The agency head may request the Director to authorize collection of information prior to expiration of time periods established under this chapter, if an agency head determines that—

"(A) a collection of information—

"(i) is needed prior to the expiration of such time periods; and

"(ii) is essential to the mission of the agency; and

"(B) the agency cannot reasonably comply with the provisions of this chapter within such time periods because—

"(i) public harm is reasonably likely to result if normal clearance procedures are followed; or

"(ii) an unanticipated event has occurred and the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information related to the event or is reasonably likely to cause a statutory or court-ordered deadline to be missed.

"(2) The Director shall approve or disapprove any such authorization request within the time requested by the agency head and, if approved, shall assign the collection of information a control number. Any collection of information conducted under this subsection may be conducted without compliance with the provisions of this chapter for a maximum of 90 days after the date on which the Director received the request to authorize such collection.

"§3508. Determination of necessity for information; hearing

"Before approving a proposed collection of information, the Director shall determine whether the collection of information by the agency is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility. Before making a determination the Director may give the agency and other interested persons an opportunity to be heard or to submit statements in writing. To the extent that the Director determines that the collection of information by an agency is unnecessary for the proper performance of the functions of the agency, for any reason, the agency may not engage in the collection of information.

"§3509. Designation of central collection agency

"The Director may designate a central collection agency to obtain information for two or more agencies if the Director determines that the needs of such agencies for information will be adequately served by a single collection agency, and such sharing of data is not inconsistent with applicable law. In such cases the Director shall prescribe (with reference to the collection of information) the duties and functions of the collection agency so designated and of the agencies for which it is to act as agent (including reimbursement for costs). While the designation is in effect, an agency covered by the designation may not obtain for itself information for the agency which is the duty of the collection agency to obtain. The Director may modify the designation from time to time as circumstances require. The authority to designate under this section is subject to the provisions of section 3507(f) of this chapter.

"§3510. Cooperation of agencies in making information available

"(a) The Director may direct an agency to make available to another agency, or an agency may make available to another agency, information obtained by a collection of information if the disclosure is not inconsistent with applicable law.

"(b)(1) If information obtained by an agency is released by that agency to another agency, all the provisions of law (including penalties which relate to the unlawful disclosure of information) apply to the officers and employees of the agency to which information is released to the same extent and in the same manner as the provisions apply to the officers and employees of the agency which originally obtained the information.

"(2) The officers and employees of the agency to which the information is released, in addition, shall be subject to the same provisions of law, including penalties, relating to the unlawful disclosure of information as if the information had been collected directly by that agency.

"§3511. Establishment and operation of Government Information Locator Service

"In order to assist agencies and the public in locating information and to promote information sharing and equitable access by the public, the Director shall—

"(1) cause to be established and maintained a distributed agency-based electronic Government Information Locator Service (hereafter in this section referred to as the 'Service'), which shall identify the major information systems, holdings, and dissemination products of each agency;

"(2) require each agency to establish and maintain an agency information locator service as a component of, and to support the establishment and operation of the Service;

"(3) in cooperation with the Archivist of the United States, the Administrator of General Services, the Public Printer, and the Librarian of Congress, establish an interagency committee to advise the Secretary of Commerce on the development of technical standards for the Service to ensure compatibility, promote information sharing, and uniform access by the public;

"(4) consider public access and other user needs in the establishment and operation of the Service;

"(5) ensure the security and integrity of the Service, including measures to ensure that only information which is intended to be disclosed to the public is disclosed through the Service; and

"(6) periodically review the development and effectiveness of the Service and make recommendations for improvement, including other mechanisms for improving public access to Federal agency public information.

"§3512. Public protection

"Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to maintain, provide, or disclose information to or for any agency or person if the applicable collection of information—

"(1) was made after December 31, 1981; and

"(2)(A) does not display a valid control number assigned by the Director; or

"(B) fails to state that such collection is not subject to this chapter.

"§3513. Director review of agency activities; reporting; agency response

"(a) In consultation with the Administrator of General Services, the Archivist of

the United States, the Director of the National Institute of Standards and Technology, and the Director of the Office of Personnel Management, the Director shall periodically review selected agency information resources management activities to ascertain the efficiency and effectiveness of such activities to improve agency performance and the accomplishment of agency missions.

"(b) Each agency having an activity reviewed under subsection (a) shall, within 60 days after receipt of a report on the review, provide a written plan to the Director describing steps (including milestones) to—

"(1) be taken to address information resources management problems identified in the report; and

"(2) improve agency performance and the accomplishment of agency missions.

"§ 3514. Responsiveness to Congress

"(a)(1) The Director shall—

"(A) keep the Congress and congressional committees fully and currently informed of the major activities under this chapter; and

"(B) submit a report on such activities to the President of the Senate and the Speaker of the House of Representatives annually and at such other times as the Director determines necessary.

"(2) The Director shall include in any such report a description of the extent to which agencies have—

"(A) reduced information collection burdens on the public, including—

"(i) a summary of accomplishments and planned initiatives to reduce collection of information burdens;

"(ii) a list of all violations of this chapter and of any rules, guidelines, policies, and procedures issued pursuant to this chapter; and

"(iii) a list of any increase in the collection of information burden, including the authority for each such collection;

"(B) improved the quality and utility of statistical information;

"(C) improved public access to Government information; and

"(D) improved program performance and the accomplishment of agency missions through information resources management.

"(b) The preparation of any report required by this section shall be based on performance results reported by the agencies and shall not increase the collection of information burden on persons outside the Federal Government.

"§ 3515. Administrative powers

"Upon the request of the Director, each agency (other than an independent regulatory agency) shall, to the extent practicable, make its services, personnel, and facilities available to the Director for the performance of functions under this chapter.

"§ 3516. Rules and regulations

"The Director shall promulgate rules, regulations, or procedures necessary to exercise the authority provided by this chapter.

"§ 3517. Consultation with other agencies and the public

"(a) In developing information resources management policies, plans, rules, regulations, procedures, and guidelines and in reviewing collections of information, the Director shall provide interested agencies and persons early and meaningful opportunity to comment.

"(b) Any person may request the Director to review any collection of information conducted by or for an agency to determine, if, under this chapter, the person shall maintain, provide, or disclose the information to or for the agency. Unless the request is frivolous, the Director shall, in coordination with the agency responsible for the collection of information—

"(1) respond to the request within 60 days after receiving the request, unless such period is extended by the Director to a specified date and the person making the request is given notice of such extension; and

"(2) take appropriate remedial action, if necessary.

"§ 3518. Effect on existing laws and regulations

"(a) Except as otherwise provided in this chapter, the authority of an agency under any other law to prescribe policies, rules, regulations, and procedures for Federal information resources management activities is subject to the authority of the Director under this chapter.

"(b) Nothing in this chapter shall be deemed to affect or reduce the authority of the Secretary of Commerce or the Director of the Office of Management and Budget pursuant to Reorganization Plan No. 1 of 1977 (as amended) and Executive order, relating to telecommunications and information policy, procurement and management of telecommunications and information systems, spectrum use, and related matters.

"(c)(1) Except as provided in paragraph (2), this chapter shall not apply to the collection of information—

"(A) during the conduct of a Federal criminal investigation or prosecution, or during the disposition of a particular criminal matter;

"(B) during the conduct of—

"(i) a civil action to which the United States or any official or agency thereof is a party; or

"(ii) an administrative action or investigation involving an agency against specific individuals or entities;

"(C) by compulsory process pursuant to the Antitrust Civil Process Act and section 13 of the Federal Trade Commission Improvements Act of 1980; or

"(D) during the conduct of intelligence activities as defined in section 4-206 of Executive Order No. 12036, issued January 24, 1978, or successor orders, or during the conduct of cryptologic activities that are communications security activities.

"(2) This chapter applies to the collection of information during the conduct of general investigations (other than information collected in an antitrust investigation to the extent provided in subparagraph (C) of paragraph (1)) undertaken with reference to a category of individuals or entities such as a class of licensees or an entire industry.

DEPARTMENT OF DEFENSE OVERSEAS TEACHERS PAY AND PERSONNEL PRACTICES ACT AMENDMENTS

LEVIN AMENDMENT NO. 2650

Mr. BREAUX (for Mr. LEVIN) proposed an amendment to the bill (H.R. 3499) to amend the Defense Department Overseas Teachers Pay and Personnel Practices Act; as follows:

At the appropriate place insert the following:

SEC. ___. PROHIBITION ON CASH AWARDS TO CERTAIN FEDERAL OFFICERS.

(a) IN GENERAL.—Chapter 45 of title 5, United States Code, is amended by inserting after section 4507 the following new sections:

"§ 4508. Limitation of awards during a Presidential election year

"(a) For purposes of this section, the term—

"(1) 'Presidential election period' means any period beginning on June 1 in a calendar year in which the popular election of the President occurs, and ending on January 20 following the date of such election; and

"(2) 'senior politically appointed officer' means any officer who during a Presidential election period serves—

"(A) in a Senior Executive Service position and is not a career appointee as defined under section 3132(a)(4); or

"(B) in a position of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

"(b) No senior politically appointed officer may receive an award under the provisions of this subchapter during a Presidential election period.

"§ 4509. Prohibition of cash award to Executive Schedule officers

"No officer may receive a cash award under the provisions of this subchapter, if such officer—

"(1) serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53; or

"(B) a position for which the compensation is set in statute by reference to a section or level under subchapter II of chapter 53; and

"(2) was appointed to such position by the President, by and with the advice and consent of the Senate.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 45 of title 5, United States Code, is amended by inserting after the item relating to section 4507 the following:

"4508. Limitation of awards during a Presidential election year.
"4509. Prohibition of cash award to Executive Schedule officers.".

VETERANS' PERSIAN GULF WAR BENEFITS ACT

ROCKEFELLER AMENDMENT NO. 2651

Mr. BREAUX (for Mr. ROCKEFELLER) proposed an amendment to the bill (H.R. 4386) to amend title 38, United States Code, authorizing the Secretary of Veterans Affairs to provide compensation to veterans suffering from disabilities resulting from illnesses attributed to service in the Persian Gulf theater of operations during the Persian Gulf war, to provide for increased research into illnesses reported by Persian Gulf war veterans, and for other purposes; as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits Improvements Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.
TITLE I—PERSIAN GULF WAR VETERANS
Sec. 101. Short title.
Sec. 102. Findings.
Sec. 103. Purposes.

Sec. 104. Development of medical evaluation protocol.
Sec. 105. Outreach to Persian Gulf veterans.
Sec. 106. Compensation benefits for disability resulting from illness attributed to service during the Persian Gulf War.
Sec. 107. Evaluation of health status of spouses and children of Persian Gulf War veterans.
Sec. 108. Clarification of scope of health examinations provided for veterans eligible for inclusion in health-related registries.
Sec. 109. Survey of Persian Gulf veterans.
Sec. 110. Authorization for epidemiological studies.
Sec. 111. Cost-savings provisions.
TITLE II—BOARD OF VETERANS' APPEALS ADMINISTRATION
Sec. 201. Appointment, pay comparability, and performance reviews for members of the Board of Veterans' Appeals.
Sec. 202. Deadline for establishment of performance evaluation criteria for Board members.
Sec. 203. Continuation in office of Chairman pending appointment of successor.
TITLE III—ADJUDICATION IMPROVEMENTS
Sec. 301. Acceptance of certain documentation for claims purposes.
Sec. 302. Expedited treatment of remanded claims.
Sec. 303. Screening of appeals.
Sec. 304. Report on feasibility of reorganization of adjudication divisions in VBA regional offices.
TITLE IV—VETERANS' CLAIMS ADJUDICATION COMMISSION
Sec. 401. Establishment of commission.
Sec. 402. Duties of the commission.
Sec. 403. Powers of the commission.
Sec. 404. Commission personnel matters.
Sec. 405. Termination of the commission.
Sec. 406. Definitions.
Sec. 407. Funding.
TITLE V—MISCELLANEOUS PROVISIONS
Sec. 501. Restatement of intent of Congress concerning coverage of Radiation-Exposed Veterans Compensation Act of 1988.
Sec. 502. Extension of authority to maintain regional office in the Philippines.
Sec. 503. Renouncement of benefit rights.
Sec. 504. Clarification of payment of attorney fees under contingent fee agreements.
Sec. 505. Codification of herbicide-exposure presumptions established administratively.
Sec. 506. Treatment of certain income of Alaska natives for purposes of needs-based benefits.
Sec. 507. Elimination of requirement for payment of certain benefits in Philippine pesos.
Sec. 508. Study of health consequences for family members of atomic veterans of exposure of atomic veterans to ionizing radiation.
Sec. 509. Center for Minority Veterans and Center for Women Veterans.
Sec. 510. Advisory Committee on Minority Veterans.
Sec. 511. Mailing of notices of appeal to the Court of Veterans Appeals.
TITLE VI—EDUCATION AND TRAINING PROGRAMS
Sec. 601. Flight training.
Sec. 602. Training and rehabilitation for veterans with service-connected disabilities.
Sec. 603. Alternative teacher certification programs.
Sec. 604. Education outside the United States.
Sec. 605. Correspondence courses.
Sec. 606. State approving agencies.
Sec. 607. Measurement of courses.
Sec. 608. Veterans' Advisory Committee on Education.
Sec. 609. Contract educational and vocational counseling.
Sec. 610. Service Members Occupational Conversion and Training Act of 1992.
TITLE VII—EMPLOYMENT PROGRAMS
Sec. 701. Job counseling, training, and placement.
Sec. 702. Employment and training of veterans.
Sec. 703. Conforming amendments to ERISA relating to the Uniformed Services Employment and Reemployment Rights Act of 1994.
TITLE VIII—CEMETERIES AND MEMORIAL AFFAIRS
Sec. 801. Eligibility for burial in national cemeteries of spouses who predecease veterans.
Sec. 802. Restoration of burial eligibility for unremarried spouses.
Sec. 803. Extension of authorization of appropriations for State cemetery grant program.
Sec. 804. Authority to use flat grave markers at the Willamette National Cemetery, Oregon.
TITLE IX—HOUSING PROGRAMS
Sec. 901. Eligibility.
Sec. 902. Revision in computation of aggregate guaranty.
Sec. 903. Public and community water and sewerage systems.
Sec. 904. Authority to guarantee home refinance loans for energy efficiency improvements.
Sec. 905. Authority to guarantee loans to refinance adjustable rate mortgages to fixed rate mortgages.
Sec. 906. Manufactured home loan inspections.
Sec. 907. Procedures on default.
Sec. 908. Minimum active-duty service requirement.
TITLE X—HOMELESS VETERANS PROGRAMS
Sec. 1001. Reports on activities of the Department of Veterans Affairs to assist homeless veterans.
Sec. 1002. Report on assessment and plans for response to needs of homeless veterans.
Sec. 1003. Increase in number of demonstration programs under Homeless Veterans Comprehensive Service Programs Act of 1992.
Sec. 1004. Removal of funding requirement of Homeless Veterans Comprehensive Service Programs Act of 1992.
Sec. 1005. Sense of Congress.
TITLE XI—REDUCTIONS IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL
Sec. 1101. Findings.
Sec. 1102. Requirement for minimum number of full-time equivalent positions.
Sec. 1103. Enhanced authority to contract for necessary services.
Sec. 1104. Study.
TITLE XII—TECHNICAL AND CLERICAL AMENDMENTS.
Sec. 1201. Amendments to title 38, United States Code.
Sec. 1202. Amendments to other laws administered by Secretary of Veterans Affairs.
Sec. 1203. Amendments to other laws.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—PERSIAN GULF WAR VETERANS

SEC. 101. SHORT TITLE.

This Act may be cited as the "Persian Gulf War Veterans' Benefits Act".

SEC. 102. FINDINGS.

The Congress makes the following findings:

(1) During the Persian Gulf War, members of the Armed Forces were exposed to numerous potentially toxic substances, including fumes and smoke from military operations, oil well fires, diesel exhaust, paints, pesticides, depleted uranium, infectious agents, investigational drugs and vaccines, and indigenous diseases, and were also given multiple immunizations. It is not known whether these servicemembers were exposed to chemical or biological warfare agents. However, threats of enemy use of chemical and biological warfare heightened the psychological stress associated with the military operation.

(2) Significant numbers of veterans of the Persian Gulf War are suffering from illnesses, or are exhibiting symptoms of illness, that cannot now be diagnosed or clearly defined. As a result, many of these conditions or illnesses are not considered to be service connected under current law for purposes of benefits administered by the Department of Veterans Affairs.

(3) The National Institutes of Health Technology Assessment Workshop on the Persian Gulf Experience and Health, held in April 1994, concluded that the complex biological, chemical, physical, and psychological environment of the Southwest Asia theater of operations produced complex adverse health effects in Persian Gulf War veterans and that no single disease entity or syndrome is apparent. Rather, it may be that the illnesses suffered by those veterans result from multiple illnesses with overlapping symptoms and causes that have yet to be defined.

(4) That workshop concluded that the information concerning the range and intensity of exposure to toxic substances by military personnel in the Southwest Asia theater of operations is very limited and that such information was collected only after a considerable delay.

(5) In response to concerns regarding the health-care needs of Persian Gulf War veterans, particularly those who suffer from illnesses or conditions for which no diagnosis has been made, the Congress, in Public Law 102-585, directed the establishment of a Persian Gulf War Veterans Health Registry, authorized health examinations for veterans of the Persian Gulf War, and provided for the National Academy of Sciences to conduct a comprehensive review and assessment of information regarding the health consequences of military service in the Persian Gulf theater of operations and to develop recommendations on avenues for research regarding such health consequences. In Public

Law 103–210, the Congress authorized the Department of Veterans Affairs to provide health care services on a priority basis to Persian Gulf War veterans. The Congress also provided in Public Law 103–160 (the National Defense Authorization Act for Fiscal Year 1994) for the establishment of a specialized environmental medical facility for the conduct of research into the possible health effects of exposure to low levels of hazardous chemicals, especially among Persian Gulf veterans, and for research into the possible health effects of battlefield exposure in such veterans to depleted uranium.

(6) In response to concerns about the lack of objective research on Gulf War illnesses, Congress included research provisions in the National Defense Authorization Act for Fiscal Year 1995, which was passed by the House and Senate in September 1994. This legislation requires the Secretary of Defense to provide research grants to non-Federal researchers to support three types of studies of the Gulf War syndrome. The first type of study will be an epidemiological study or studies of the incidence, prevalence, and nature of the illness and symptoms and the risk factors associated with symptoms or illnesses. This will include illnesses among spouses and birth defects and illnesses among offspring born before and after the Gulf War. The second group of studies shall be conducted to determine the health consequences of the use of pyridostigmine bromide as a pretreatment antidote enhancer during the Persian Gulf War, alone or in combination with exposure to pesticides, environmental toxins, and other hazardous substances. The final group of studies shall include clinical research and other studies on the causes, possible transmission, and treatment of Gulf War syndrome, and will include studies of veterans and their spouses and children.

(7) Further research and studies must be undertaken to determine the underlying causes of the illnesses suffered by Persian Gulf War veterans and, pending the outcome of such research, veterans who are seriously ill as the result of such illnesses should be given the benefit of the doubt and be provided compensation benefits to offset the impairment in earnings capacities they may be experiencing.

SEC. 103. PURPOSES.

The purposes of this title are—

(1) to provide compensation to Persian Gulf War veterans who suffer disabilities resulting from illnesses that cannot now be diagnosed or defined, and for which other causes cannot be identified;

(2) to require the Secretary of Veterans Affairs to develop at the earliest possible date case assessment strategies and definitions or diagnoses of such illnesses;

(3) to promote greater outreach to Persian Gulf War veterans and their families to inform them of ongoing research activities, as well as the services and benefits to which they are currently entitled; and

(4) to ensure that research activities and accompanying surveys of Persian Gulf War veterans are appropriately funded and undertaken by the Department of Veterans Affairs.

SEC. 104. DEVELOPMENT OF MEDICAL EVALUATION PROTOCOL.

(a) UNIFORM MEDICAL EVALUATION PROTOCOL.—(1) The Secretary of Veterans Affairs shall develop and implement a uniform and comprehensive medical evaluation protocol that will ensure appropriate medical assessment, diagnosis, and treatment of Persian Gulf War veterans who are suffering from illnesses the origins of which are (as of the date of the enactment of this Act) unknown and that may be attributable to service in the Southwest Asia theater of operations during the Persian Gulf War. The protocol shall include an evaluation of complaints relating to illnesses involving the reproductive system.

(2) If such a protocol is not implemented before the end of the 120-day period beginning on the date of the enactment of this Act, the Secretary shall, before the end of such period, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report as to why such a protocol has not yet been developed.

(3)(A) The Secretary shall ensure that the evaluation under the protocol developed under this section is available at all Department medical centers that have the capability of providing the medical assessment, diagnosis, and treatment required under the protocol.

(B) The Secretary may enter into contracts with non-Department medical facilities for the provision of the evaluation under the protocol.

(C) In the case of a veteran whose residence is distant from a medical center described in subparagraph (A), the Secretary may provide the evaluation through a Department medical center described in that subparagraph and, in such a case, may provide the veteran the travel and incidental expenses therefor pursuant to the provisions of section 111 of title 38, United States Code.

(4)(A) If the Secretary is unable to diagnose the symptoms or illness of a veteran provided an evaluation, or if the symptoms or illness of a veteran do not respond to treatment provided by the Secretary, the Secretary may use the authority in section 1703 of title 38, United States Code, in order to provide for the veteran to receive diagnostic tests or treatment at a non-Department medical facility that may have the capability of diagnosing or treating the symptoms or illness of the veteran. The Secretary may provide the veteran the travel and incidental expenses therefor pursuant to the provisions of section 111 of title 38, United States Code.

(B) The Secretary shall request from each non-Department medical facility that examines or treats a veteran under this paragraph such information relating to the diagnosis or treatment as the Secretary considers appropriate.

(5) In each year after the implementation of the protocol, the Secretary shall enter into an agreement with the National Academy of Sciences under which agreement appropriate experts shall review the adequacy of the protocol and its implementation by the Department of Veterans Affairs.

(b) RELATIONSHIP TO OTHER COMPREHENSIVE CLINICAL EVALUATION PROTOCOLS.—The Secretary, in consultation with the Secretary of Defense, shall ensure that the information collected through the protocol described in this section is collected and maintained in a manner that permits the effective and efficient cross-reference of that information with information collected and maintained through the comprehensive clinical protocols of the Department of Defense for Persian Gulf War veterans.

(c) CASE DEFINITIONS AND DIAGNOSES.—The Secretary shall develop case definitions or diagnoses for illnesses associated with the service described in subsection (a)(1). The Secretary shall develop such definitions or diagnoses at the earliest possible date.

SEC. 105. OUTREACH TO PERSIAN GULF VETERANS.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall implement a comprehensive outreach program to inform Persian Gulf War veterans and their families of the medical care and other benefits that may be provided by the Department of Veterans Affairs and the Department of Defense arising from service in the Persian Gulf War.

(b) NEWSLETTER.—(1) The outreach program shall include a newsletter which shall be updated and distributed at least semi-annually and shall be distributed to the veterans listed on the Persian Gulf War Veterans Health Registry. The newsletter shall include summaries of the status and findings of Government sponsored research on illnesses of Persian Gulf War veterans and their families, as well as on benefits available to such individuals through the Department of Veterans Affairs. The newsletter shall be prepared in consultation with veterans service organizations.

(2) The requirement under this subsection for the distribution of the newsletter shall terminate on December 31, 1999.

(c) TOLL-FREE NUMBER.—The outreach program shall include establishment of a toll-free telephone number to provide Persian Gulf War veterans and their families information on the Persian Gulf War Veterans Health Registry, health care and other benefits provided by the Department of Veterans Affairs, and such other information as the Secretary considers appropriate. Such toll-free telephone number shall be established not later than 90 days after the date of the enactment of this Act.

SEC. 106. COMPENSATION BENEFITS FOR DISABILITY RESULTING FROM ILLNESS ATTRIBUTED TO SERVICE DURING THE PERSIAN GULF WAR.

(a) IN GENERAL.—(1) Chapter 11 is amended by adding at the end of subchapter II the following new section:

"§ 1117. Compensation for disabilities occurring in Persian Gulf War veterans

"(a) The Secretary may pay compensation under this subchapter to any Persian Gulf veteran suffering from a chronic disability resulting from an undiagnosed illness (or combination of undiagnosed illnesses) that—

"(1) became manifest during service on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; or

"(2) became manifest to a degree of 10 percent or more within the presumptive period prescribed under subsection (b).

"(b) The Secretary shall prescribe by regulation the period of time following service in the Southwest Asia theater of operations during the Persian Gulf War that the Secretary determines is appropriate for presumption of service connection for purposes of this section. The Secretary's determination of such period of time shall be made following a review of any available credible medical or scientific evidence and the historical treatment afforded disabilities for which manifestation periods have been established and shall take into account other pertinent circumstances regarding the experiences of veterans of the Persian Gulf War.

"(c)(1) The Secretary shall prescribe regulations to carry out this section.

"(2) Those regulations shall include the following:

"(A) A description of the period and geographical area or areas of military service in connection with which compensation under this section may be paid.

"(B) A description of the illnesses for which compensation under this section may be paid.

"(C) A description of any relevant medical characteristic (such as a latency period) associated with each such illness.

"(d) A disability for which compensation under this subchapter is payable shall be considered to be service connected for purposes of all other laws of the United States.

"(e) For purposes of this section, the term 'Persian Gulf veteran' means a veteran who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1116 the following new item:

"1117. Compensation for disabilities occurring in Persian Gulf War veterans.".

(b) CONFORMING AMENDMENTS.—Section 1113 is amended—

(1) by striking out "section 1112 or 1116" in the first and third place it appears and inserting in lieu thereof "section 1112, 1116, or 1117";

(2) by striking out "title" the second place it appears and inserting in lieu thereof "title, or payments of compensation pursuant to section 1117 of this title,"; and

(3) by inserting "or disabilities" after "diseases" both places it appears in subsection (a).

(c) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report stating whether or not the Secretary intends to pay compensation as provided in section 1117 of title 38, United States Code, as added by subsection (a).

(d) REGULATIONS.—If the Secretary states in the report under subsection (c) that the Secretary intends to pay compensation as provided in section 1117 of title 38, United States Code, as added by subsection (a), the Secretary shall, not later than 30 days after the date on which such report is submitted, publish in the Federal Register proposed regulations under subsections (b) and (c) of that section.

SEC. 107. EVALUATION OF HEALTH STATUS OF SPOUSES AND CHILDREN OF PERSIAN GULF WAR VETERANS.

(a) EVALUATION PROGRAM.—Subject to subsection (c), the Secretary of the Veterans Affairs shall conduct a study to evaluate the health status of spouses and children of Persian Gulf War veterans. Under the study, the Secretary shall provide for the conduct of diagnostic testing and appropriate medical examinations of any individual—

(1) who is the spouse or child of a veteran who—

(A) is listed in the Persian Gulf War Veterans Registry established under section 702 of Public Law 102–585; and

(B) is suffering from an illness or disorder;

(2) who is apparently suffering from, or may have suffered from, an illness or disorder (including a birth defect, miscarriage, or stillbirth) which cannot be disassociated from the veteran's service in the Southwest Asia theater of operations; and

(3) who, in the case of a spouse, has granted the Secretary permission to include in the Registry relevant medical data (including a medical history and the results of diagnostic testing and medical examinations) and such other information as the Secretary considers relevant and appropriate with respect to such individual.

Such testing and examinations shall be carried out so as to gather such medical data as the Secretary considers relevant and appropriate in order to determine the nature and extent of the association, if any, between illness or disorder of the spouse or child and the illness of the veteran.

(b) DURATION OF PROGRAM.—The program shall be carried out during the period beginning on November 1, 1994, and ending on September 30, 1996.

(c) FUNDING LIMITATION.—The amount spent for the program under subsection (a) may not exceed $2,000,000.

(d) CONTRACTING.—The Secretary shall provide for the conduct of testing and examinations under subsection (a) through appropriate contract arrangements.

(e) STANDARD PROTOCOLS AND GUIDELINES.—The Secretary shall seek to ensure uniform development of medical data through the development of standard protocols and guidelines for such testing and examinations. If such protocols and guidelines have not been adopted before the end of the 120-day period beginning on the date of the enactment of this Act, the Secretary shall, before the end of such period, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report as to why such protocols and guidelines have not yet been developed.

(f) ENTRY OF RESULTS IN REGISTRY.—The results of diagnostic tests, medical histories, and medical examinations conducted under subsection (a) shall be entered into the Persian Gulf War Veterans Health Registry.

(g) OUTREACH.—The Secretary shall conduct such outreach activities as the Secretary determines necessary to ensure that implementation of this section results in sufficient information to enable the Secretary—

(1) to analyze the health status of large numbers of spouses and children of Persian Gulf veterans; and

(2) to formulate research hypotheses regarding possible association between illnesses or disorders suffered by Persian Gulf veterans and illnesses or disorders (including birth defects, miscarriages, and stillbirths) suffered by their spouses and children.

(h) USE OUTSIDE DEPARTMENT OF STANDARD PROTOCOLS AND GUIDELINES.—The Secretary shall—

(1) make the standard protocols and guidelines developed under this section available to any entity which requests a copy of such protocols and guidelines; and

(2) enter into the registry the results of any examination of the spouse or child of a veteran who served in the Persian Gulf theater which a licensed physician certifies was conducted using those standard protocols and guidelines.

(i) REPORTS TO CONGRESS.—(1) The Secretary shall submit to Congress no later than October 31, 1995, a report on the Secretary's implementation of this section.

(2) The Secretary shall analyze the data entered into the registry under this section and shall submit to Congress, not later than March 1, 1997, a report on that analysis and on the Secretary's recommendation for any further legislation or studies regarding the health status of spouses and children of Persian Gulf War veterans.

(j) DEFINITIONS.—For purposes of this section, the terms "child" and "spouse" have the meanings given those terms in paragraphs (4) and (31), respectively, of section 101 of title 38, United States Code.

SEC. 108. CLARIFICATION OF SCOPE OF HEALTH EXAMINATIONS PROVIDED FOR VETERANS ELIGIBLE FOR INCLUSION IN HEALTH-RELATED REGISTRIES.

Section 703 of the Persian Gulf War Veterans' Health Status Act (title VII of Public Law 102–585; 38 U.S.C. 527 note) is amended—

(1) by inserting "(including diagnostic tests)" after "examination" each place it appears other than in subsection (a)(1)(A);

(2) in subsection (a)(1)(A)—

(A) by inserting "(including any appropriate diagnostic tests)" after "a health examination"; and

(B) by inserting "and the tests" after "the examination"; and

(3) in subsection (a)(2), by inserting "(including any diagnostic tests)" after "examinations".

SEC. 109. SURVEY OF PERSIAN GULF VETERANS.

(a) IN GENERAL.—The Secretary of Veterans Affairs may carry out a survey of Persian Gulf veterans to gather information on the incidence and nature of health problems occurring in Persian Gulf veterans and their families.

(b) COORDINATION WITH DEPARTMENT OF DEFENSE.—Any survey under subsection (a) shall be carried out in coordination with the Secretary of Defense.

(c) PERSIAN GULF VETERAN.—For purposes of this section, a Persian Gulf veteran is an individual who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War as defined in section 101(33) of title 38, United States Code.

SEC. 110. AUTHORIZATION FOR EPIDEMIOLOGICAL STUDIES.

(a) STUDY OF HEALTH CONSEQUENCES OF PERSIAN GULF SERVICE.—If the National Academy of Sciences includes in the report required by section 706(b) of the Veterans Health Care Act of 1992 (Public Law 102–585) a finding that there is a sound basis for an epidemiological study or studies on the health consequences of service in the Persian Gulf theater of operations during the Persian Gulf War and recommends the conduct of such a study or studies, the Secretary of Veterans Affairs is authorized to carry out such study.

(b) OVERSIGHT.—(1) The Secretary shall seek to enter into an agreement with the Medical Follow-Up Agency (MFUA) of the Institute of Medicine of the National Academy of Sciences for (A) the review of proposals to conduct the research referred to in subsection (a), (B) oversight of such research, and (C) review of the research findings.

(2) If the Secretary is unable to enter into an agreement under paragraph (1) with the entity specified in that paragraph, the Secretary shall enter into an agreement described in that paragraph with another appropriate scientific organization which does not have a connection to the Department of Veterans Affairs. In such a case, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives, at least 90 days before the date on which the agreement is entered into, notice in writing identifying the organization with which the Secretary intends to enter into the agreement.

(c) ACCESS TO DATA.—The Secretary shall enter into agreements with the Secretary of Defense and the Secretary of Health and Human Services to make available for the purposes of any study described in subsection (a) all data that the Secretary, in consultation with the National Academy of Sciences and the contractor for the study, considers relevant to the study.

(d) AUTHORIZATION.—There are authorized to be appropriated to the Department such sums as are necessary for the conduct of studies described in subsection (a).

SEC. 111. COST-SAVINGS PROVISIONS.

(a) ELECTION OF DEATH PENSION BY SURVIVING SPOUSE.—Section 1317 is amended—

(1) by striking out "No person" and inserting in lieu thereof "(a) Except as provided in subsection (b), no person"; and

(2) by adding at the end the following:

"(b) A surviving spouse who is eligible for dependency and indemnity compensation may elect to receive death pension instead of such compensation.".

(b) POLICY REGARDING COST-OF-LIVING ADJUSTMENT IN COMPENSATION RATES FOR FISCAL YEAR 1995.—The fiscal year 1995 cost-of-living adjustments in the rates of and limitations for compensation payable under chapter 11 of title 38, United States Code, and of dependency and indemnity compensation payable under chapter 13 of such title will be no more than a percentage equal to the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1994, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)), with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower dollar.

TITLE II—BOARD OF VETERANS' APPEALS ADMINISTRATION

SEC. 201. APPOINTMENT, PAY COMPARABILITY, AND PERFORMANCE REVIEWS FOR MEMBERS OF THE BOARD OF VETERANS' APPEALS.

(a) MEMBERS OTHER THAN CHAIRMAN.—(1) Chapter 71 is amended by inserting after section 7101 the following new section:

"§ 7101A. Members of Board: appointment; pay; performance review

"(a) The members of the Board of Veterans' Appeals other than the Chairman (and including the Vice Chairman) shall be appointed by the Secretary, with the approval of the President, based upon recommendations of the Chairman.

"(b) Members of the Board (other than the Chairman and any member of the Board who is a member of the Senior Executive Service) shall, in accordance with regulations prescribed by the Secretary, be paid basic pay at rates equivalent to the rates payable under section 5372 of title 5.

"(c)(1)(A) The Chairman shall establish a panel to review the performance of members of the Board. The panel shall be comprised of the Chairman and two other members of the Board (other than the Vice Chairman). The Chairman shall periodically rotate membership on the panel so as to ensure that each member of the Board (other than the Vice Chairman) serves as a member of the panel for and within a reasonable period.

"(B) Not less than one year after the job performance standards under subsection (f) are initially established, and not less often than once every three years thereafter, the performance review panel shall determine, with respect to each member of the Board (other than the Chairman or a member who is a member of the Senior Executive Service), whether that member's job performance as a member of the Board meets the performance standards for a member of the Board established under subsection (f). Each such determination shall be in writing.

"(2) If the determination of the performance review panel in any case is that the member's job performance as a member of the Board meets the performance standards for a member of the Board established under subsection (f), the Chairman shall recertify the member's appointment as a member of the Board.

"(3) If the determination of the performance review panel in any case is that the member's job performance does not meet the performance standards for a member of the Board established under subsection (f), the Chairman shall, based upon the individual circumstances, either—

"(A) grant the member a conditional recertification; or

"(B) recommend to the Secretary that the member be noncertified.

"(4) In the case of a member of the Board who is granted a conditional recertification under paragraph (3)(A) or (5)(A), the performance review panel shall review the member's job performance record and make a further determination under paragraph (1) concerning that member not later than one year after the date of the conditional recertification. If the determination of the performance review panel at that time is that the member's job performance as a member of the Board still does not meet the performance standards for a member of the Board established under subsection (f), the Chairman shall recommend to the Secretary that the member be noncertified.

"(5) In a case in which the Chairman recommends to the Secretary under paragraph (3) or (4) that a member be noncertified, the Secretary, after considering the recommendation of the Chairman, may either—

"(A) grant the member a conditional recertification; or

"(B) determine that the member should be noncertified.

"(d)(1) If the Secretary, based upon the recommendation of the Chairman, determines that a member of the Board should be noncertified, that member's appointment as a member of the Board shall be terminated and that member shall be removed from the Board.

"(2) Upon removal from the Board under paragraph (1), a member of the Board (other than the Chairman) who was a career or career-conditional employee in the civil service before commencement of service as a member of the Board shall revert to the civil service grade and series held by the member immediately before the appointment of the member to the Board.

"(e)(1) A member of the Board (other than the Chairman or a member of the Senior Executive Service) may be removed as a member of the Board by reason of job performance only as provided in subsections (c) and (d). Such a member may be removed by the Secretary, upon the recommendation of the Chairman, for any other reason as determined by the Secretary.

"(2) In the case of a removal of a member under this section for a reason other than job performance that would be covered by section 7521 of title 5 in the case of an administrative law judge, the removal of the member of the Board shall be carried out subject to the same requirements as apply to removal of an administrative law judge under that section. Section 554(a)(2) of title 5 shall not apply to a removal action under this subsection. In such a removal action, a member shall have the rights set out in section 7513(b) of that title.

"(f) The Chairman, subject to the approval of the Secretary, shall establish standards for the performance of the job of a member of the Board (other than the Chairman or a member of the Senior Executive Service). Those standards shall establish objective and fair criteria for evaluation of the job performance of a member of the Board.

"(g) The Secretary shall prescribe procedures for the administration of this section, including deadlines and time schedules for different actions under this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7101 the following new item:

"7101A. Members of Board: appointment; pay; performance review.".

(b) SAVE PAY PROVISION.—The rate of basic pay payable to an individual who is a member of the Board of Veterans' Appeals on the date of the enactment of this Act may not be reduced by reason of the amendments made by this section to a rate below the rate payable to such individual on the day before such date.

(c) EFFECTIVE DATE.—Section 7101A(b) of title 38, United States Code, as added by subsection (a), shall take effect on the first day of the first pay period beginning after December 31, 1994.

(d) CONFORMING AMENDMENTS.—Section 7101(b) is amended—

(1) by striking out paragraph (2);

(2) by designating as paragraph (2) the text in paragraph (1) beginning "The Chairman may be removed"; and

(3) by striking out "Members (including the Chairman)" in paragraph (3) and inserting in lieu thereof "The Chairman".

SEC. 202. DEADLINE FOR ESTABLISHMENT OF PERFORMANCE EVALUATION CRITERIA FOR BOARD MEMBERS.

(a) DEADLINE.—The job performance standards required to be established by section 7101A(f) of title 38, United States Code, as added by section 201(a), shall be established not later than 90 days after the date of the enactment of this Act.

(b) SUBMISSION TO CONGRESSIONAL COMMITTEES.—Not later than the date on which the standards referred to in subsection (a) take effect, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report describing the standards established by the Chairman of the Board of Veterans' Appeals.

SEC. 203. CONTINUATION IN OFFICE OF CHAIRMAN PENDING APPOINTMENT OF SUCCESSOR.

Section 7101(b)(3) is amended by adding at the end the following new sentence: "If, upon the expiration of the term of office for which the Chairman was appointed, the position of Chairman would become vacant, the individual serving as Chairman may, with the approval of the Secretary, continue to serve as Chairman until either appointed to another term or a successor is appointed, but not beyond the end of the Congress during which the term of office expired.".

TITLE III—ADJUDICATION IMPROVEMENTS

SEC. 301. ACCEPTANCE OF CERTAIN DOCUMENTATION FOR CLAIMS PURPOSES.

(a) STATEMENTS OF CLAIMANT TO BE ACCEPTED AS PROOF OF RELATIONSHIPS.—Chapter 51 is amended by adding at the end the following new section:

"§ 5124. Acceptance of claimant's statement as proof of relationship

"(a) For purposes of benefits under laws administered by the Secretary, the Secretary may accept the written statement of a claimant as proof of the existence of any relationship specified in subsection (b) for the purpose of acting on such individual's claim for benefits.

79-059 O—97 Vol. 140 (Pt. 21) 11

"(b) Subsection (a) applies to proof of the existence of any of the following relationships between a claimant and another person:

"(1) Marriage.

"(2) Dissolution of a marriage.

"(3) Birth of a child.

"(4) Death of any family member.

"(c) The Secretary may require the submission of documentation in support of the claimant's statement if—

"(1) the claimant does not reside within a State;

"(2) the statement on its face raises a question as to its validity;

"(3) there is conflicting information of record; or

"(4) there is reasonable indication, in the statement or otherwise, of fraud or misrepresentation.".

(b) REPORTS OF EXAMINATIONS BY PRIVATE PHYSICIANS.—Such chapter, as amended by subsection (a), is further amended by adding at the end the following new section:

"§ 5125. Acceptance of reports of private physician examinations

"For purposes of establishing any claim for benefits under chapter 11 or 15 of this title, a report of a medical examination administered by a private physician that is provided by a claimant in support of a claim for benefits under that chapter may be accepted without a requirement for confirmation by an examination by a physician employed by the Veterans Health Administration if the report is sufficiently complete to be adequate for the purpose of adjudicating such claim.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"5124. Acceptance of claimant's statement as proof of relationship.

"5125. Acceptance of reports of private physician examinations.".

SEC. 302. EXPEDITED TREATMENT OF REMANDED CLAIMS.

The Secretary of Veterans Affairs shall take such actions as may be necessary to provide for the expeditious treatment, by the Board of Veterans' Appeals and by the regional offices of the Veterans Benefits Administration, of any claim that has been remanded by the Board of Veterans' Appeals or by the United States Court of Veterans Appeals for additional development or other appropriate action.

SEC. 303. SCREENING OF APPEALS.

Section 7107 is amended—

(1) in subsection (a)(1), by striking out "Each case" and inserting in lieu thereof "Except as provided in subsection (f), each case"; and

(2) by adding at the end the following new subsection:

"(f) Nothing in this section shall preclude the screening of cases for purposes of—

"(1) determining the adequacy of the record for decisional purposes; or

"(2) the development, or attempted development, of a record found to be inadequate for decisional purposes.".

SEC. 304. REPORT ON FEASIBILITY OF REORGANIZATION OF ADJUDICATION DIVISIONS IN VBA REGIONAL OFFICES.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report addressing the feasibility and impact of a reorganization of the adjudication divisions located within the regional offices of the Veterans Benefits Administration to a number of such divisions that would result in improved efficiency in the processing of claims filed by veterans, their survivors, or other eligible persons for benefits administered by the Secretary.

TITLE IV—VETERANS' CLAIMS ADJUDICATION COMMISSION

SEC. 401. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a commission to be known as the Veterans' Claims Adjudication Commission (hereinafter in this title referred to as the "commission").

(b) MEMBERSHIP.—(1) The commission shall be composed of nine members, appointed by the Secretary of Veterans Affairs as follows:

(A) One member shall be appointed from among former officials of the Department of Veterans Affairs (or the Veterans' Administration).

(B) Two members shall be appointed from among individuals in the private sector who have expertise in the adjudication of claims relating to insurance or similar benefits.

(C) Two members shall be appointed from among individuals employed in the Federal Government (other than the Department of Veterans Affairs) who have expertise in the adjudication of claims for benefits under Federal law other than under laws administered by the Secretary of Veterans Affairs.

(D) Two members shall be appointed from among individuals recommended to the Secretary by representatives of veterans service organizations.

(E) One member shall be appointed based on a recommendation of the American Bar Association or a similar private organization from among individuals who have expertise in the field of administrative law.

(F) One member shall be appointed from among current officials of the Department of Veterans Affairs.

(2) The appointment of members of the commission under this subsection shall be made not later than February 1, 1995.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members of the commission shall be appointed for the life of the commission. A vacancy in the commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—The commission shall hold its first meeting not later than 30 days after the date on which all members of the commission have been appointed.

(e) MEETINGS.—The commission shall meet at the call of the chairman.

(f) QUORUM.—A majority of the members of the commission shall constitute a quorum, but a lesser number may hold hearings.

(g) CHAIRMAN.—The Secretary shall designate a member of the commission (other than the commission member who is a current official of the Department of Veterans Affairs) to be chairman of the commission.

SEC. 402. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The commission shall carry out a study of the Department of Veterans Affairs system for the disposition of claims for veterans benefits.

(b) PURPOSE OF STUDY.—The purpose of the study is to evaluate the Department of Veterans Affairs system for the disposition of claims for veterans benefits in order to determine the following:

(1) The efficiency of current processes and procedures under the system for the adjudication, resolution, review, and final disposition of claims for veterans benefits, including the effect of judicial review on the system, and means of increasing the efficiency of the system.

(2) Means of reducing the number of claims under the system for which final disposition is pending.

(3) Means of enhancing the ability of the Department of Veterans Affairs to achieve final determination regarding claims under the system in a prompt and appropriate manner.

(c) CONTENTS OF STUDY.—The study to be carried out by the commission under this section is a comprehensive evaluation and assessment of the Department of Veterans Affairs system for the disposition of claims for veterans benefits (as defined in section 406) and of the system for the delivery of such benefits, together with any related issues that the commission determines are relevant to the study. The study shall include an evaluation and assessment of the following:

(1) The preparation and submission of claims by veterans under the system.

(2) The processes and procedures under the system for the disposition of claims, including—

(A) the scope and nature of the review undertaken with respect to a claim at each stage in the claims disposition process, including the role of hearings throughout the process;

(B) the number, Federal employment grade, and experience and qualifications required of the persons undertaking such review at each such stage;

(C) opportunities for the submittal of new evidence; and

(D) the availability of alternative means of completing claims.

(3) The effect on the system of the participation of attorneys, members of veterans service organizations, and other advocates on behalf of veterans.

(4) The effect on the system of actions taken by the Secretary to modernize the information management system of the Department, including the use of electronic data management systems.

(5) The effect on the system of any work performance standards used by the Secretary at regional offices of the Department and at the Board of Veterans' Appeals.

(6) The extent of the implementation in the system of the recommendations of the Blue Ribbon Panel on Claims Processing submitted to the Committees on Veterans' Affairs of the Senate and House of Representatives on December 2, 1993, and the effect of such implementation on the system.

(7) The effectiveness in improving the system of any pilot programs carried out by the Secretary at regional offices of the Department and of efforts by the Secretary to implement such programs throughout the system.

(8) The effectiveness of the quality control practices and quality assurance practices under the system in achieving the goals of such practices.

(d) COOPERATION OF SECRETARY.—Upon the request of the chairman of the commission, the Secretary shall, within 30 days of such request, submit to the commission, and to the Committees on Veterans' Affairs of the Senate and House of Representatives, such information as the chairman shall determine is necessary for the commission to carry out the study required under this section.

(e) REPORTS.—(1) Not later than one year after the date of the enactment of this Act, the commission shall submit to the Secretary and to the Committees on Veterans' Affairs of the Senate and House of Representatives a preliminary report on the study required under subsection (c). The report shall contain the preliminary findings

and conclusions of the commission with respect to the evaluation and assessment required under the study.

(2) Not later than 18 months after such date, the commission shall submit to the Secretary and to such committees a report on such study. The report shall include the following:

(A) The findings and conclusions of the commission, including its findings and conclusions with respect to the matters referred to in subsection (c).

(B) The recommendations of the commission for means of improving the Department of Veterans Affairs system for the disposition of claims for veterans benefits.

(C) Such other information and recommendations with respect to the system as the commission considers appropriate.

SEC. 403. POWERS OF THE COMMISSION.

(a) HEARINGS.—The commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the commission considers advisable to carry out the purposes of this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—In addition to the information referred to in section 402(d), the commission may secure directly from any Federal department or agency such information as the commission considers necessary to carry out the provisions of this title. Upon request of the chairman of the commission, the head of such department or agency shall furnish such information to the commission.

(c) POSTAL SERVICES.—The commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 404. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the commission. All members of the commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the commission.

(c) STAFF.—(1) The chairman of the commission may, without regard to the civil service laws and regulations, appoint an executive director and such other personnel as may be necessary to enable the commission to perform its duties. The appointment of an executive director shall be subject to approval by the commission.

(2) The chairman of the commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of the department or agency to the commission to assist it in carrying out its duties.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairman of the commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 405. TERMINATION OF THE COMMISSION.

The commission shall terminate 90 days after the date on which the commission submits its report under section 402(e)(2).

SEC. 406. DEFINITIONS.

For the purposes of this title:

(1) The term "Department of Veterans Affairs system for the disposition of claims for veterans benefits" means the processes and procedures of the Department of Veterans Affairs for the adjudication, resolution, review, and final disposition of claims for benefits under the laws administered by the Secretary.

(2) The term "Secretary" means the Secretary of Veterans Affairs.

(3) The term "veterans service organizations" means any organization approved by the Secretary under section 5902(a) of title 38, United States Code.

SEC. 407. FUNDING.

(a) FISCAL YEAR 1995.—From amounts appropriated to the Department of Veterans Affairs for fiscal year 1995 for the payment of compensation and pension, the amount of $400,000 is hereby made available for the activities of the commission under this title.

(b) AVAILABILITY.—Any sums appropriated to the commission shall remain available until expended.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. RESTATEMENT OF INTENT OF CONGRESS CONCERNING COVERAGE OF RADIATION-EXPOSED VETERANS COMPENSATION ACT OF 1988.

(a) RESTATEMENT OF ABSENCE OF STATUTORY LIMITATION TO UNITED STATES TESTS.—Clause (i) of section 1112(c)(3)(B) is amended by inserting "(without regard to whether the nation conducting the test was the United States or another nation)" after "nuclear device".

(b) PROOF OF SERVICE CONNECTION OF DISABILITIES RELATING TO EXPOSURE TO IONIZING RADIATION.—(1) Section 1113(b) is amended—

(A) by striking out "title or" and inserting in lieu thereof "title,"; and

(B) by inserting ", or section 5 of Public Law 98-542 (38 U.S.C. 1154 note)" after "of this section".

(2) The amendments made by paragraph (1) shall apply with respect to applications for veterans benefits that are submitted to the Secretary of Veterans Affairs after the date of the enactment of this Act.

SEC. 502. EXTENSION OF AUTHORITY TO MAINTAIN REGIONAL OFFICE IN THE PHILIPPINES.

Section 315(b) is amended by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1999".

SEC. 503. RENOUNCEMENT OF BENEFIT RIGHTS.

Section 5306 is amended by adding at the end the following new subsection:

"(c) Notwithstanding subsection (b), if a new application for pension under chapter 15 of this title or for dependency and indemnity compensation for parents under section 1315 of this title is filed within one year after renouncement of that benefit, such application shall not be treated as an original application and benefits will be payable as if the renouncement had not occurred.".

SEC. 504. CLARIFICATION OF PAYMENT OF ATTORNEY FEES UNDER CONTINGENT FEE AGREEMENTS.

(a) CLARIFICATION.—Subparagraph (A) of section 5904(d)(2) is amended to read as follows:

"(A) A fee agreement referred to in paragraph (1) is one under which the total amount of the fee payable to the attorney—

"(i) is to be paid to the attorney by the Secretary directly from any past-due benefits awarded on the basis of the claim; and

"(ii) is contingent on whether or not the matter is resolved in a manner favorable to the claimant.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to fee agreements entered into on or after the date of the enactment of this Act.

SEC. 505. CODIFICATION OF HERBICIDE-EXPOSURE PRESUMPTIONS ESTABLISHED ADMINISTRATIVELY.

Section 1116(a)(2) is amended by adding at the end the following new subparagraphs:

"(D) Hodgkin's disease becoming manifest to a degree of disability of 10 percent or more.

"(E) Porphyria cutanea tarda becoming manifest to a degree of disability of 10 percent or more within a year after the last date on which the veteran performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

"(F) Respiratory cancers (cancer of the lung, bronchus, larynx, or trachea) becoming manifest to a degree of 10 percent or more within 30 years after the last date on which the veteran performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

"(G) Multiple myeloma becoming manifest to a degree of disability of 10 percent or more.".

SEC. 506. TREATMENT OF CERTAIN INCOME OF ALASKA NATIVES FOR PURPOSES OF NEEDS-BASED BENEFITS.

Any receipt by an individual from a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) of cash, stock, land, or other interests referred to in subparagraphs (A) through (E) of section 29(c) of that Act (43 U.S.C. 1626(c)) (whether such receipt is attributable to the disposition of real property, profits from the operation of real property, or otherwise) shall not be countable as income for purposes of any law administered by the Secretary of Veterans Affairs.

SEC. 507. ELIMINATION OF REQUIREMENT FOR PAYMENT OF CERTAIN BENEFITS IN PHILIPPINE PESOS.

(a) GENERAL RULE.—The second sentence of each of subsections (a) and (b) of section 107 is amended—

(1) by striking out "rate in pesos as is equivalent to" and inserting in lieu thereof "rate of"; and

(2) by striking out "rate in Philippine pesos as is equivalent to" and inserting in lieu thereof "rate of".

(b) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Sections 3532(d) and 3565(b)(1) are amended by striking out "a rate in Philippine pesos equivalent to" and inserting in lieu thereof "the rate of".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to payments made after December 31, 1994.

SEC. 508. STUDY OF HEALTH CONSEQUENCES FOR FAMILY MEMBERS OF ATOMIC VETERANS OF EXPOSURE OF ATOMIC VETERANS TO IONIZING RADIATION.

(a) INTERAGENCY AGREEMENT.—The Secretary of Veterans Affairs shall enter into an agreement with the Medical Follow-Up Agency of the Institute of the Medicine of the National Academy of Sciences under which that agency shall convene a panel of appropriate individuals to carry out the evaluation described in subsection (b).

(b) EVALUATION OF FEASIBILITY OF STUDY.—(1) The panel convened under subsection (a) shall evaluate the feasibility of carrying out a study as described in subsection (c).

(2) The panel shall submit the results of the evaluation under paragraph (1) to the Secretary not later than 180 days after the date of the enactment of this Act. The Secretary shall promptly notify the Committees on Veterans' Affairs of the Senate and the House of Representatives of such results.

(c) DESCRIPTION OF STUDY TO BE EVALUATED.—The study referred to in subsection (b) (the feasibility of which is to be evaluated under that subsection by the panel convened under subsection (a)) is one which would determine the nature and extent, if any, of the relationship between the exposure of veterans described in subsection (d) to ionizing radiation and the following:

(1) Genetic defects and illnesses in the children and grandchildren of such veterans.

(2) Untoward pregnancy outcomes experienced by the wives of such veterans, including premature births, stillbirths, miscarriages, neonatal illnesses and deaths.

(3) Periparturient diseases of the mother which are the direct result of such untoward pregnancy outcomes.

(d) COVERED VETERANS.—Subsection (c) applies to—

(1) any veteran who was exposed (as determined by the Secretary) to ionizing radiation as a result of—

(A) participation while on active duty in the Armed Forces in an atmospheric nuclear test that included the detonation of a nuclear device;

(B) service in the Armed Forces with the United States occupation force of Hiroshima or Nagasaki, Japan, before July 1, 1946; or

(C) internment or detention as a prisoner of war of Japan before that date in circumstances providing the opportunity for exposure to ionizing radiation comparable to the exposure of individuals who served with such occupation force before that date; and

(2) any other veteran who the Secretary designates for coverage under the study.

SEC. 509. CENTER FOR MINORITY VETERANS AND CENTER FOR WOMEN VETERANS.

(a) IN GENERAL.—Chapter 3 is amended by striking out section 317 and inserting in lieu thereof the following new sections:

"§317. Center for Minority Veterans

"(a) There is in the Department a Center for Minority Veterans. There is at the head of the Center a Director.

"(b) The Director shall be a noncareer appointee in the Senior Executive Service. The Director shall be appointed for a term of six years.

"(c) The Director reports directly to the Secretary or the Deputy Secretary concerning the activities of the Center.

"(d) The Director shall perform the following functions with respect to veterans who are minorities:

"(1) Serve as principal adviser to the Secretary on the adoption and implementation of policies and programs affecting veterans who are minorities.

"(2) Make recommendations to the Secretary, the Under Secretary for Health, the Under Secretary for Benefits, and other Department officials for the establishment or improvement of programs in the Department for which veterans who are minorities are eligible.

"(3) Promote the use of benefits authorized by this title by veterans who are minorities and the conduct of outreach activities to veterans who are minorities, in conjunction with outreach activities carried out under chapter 77 of this title.

"(4) Disseminate information and serve as a resource center for the exchange of information regarding innovative and successful programs which improve the services available to veterans who are minorities.

"(5) Conduct and sponsor appropriate social and demographic research on the needs of veterans who are minorities and the extent to which programs authorized under this title meet the needs of those veterans, without regard to any law concerning the collcction of information from the public.

"(6) Analyze and evaluate complaints made by or on behalf of veterans who are minorities about the adequacy and timeliness of services provided by the Department and advise the appropriate official of the Department of the results of such analysis or evaluation.

"(7) Consult with, and provide assistance and information to, officials responsible for administering Federal, State, local, and private programs that assist veterans, to encourage those officials to adopt policies which promote the use of those programs by veterans who are minorities.

"(8) Advise the Secretary when laws or policies have the effect of discouraging the use of benefits by veterans who are minorities.

"(9) Publicize the results of medical research which are of particular significance to veterans who are minorities.

"(10) Perform such other duties consistent with this section as the Secretary shall prescribe.

"(e) The Secretary shall ensure that the Director is furnished sufficient resources to enable the Director to carry out the functions of the Center in a timely manner.

"(f) The Secretary shall include in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year—

"(1) detailed information on the budget for the Center;

"(2) the Secretary's opinion as to whether the resources (including the number of employees) proposed in the budget for that fiscal year are adequate to enable the Center to comply with its statutory and regulatory duties; and

"(3) a report on the activities and significant accomplishments of the Center during the preceding fiscal year.

"§318. Center for Women Veterans

"(a) There is in the Department a Center for Women Veterans. There is at the head of the Center a Director.

"(b) The Director shall be a noncareer appointee in the Senior Executive Service. The Director shall be appointed for a term of six years.

"(c) The Director reports directly to the Secretary or the Deputy Secretary concerning the activities of the Center.

"(d) The Director shall perform the following functions with respect to veterans who are women:

"(1) Serve as principal adviser to the Secretary on the adoption and implementation of policies and programs affecting veterans who are women.

"(2) Make recommendations to the Secretary, the Under Secretary for Health, the Under Secretary for Benefits, and other Department officials for the establishment or improvement of programs in the Department for which veterans who are women are eligible.

"(3) Promote the use of benefits authorized by this title by veterans who are women and the conduct of outreach activities to veterans who are women, in conjunction with outreach activities carried out under chapter 77 of this title.

"(4) Disseminate information and serve as a resource center for the exchange of information regarding innovative and successful programs which improve the services available to veterans who are women.

"(5) Conduct and sponsor appropriate social and demographic research on the needs of veterans who are women and the extent to which programs authorized under this title meet the needs of those veterans, without regard to any law concerning the collection of information from the public.

"(6) Analyze and evaluate complaints made by or on behalf of veterans who are women about the adequacy and timeliness of services provided by the Department and advise the appropriate official of the Department of the results of such analysis or evaluation.

"(7) Consult with, and provide assistance and information to, officials responsible for administering Federal, State, local, and private programs that assist veterans, to encourage those officials to adopt policies which promote the use of those programs by veterans who are women.

"(8) Advise the Secretary when laws or policies have the effect of discouraging the use of benefits by veterans who are women.

"(9) Publicize the results of medical research which are of particular significance to veterans who are women.

"(10) Advise the Secretary and other appropriate officials on the effectiveness of the Department's efforts to accomplish the goals of section 492B of the Public Health Service Act (relating to the inclusion of women and minorities in clinical research) and of particular health conditions affecting womens' health which should be studied as part of the Department's medical research program and promote cooperation between the Department and other sponsors of medical research of potential benefit to veterans who are women.

"(11) Provide support and administrative services to the Advisory Committee on Women Veterans established under section 542 of this title.

"(12) Perform such other duties consistent with this section as the Secretary shall prescribe.

"(e) The Secretary shall ensure that the Director is furnished sufficient resources to enable the Director to carry out the functions of the Center in a timely manner.

"(f) The Secretary shall include in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year—

"(1) detailed information on the budget for the Center;

"(2) the Secretary's opinion as to whether the resources (including the number of employees) proposed in the budget for that fiscal year are adequate to enable the Center to

comply with its statutory and regulatory duties; and

"(3) a report on the activities and significant accomplishments of the Center during the preceding fiscal year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 317 and and inserting in lieu thereof the following new items:

"317. Center for Minority Veterans.
"318. Center for Women Veterans.".

SEC. 510. ADVISORY COMMITTEE ON MINORITY VETERANS.

(a) ESTABLISHMENT.—Subchapter III of chapter 5 is amended by adding at the end the following new section:

"§ 544. Advisory Committee on Minority Veterans

"(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Minority Veterans (hereinafter in this section referred to as 'the Committee').

"(2)(A) The Committee shall consist of members appointed by the Secretary from the general public, including—

"(i) representatives of veterans who are minority group members;

"(ii) individuals who are recognized authorities in fields pertinent to the needs of veterans who are minority group members;

"(iii) veterans who are minority group members and who have experience in a military theater of operations; and

"(iv) veterans who are minority group members and who do not have such experience.

"(B) The Committee shall include, as ex officio members, the following:

"(i) The Secretary of Labor (or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment).

"(ii) The Secretary of Defense (or a representative of the Secretary of Defense designated by the Secretary of Defense).

"(iii) The Secretary of the Interior (or a representative of the Secretary of the Interior designated by the Secretary of the Interior).

"(iv) The Secretary of Commerce (or a representative of the Secretary of Commerce designated by the Secretary of Commerce).

"(v) The Secretary of Health and Human Services (or a representative of the Secretary of Health and Human Services designated by the Secretary of Health and Human Services).

"(vi) The Under Secretary for Health and the Under Secretary for Benefits, or their designees.

"(C) The Secretary may invite representatives of other departments and agencies of the United States to participate in the meetings and other activities of the Committee.

"(3) The Secretary shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that a term of service of any such member may not exceed three years. The Secretary may reappoint any such member for additional terms of service.

"(4) The Committee shall meet as often as the Secretary considers necessary or appropriate, but not less often than twice each fiscal year.

"(b) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits by the Department for veterans who are minority group members, reports and studies pertaining to such veterans and the needs of such veterans with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department.

"(c)(1) Not later than July 1 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that pertain to veterans who are minority group members. Each such report shall include—

"(A) an assessment of the needs of veterans who are minority group members with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department;

"(B) a review of the programs and activities of the Department designed to meet such needs; and

"(C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

"(2) The Secretary shall, within 60 days after receiving each report under paragraph (1), submit to Congress a copy of the report, together with any comments concerning the report that the Secretary considers appropriate.

"(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

"(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to such section.

"(d) In this section, the term 'minority group member' means an individual who is—

"(1) Asian American;

"(2) Black;

"(3) Hispanic;

"(4) Native American (including American Indian, Alaskan Native, and Native Hawaiian); or

"(5) Pacific-Islander American.

"(e) The Committee shall cease to exist December 31, 1997.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 543 the following new item:

"544. Advisory Committee on Minority Veterans.".

SEC. 511. MAILING OF NOTICES OF APPEAL TO THE COURT OF VETERANS APPEALS.

(a) IN GENERAL.—Section 7266(a) is amended to read as follows:

"(a)(1) In order to obtain review by the Court of Veterans Appeals of a final decision of the Board of Veterans' Appeals, a person adversely affected by such decision shall file a notice of appeal with the Court within 120 days after the date on which notice of the decision is mailed pursuant to section 7104(e) of this title.

"(2) An appellant shall file a notice of appeal under this section by delivering or mailing the notice to the Court.

"(3) A notice of appeal shall be deemed to be received by the Court as follows:

"(A) On the date of receipt by the Court, if the notice is delivered.

"(B) On the date of the United States Post Service postmark stamped on the cover in which the notice is posted, if the notice is properly addressed to the Court and is mailed.

"(4) For a notice of appeal mailed to the Court to be deemed to be received under paragraph (3)(B) on a particular date, the United States Postal Service postmark on the cover in which the notice is posted must be legible. The Court shall determine the legibility of any such postmark and the Court's determination as to legibility shall be final and not subject to review by any other Court.".

(b) APPLICATION.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to notices of appeal that are delivered or mailed to the United States Court of Veterans Appeals on or after that date.

TITLE VI—EDUCATION AND TRAINING PROGRAMS

SEC. 601. FLIGHT TRAINING.

(a) ACTIVE DUTY PROGRAM.—Section 3034(d) is amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(d)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(b) POST-VIETNAM ERA.—Section 3241(b) is amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(b)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(c) RESERVE PROGRAM.—Section 2136(c) of title 10, United States Code, is amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(c)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 1994.

SEC. 602. TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

(a) REHABILITATION RESOURCES.—Section 3115 is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking out "or" after "(including the Department of Veterans Affairs),"; and

(ii) by inserting "or of any federally recognized Indian tribe," after "financial assistance,"; and

(B) in paragraph (4), by inserting "any federally recognized Indian tribe," after "contributions,"; and

(2) by adding at the end the following:

"(c) For purposes of this section, the term 'federally recognized Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

(b) ALLOWANCES.—Section 3108(c)(2) is amended by inserting "or federally recognized Indian tribe" after "local government agency".

(c) TECHNICAL CORRECTION.—(1) Section 404(b) of the Veterans' Benefits Act of 1992 (106 Stat. 4338) is amended by striking out the period at the end and inserting in lieu thereof ", but shall not apply to veterans and other persons who originally applied for assistance under chapter 31 of title 38, United States Code, before November 1, 1990.".

(2) The amendment made by paragraph (1) shall take effect as of October 29, 1992.

SEC. 603. ALTERNATIVE TEACHER CERTIFICATION PROGRAMS.

(a) IN GENERAL.—Section 3452(c) is amended by adding at the end the following: "For

the period ending on September 30, 1996, such term includes any entity that provides training required for completion of any State-approved alternative teacher certification program (as determined by the Secretary).".

(b) CLARIFYING AMENDMENT.—Section 3002 is amended by adding at the end the following new paragraph:

"(8) The term 'educational institution' has the meaning given such term in section 3452(c) of this title.".

SEC. 604. EDUCATION OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—The first sentence of section 3476 is amended to read as follows: "An eligible veteran may not enroll in any course offered by an educational institution not located in a State unless that educational institution is an approved institution of higher learning and the course is approved by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to courses approved on or after the date of the enactment of this Act.

SEC. 605. CORRESPONDENCE COURSES.

(a) APPROVAL OF PROGRAMS OF EDUCATION.—(1) Section 3672 is amended by adding at the end the following new subsection:

"(e) A program of education exclusively by correspondence, and the correspondence portion of a combination correspondence-residence course leading to a vocational objective, that is offered by an educational institution (as defined in section 3452(c) of this title) may be approved only if (1) the educational institution is accredited by an entity recognized by the Secretary of Education, and (2) at least 50 percent of those pursuing such a program or course require six months or more to complete the program or course.".

(2)(A) Section 3675(a)(2)(B) is amended by striking out "A State" and inserting in lieu thereof "Except as provided in section 3672(e) of this title, a State".

(B) Section 3680(a) is amended—

(i) by inserting "or" at the end of paragraph (2);

(ii) by striking out "; or" at the end of paragraph (3) and inserting in lieu thereof a period; and

(iii) by striking out paragraph (4).

(C) Section 3686(c) is amended by striking out "(other than one subject to the provisions of section 3676 of this title)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to programs of education exclusively by correspondence and to correspondence-residence courses commencing more than 90 days after the date of the enactment of this Act.

SEC. 606. STATE APPROVING AGENCIES.

(a) REIMBURSEMENT.—(1) Section 3674(a)(4) is amended by striking out "$12,000,000" each place it appears and inserting in lieu thereof "$13,000,000".

(2) The amendments made by subsection (a) shall apply with respect to services provided under such section after September 30, 1994.

(b) ELIMINATION OF REQUIREMENT FOR QUARTERLY REPORT TO CONGRESS.—Section 3674(a)(3) is amended—

(1) by striking out subparagraph (B); and

(2) by striking out "(A)" after "(3)".

(c) EVALUATION OF AGENCY PERFORMANCE.—Section 3674A is amended—

(1) in subsection (a)—

(A) by striking out paragraph (3); and

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(2) in subsection (b)—

(A) by striking out "subsection (a)(5) of this section" both places it appears and inserting in lieu thereof "subsection (a)(4)"; and

(B) by inserting "of this title" after "section 3674(a)" both places it appears.

SEC. 607. MEASUREMENT OF COURSES.

Section 3688(b) is amended—

(1) by striking out "this chapter or" and inserting in lieu thereof "this chapter,"; and

(2) by inserting before the period at the end thereof the following: ", or chapter 106 of title 10".

SEC. 608. VETERANS' ADVISORY COMMITTEE ON EDUCATION.

Section 3692 is amended—

(1) in the first sentence of subsection (a)—

(A) by striking out "34,"; and

(B) by inserting "and chapter 106 of title 10" before the period at the end;

(2) in the first sentence of subsection (b), by striking out "this chapter" and all that follows through "of this title" and inserting in lieu thereof "this chapter, chapters 30, 32, and 35 of this title, and chapter 106 of title 10"; and

(3) in subsection (c), by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 2003".

SEC. 609. CONTRACT EDUCATIONAL AND VOCATIONAL COUNSELING.

(a) PAYMENT LIMITATION.—Section 3697(b) is amended by striking out "$5,000,000" and inserting in lieu thereof "$6,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1994.

SEC. 610. SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING ACT OF 1992.

(a) PERIOD OF TRAINING.—(1) Section 4485(d) of the Service Members Occupational Conversion and Training Act of 1992 (106 Stat. 2759; 10 U.S.C. 1143 note) is amended by striking out "or more than 18 months".

(2)(A) Section 4486(d)(2) of such Act (102 Stat. 2760; 10 U.S.C. 1143 note) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "in the community for the entire period of training of the eligible person.".

(B) The amendment made by subparagraph (A) shall apply with respect to programs of training under the Service Members Occupational Conversion and Training Act of 1992 beginning after the date of the enactment of this Act.

(b) PAYMENTS.—Section 4487 of such Act (106 Stat. 2762; 10 U.S.C. 1143 note) is amended—

(1) in subsection (a)(1)—

(A) by striking out "subparagraph (B)" in subparagraph (A) and inserting in lieu thereof "subparagraphs (B) and (C)";

(B) by inserting before the period at the end of subparagraph (A) the following: "but in no event to exceed hours equivalent to 18 months of training"; and

(C) by adding at the end the following new subparagraph:

"(C) Assistance may be paid under this subtitle on behalf of an eligible person to that person's employer for training under two or more programs of job training under this subtitle if such employer has not received (or is not due) on that person's behalf assistance in an amount aggregating the applicable amount set forth in subparagraph (B).."; and

(2) in subsection (b)(3), by inserting before the period at the end thereof ", or upon the completion of the 18th month of training under the last training program approved for the person's pursuit with that employer under this subtitle, whichever is earlier".

(c) ENTRY INTO PROGRAM OF JOB TRAINING.—Section 4488(a) of such Act (106 Stat. 2764; 10 U.S.C. 1143 note) is amended by striking out the third sentence thereof and inserting in lieu thereof "The eligible person may begin such program of job training with the employer on the day that notice is transmitted to such official by means prescribed by such official. However, assistance under this subtitle may not be provided to the employer if such official, within two weeks after the date on which such notice is transmitted, disapproves the eligible person's entry into that program of job training in accordance with this section.".

TITLE VII—EMPLOYMENT PROGRAMS

SEC. 701. JOB COUNSELING, TRAINING, AND PLACEMENT.

(a) DEPUTY ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.—Section 4102A(a) is amended—

(1) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end the following:

"(2) There shall be within the Department of Labor a Deputy Assistant Secretary of Labor for Veterans' Employment and Training. The Deputy Assistant Secretary shall perform such functions as the Assistant Secretary of Labor for Veterans' Employment and Training prescribes. The Deputy Assistant Secretary shall be a veteran.".

(b) DVOP SPECIALISTS COMPENSATION RATES.—Section 4103A(a)(1) is amended by striking out "a rate not less than the rate prescribed for an entry level professional" and inserting in lieu thereof "rates comparable to those paid other professionals performing essentially similar duties".

(c) SPECIAL UNEMPLOYMENT STUDY.—Subsection (a) of section 4110A is amended to read as follows:

"(a)(1) The Secretary, through the Bureau of Labor Statistics, shall conduct a study every two years of unemployment among each of the following categories of veterans:

"(A) Special disabled veterans.

"(B) Veterans of the Vietnam era who served in the Vietnam theater of operations during the Vietnam era.

"(C) Veterans who served on active duty during the Vietnam era who did not serve in the Vietnam theater of operations.

"(D) Veterans who served on active duty after the Vietnam era.

"(E) Veterans discharged or released from active duty within four years of the applicable study.

"(2) Within each of the categories of veterans specified in paragraph (1), the Secretary shall include a separate category for women who are veterans.

"(3) The Secretary shall promptly submit to Congress a report on the results of each study under paragraph (1).".

SEC. 702. EMPLOYMENT AND TRAINING OF VETERANS.

(a) FEDERAL CONTRACTS.—Section 4212(a) is amended by striking out "all of its suitable employment openings," in clause (1) of the third sentence and inserting in lieu thereof "all of its employment openings except that the contractor may exclude openings for executive and top management positions, positions which are to be filled from within the contractor's organization, and positions lasting three days or less,".

(b) ELIGIBILITY REQUIREMENTS FOR VETERANS UNDER FEDERAL EMPLOYMENT AND TRAINING PROGRAMS.—Section 4213 is amended—

(1) by striking out "chapters 11, 13, 31, 34, 35, and 36 of this title by an eligible veteran

and" and inserting in lieu thereof "chapters 11, 13, 30, 31, 35, and 36 of this title by an eligible veteran,";

(2) by inserting "and any amounts received by an eligible person under chapter 106 of title 10," after "chapters 13 and 35 of such title, and"; and

(3) by striking out "the needs or qualifications of participants in" and inserting in lieu thereof "eligibility under".

SEC. 703. CONFORMING AMENDMENTS TO ERISA RELATING TO THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT OF 1994.

(a) PERIOD OF CONTINUATION COVERAGE.—Section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)(A)) is amended by adding at the end the following new clause:

"(vi) SPECIAL RULE FOR ABSENCE FROM EMPLOYMENT BY REASON OF SERVICE IN THE UNIFORMED SERVICES.—In the case of a qualifying event described in section 603(2), resulting in an absence from employment by reason of service in the uniformed services to which section 4317 of title 38, United States Code, applies, if the covered employee makes an election under such section 4317, the date which is the earlier of—

"(I) 18 months after the date of the qualifying event, or

"(II) the day after the date on which the covered employee fails to apply for or return to a position of employment, as determined under section 4312(e) of such title 38.".

(b) PREMIUM REQUIREMENTS.—Section 602(3) of such Act (29 U.S.C. 1162(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by striking "The plan may require" and inserting the following:

"(A) IN GENERAL.—The plan may require";

(3) by adjusting the left-hand margination of subparagraph (A) and clauses (i) and (ii) thereof (as redesignated by paragraphs (1) and (2)) accordingly;

(4) in the last sentence of subparagraph (A) (as redesignated), by striking "subparagraph (A) of this paragraph" and inserting "clause (i) of this subparagraph"; and

(5) by adding at the end the following new subparagraph:

"(B) SPECIAL RULE FOR ABSENCE FROM EMPLOYMENT BY REASON OF SERVICE IN THE UNIFORMED SERVICES.—

"(i) LIMITATION ON EMPLOYEE PREMIUM.—In the case of a qualifying event described in section 603(2), resulting in an absence from employment by reason of service in the uniformed services to which section 4317 of title 38, United States Code, applies, if the covered employee makes an election under such section 4317 and the covered employee performed such service for less than 31 days, the portion of the premium which the covered employee is required to pay may not exceed the portion (if any) of the premium which the covered employee would have been required to pay but for the qualifying event.

"(ii) TREATMENT OF MULTIEMPLOYER PLANS.—In the case of a group health plan that is a multiemployer plan, any liability under the plan for the portion of the premium payable by the employer shall be allocated by the plan in such manner as the plan sponsor shall provide, except that, if the plan sponsor does not so provide, such liability shall be allocated by the plan—

"(I) to the last employer employing the covered employee before the period served by the covered employee in the uniformed services, or

"(II) if such last employer is no longer functional, to the plan.".

(c) ENFORCEMENT OF CONTINUATION COVERAGE REQUIREMENTS.—Section 607 of such Act (29 U.S.C. 1167) is amended by adding at the end the following new paragraph:

"(6) ENFORCEMENT OF PROVISIONS RELATING TO ABSENCE FROM EMPLOYMENT BY REASON OF SERVICE IN THE UNIFORMED SERVICES.—For purposes of part 5, the provisions of section 4317 of title 38, United States Code (as in effect on the effective date of this paragraph) shall be treated as provisions of this title to the extent such provisions relate to group health plans covered under this title. The remedies provided pursuant to this paragraph shall be in addition to remedies otherwise available under such title 38. An action or proceeding commenced under part 5 shall not preclude further recourse to remedies otherwise available under such title 38. The Secretary shall ensure that covered employees and other qualified beneficiaries commencing actions or proceedings under part 5 are informed of remedies also available under such title 38.".

(d) ENFORCEMENT OF RULES RELATING TO PENSION PLAN COVERAGE.—Section 204 of such Act (29 U.S.C. 1054) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection:

"(i) ENFORCEMENT OF PROVISIONS RELATING TO ABSENCE FROM EMPLOYMENT BY REASON OF SERVICE IN THE UNIFORMED SERVICES.—For purposes of part 5, the provisions of section 4318 of title 38, United States Code (as in effect on the effective date of this subsection) shall be treated as provisions of this title to the extent such provisions relate to pension plans covered under this title. The remedies provided pursuant to this subsection shall be in addition to remedies otherwise available under such title 38. An action or proceeding commenced under part 5 shall not preclude further recourse to remedies otherwise available under such title 38. The Secretary shall ensure that participants and beneficiaries commencing actions or proceedings under part 5 are informed of remedies also available under such title 38.".

(e) EFFECTIVE DATE AND TRANSITION RULES.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 2 of the Uniformed Services Employment and Reemployment Rights Act of 1994.

(2) TRANSITION RULES.—Section 8 of the Uniformed Services Employment and Reemployment Rights Act of 1994 shall apply with respect to the amendments made by this section in the same manner and to the same extent as such section applies with respect to sections 4317 and 4318 of title 38, United States Code (as amended by such Act).

TITLE VIII—CEMETERIES AND MEMORIAL AFFAIRS

SEC. 801. ELIGIBILITY FOR BURIAL IN NATIONAL CEMETERIES OF SPOUSES WHO PREDECEASE VETERANS.

Section 2402(5) is amended by inserting "spouse," after "The".

SEC. 802. RESTORATION OF BURIAL ELIGIBILITY FOR UNREMARRIED SPOUSES.

Section 2402(5), as amended by section 801, is further amended by inserting after "surviving spouse" the following: "(which for purposes of this chapter includes an unremarried surviving spouse who had a subsequent remarriage which was terminated by death or divorce)".

SEC. 803. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR STATE CEMETERY GRANT PROGRAM.

Paragraph (2) of section 2408(a) is amended by striking out "nine" and inserting in lieu thereof "fourteen".

SEC. 804. AUTHORITY TO USE FLAT GRAVE MARKERS AT THE WILLAMETTE NATIONAL CEMETERY, OREGON.

Notwithstanding section 2404(c)(2) of title 38, United States Code, the Secretary of Veterans Affairs may provide for flat grave markers at the Willamette National Cemetery, Oregon.

TITLE IX—HOUSING PROGRAMS

SEC. 901. ELIGIBILITY.

(a) RESERVISTS DISCHARGED BECAUSE OF A SERVICE-CONNECTED DISABILITY.—Section 3701(b)(5)(A) is amended—

(1) by inserting "(i)" before "who has"; and

(2) by striking out the period at the end and inserting in lieu thereof ", or (ii) who was discharged or released from the Selected Reserve before completing 6 years of service because of a service-connected disability.".

(b) SURVIVING SPOUSES OF RESERVISTS WHO DIED WHILE IN ACTIVE MILITARY, NAVAL, OR AIR SERVICE.—The second sentence of section 3701(b)(2) is amended—

(1) by inserting "or service in the Selected Reserve" after "duty" each place it appears; and

(2) by striking out "spouse shall" and inserting in lieu thereof "deceased spouse shall".

SEC. 902. REVISION IN COMPUTATION OF AGGREGATE GUARANTY.

Section 3702(b) is amended—

(1) in the matter preceding paragraph (1), by striking out "loan, if—" and inserting in lieu thereof "loan under the following circumstances:";

(2) in paragraph (1)—

(A) by striking out "the property" at the beginning of subparagraph (A) and inserting in lieu thereof "The property";

(B) by striking out the semicolon at the end and inserting in lieu thereof a period;

(3) in paragraph (2)—

(A) by striking out "a veteran-transferee" at the beginning and inserting in lieu thereof "A veteran-transferee";

(B) by striking out "; or" at the end and inserting in lieu thereof a period;

(4) in paragraph (3), by striking out "the loan" at the beginning of subparagraph (A) and inserting in lieu thereof "The loan";

(5) by inserting after paragraph (3) the following new paragraph:

"(4) In a case not covered by paragraph (1) or (2)—

"(A) the loan has been repaid in full and, if the Secretary has suffered a loss on the loan, the loss has been paid in full; or

"(B) the Secretary has been released from liability as to the loan and, if the Secretary has suffered a loss on the loan, the loss has been paid in full.";

(6) in the last sentence, by striking out "clause (1) of the preceding sentence" and inserting in lieu thereof "paragraph (1)"; and

(7) by adding at the end the following new sentence: "The authority of the Secretary under this subsection to exclude an amount of guaranty or insurance housing loan entitlement previously used by a veteran may be exercised only once for that veteran under the authority of paragraph (4).".

SEC. 903. PUBLIC AND COMMUNITY WATER AND SEWERAGE SYSTEMS.

Section 3704 is amended—

(1) by striking out subsection (e); and

(2) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

SEC. 904. AUTHORITY TO GUARANTEE HOME REFINANCE LOANS FOR ENERGY EFFICIENCY IMPROVEMENTS.

(a) LOANS.—Section 3710(a) is amended by inserting after paragraph (10) the following new paragraph:

"(11) To refinance in accordance with subsection (e) an existing loan guaranteed, insured, or made under this chapter, and to improve the dwelling securing such loan through energy efficiency improvements, as provided in subsection (d).".

(b) AMOUNT OF GUARANTY.—Section 3710(e)(1) is amended—

(1) in the matter preceding subparagraph (A), by inserting "or for the purpose specified in subsection (a)(11)" after "subsection (a)(8)"; and

(2) in subparagraph (C), by striking out "may not exceed" and all that follows in such subparagraph and inserting in lieu thereof "may not exceed—

"(i) an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 3703(c)(3)(A) of this title) as may be authorized by the Secretary (under regulations which the Secretary shall prescribe) to be included in the loan; or

"(ii) in the case of a loan for the purpose specified in subsection (a)(11), an amount equal to the sum of the amount referred to with respect to the loan under clause (i) and the amount specified under subsection (d)(2);".

(c) FEE.—Section 3729(a)(2)(E) is amended by inserting "3710(a)(11)," after "3710(a)(9)(B)(i),".

SEC. 905. AUTHORITY TO GUARANTEE LOANS TO REFINANCE ADJUSTABLE RATE MORTGAGES TO FIXED RATE MORTGAGES.

Section 3710(e)(1)(A) is amended by inserting before the semicolon at the end the following: "or, in a case in which the loan is a fixed rate loan and the loan being refinanced is an adjustable rate loan, the loan bears interest at a rate that is agreed upon by the veteran and the mortgagee".

SEC. 906. MANUFACTURED HOME LOAN INSPECTIONS.

(a) CERTIFICATION OF CONFORMITY WITH STANDARDS.—Paragraph (2) of subsection (h) of section 3712 is amended to read as follows:

"(2) Any manufactured housing unit properly displaying a certification of conformity to all applicable Federal manufactured home construction and safety standards pursuant to section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5415) shall be deemed to meet the standards required by paragraph (1).".

(b) REPEAL OF INSPECTION REQUIREMENTS.—Subsection (j) of such section is amended by striking out "in the case of" the first place it appears and all that follows and inserting in lieu thereof "in the case of—

"(1) manufactured homes constructed by a manufacturer who fails or is unable to discharge the manufacturer's obligations under the warranty;

"(2) manufactured homes which are determined by the Secretary not to conform to the standards provided for in subsection (h); or

"(3) a manufacturer of manufactured homes who has engaged in procedures or practices determined by the Secretary to be unfair or prejudicial to veterans or the Government.".

(c) ELIMINATION OF REPORTING REQUIREMENT.—Subsection (l) of such section is amended—

(1) by striking out "the results of inspections required by subsection (h) of this section,"; and

(2) by striking out "of this section,".

SEC. 907. PROCEDURES ON DEFAULT.

(a) IN GENERAL.—Paragraph (7) of section 3732(c) is amended—

(1) in the matter preceding subparagraph (A), by striking out "that was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale";

(2) in subparagraph (A)—

(A) by striking out "the Secretary may accept conveyance of the property to the United States for a price not exceeding" and inserting in lieu thereof "(i) the amount was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to"; and

(B) by striking out "and" after "loan;" and inserting in lieu thereof "or";

(C) by adding at the end the following:

"(ii) there was no minimum amount for which the property had to be sold at the liquidation sale under applicable State law, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to the lesser of such net value or total indebtedness; and"; and

(3) in subparagraph (B), by striking out "paragraph (6)(B)" and inserting in lieu thereof "paragraph (6)".

(b) CONFORMING AMENDMENT.—Paragraph (6) of such section is amended—

(1) by striking out "either";

(2) by striking out "sale or acquires" and all that follows through "(B) the" and inserting in lieu thereof "sale, the"; and

(3) by redesignating clauses (i) and (ii) as clauses (A) and (B), respectively.

SEC. 908. MINIMUM ACTIVE-DUTY SERVICE REQUIREMENT.

Subparagraph (F) of section 5303A(b)(3) is amended by inserting "or chapter 37" after "chapter 30" in the matter preceding clause (i).

TITLE X—HOMELESS VETERANS PROGRAMS

SEC. 1001. REPORTS ON ACTIVITIES OF THE DEPARTMENT OF VETERANS AFFAIRS TO ASSIST HOMELESS VETERANS.

(a) ANNUAL REPORT.—(1) Not later than April 15 of each year, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities of the Department of Veterans Affairs during the year preceding the report under programs of the Department for the provision of assistance to homeless veterans.

(2) The report shall—

(A) set forth the number of homeless veterans provided assistance under those programs;

(B) describe the cost to the Department of providing such assistance under those programs; and

(C) provide any other information on those programs and on the provision of such assistance that the Secretary considers appropriate.

(b) BI-ANNUAL REQUIREMENT.—The Secretary shall include in the report submitted under subsection (a)(1) in 1995, and every two years thereafter, an evaluation of the effectiveness of the programs of the Department in providing assistance to homeless veterans.

(c) CONFORMING REPEAL.—Section 10 of Public Law 102-590 (106 Stat. 5141; 37 U.S.C. 7721 note) is repealed.

SEC. 1002. REPORT ON ASSESSMENT AND PLANS FOR RESPONSE TO NEEDS OF HOMELESS VETERANS.

(a) UPDATE OF ASSESSMENT.—Subsection (b) of section 107 of the Veterans' Medical Programs Amendments of 1992 (Public Law 102-405; 106 Stat. 1977; 38 U.S.C. 527 note) is amended by adding at the end the following new paragraph:

"(6) The Secretary shall require that the directors referred to in paragraph (1) update the assessment required under that paragraph during each of 1995, 1996, and 1997.".

(b) REPORTS ON ASSESSMENTS AND PLAN.—Subsection (i) of such section (106 Stat. 1978) is amended—

(1) by striking out "REPORT.—" and inserting in lieu thereof "REPORTS.—(1)"; and

(2) by adding at the end the following:

"(2) Not later than December 31, 1994, the Secretary shall submit to such committees a report that—

"(A) describes the results of the assessment carried out under subsection (b);

"(B) sets forth the lists developed under paragraph (1) of subsection (c); and

"(C) describes the progress, if any, made by the directors of the medical centers and the directors of the benefits offices referred to in such subsection (c) in developing the plan referred to in paragraph (2) of such subsection (c).

"(3) Not later than December 31 of each of 1995, 1996, and 1997, the Secretary shall submit to such committees a report that describes the update to the assessment that is carried out under subsection (b)(6) in the year preceding the report.".

SEC. 1003. INCREASE IN NUMBER OF DEMONSTRATION PROGRAMS UNDER HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS ACT OF 1992.

Section 2(b) of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended in the first sentence by striking out "four" and inserting in lieu thereof "eight".

SEC. 1004. REMOVAL OF FUNDING REQUIREMENT OF HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS ACT OF 1992.

Section 12 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended by striking out the second sentence.

SEC. 1005. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) of the funds appropriated for any fiscal year to support Federal programs which are designed to assist homeless individuals, a share more closely approximating the proportion of the population of homeless individuals who are veterans should be appropriated to the Secretary of Veterans Affairs for programs to assist homeless veterans that are administered by that Secretary;

(2) of the Federal grants made available to assist community organizations that assist homeless individuals, a share of such grants more closely approximating the proportion of the population of homeless individuals who are veterans should be provided to community organizations that provide assistance primarily to homeless veterans; and

(3) the Secretary of Veterans Affairs should take such actions as are necessary to ensure that Federal agencies that provide assistance, either directly or indirectly, to homeless individuals, including homeless veterans, are aware of and encouraged to make appropriate referrals to facilities of

the Department of Veterans Affairs for benefits and services, such as health care, substance abuse treatment, counseling, and income assistance.

TITLE XI—REDUCTIONS IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL

SEC. 1101. FINDINGS.

Congress makes the following findings:

(1) Under proposals for national health care reform, the Department of Veterans Affairs will be required to provide health care services to veterans on a competitive basis with other health care providers.

(2) The elimination of positions from the Department that the Office of Management and Budget has scheduled to occur in fiscal years 1995 through 1999 would prevent the Department from meeting the responsibilities of the Department to provide health care to veterans under law and from maintaining the quality of health care that is currently provided to veterans.

SEC. 1102. REQUIREMENT FOR MINIMUM NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

(a) IN GENERAL.—Chapter 7 is amended by adding at the end the following new section:

"§ 712. Full-time equivalent positions: limitation on reduction

"(a) Notwithstanding any other provision of law, the number of full-time equivalent positions in the Department of Veterans Affairs during the period beginning on the date of the enactment of this section and ending on September 30, 1999, may not (except as provided in subsection (c)) be less than 224,377.

"(b) In determining the number of full-time equivalent positions in the Department of Veterans Affairs during a fiscal year for purposes of ensuring under section 5(b) of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226; 108 Stat. 115; 5 U.S.C. 3101 note) that the total number of full-time equivalent positions in all agencies of the Federal Government during a fiscal year covered by that section does not exceed the limit prescribed for that fiscal year under that section, the total number of full-time equivalent positions in the Department of Veterans Affairs during that fiscal year shall be the number equal to—

"(1) the number of such positions in the Department during that fiscal year, reduced by

"(2) the sum of—

"(A) the number of such positions in the Department during that fiscal year that are filled by employees whose salaries and benefits are paid primarily from funds other than appropriated funds; and

"(B) the number of such positions held during that fiscal year by persons involved in medical care cost recovery activities under section 1729 of this title.

"(c) The Secretary shall not be required to make a reduction in the number of full-time equivalent positions in the Department unless such reduction—

"(1) is necessary due to a reduction in funds available to the Department; or

"(2) is required under a law that is enacted after the date of the enactment of this section and that refers specifically to this section.

"(d) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report, through the year 2000, on the number and type of full-time equivalent positions in the Department that are reduced under this section. The report shall include a justification for the reductions and shall be submitted with the materials provided in support of the budget for the Department contained in the President's budget submitted to Congress for a fiscal year pursuant to section 1105 of title 31.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"712. Full-time equivalent positions: limitation on reduction.".

SEC. 1103. ENHANCED AUTHORITY TO CONTRACT FOR NECESSARY SERVICES.

Section 8110(c) is amended by striking out paragraph (7) and inserting in lieu thereof the following:

"(7) Paragraphs (1) through (6) shall not be in effect during fiscal years 1995 through 1999.

"(8) During the period covered by paragraph (7), whenever an activity at a Department health-care facility is converted from performance by Federal employees to performance by employees of a contractor of the Government, the Secretary shall—

"(A) require in the contract for the performance of such activity that the contractor, in hiring employees for the performance of the contract, give priority to former employees of the Department who have been displaced by the award of the contract; and

"(B) provide to such former employees of the Department all possible assistance in obtaining other Federal employment or entrance into job training and retraining programs.

"(9) The Secretary shall include in the Secretary's annual report to Congress under section 529 of this title, for each fiscal year covered by paragraph (7), a report on the use during the year covered by the report of contracting-out authority made available by reason of paragraph (7). The Secretary shall include in each such report a description of each use of such authority, together with the rationale for the use of such authority and the effect of the use of such authority on patient care and on employees of the Department.".

SEC. 1104. STUDY.

(a) REQUIREMENT.—The Secretary of Veterans Affairs shall enter into an agreement with an appropriate non-Federal entity under which the entity shall carry out a study of the feasibility and advisability of alternative organizational structures, such as the establishment of a wholly-owned Government corporation or a Government-sponsored enterprise, for the effective provision of health care services to veterans.

(b) SUBMISSION OF REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the study required under subsection (a). The report shall be submitted not later than one year after the date of the enactment of this Act.

(c) AUTHORIZATION OF FUNDS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs the sum of $1,000,000 for the purposes of carrying out the study required under subsection (a).

TITLE XII—TECHNICAL AND CLERICAL AMENDMENTS

SEC. 1201. AMENDMENTS TO TITLE 38, UNITED STATES CODE.

(a) REFERENCES TO "SECRETARY" AND "DEPARTMENT".—Title 38, United States Code, is amended as follows:

(1) Paragraph (1) of section 101 is amended to read as follows:

"(1) The terms 'Secretary' and 'Department' mean the Secretary of Veterans Affairs and the Department of Veterans Affairs, respectively.".

(2) Section 1532(c) is amended by striking out "Secretary" and inserting in lieu thereof "Veterans' Administration".

(3) Section 3745(a) is amended by striking out "Secretary" after "consult with the" and inserting in lieu thereof "Administrator".

(4) Section 4102A(e) is amended by striking out "Regional Secretary" both places it appears and inserting in lieu thereof "Regional Administrator".

(5) Section 4110(d)(9) is amended by striking out "Secretary of the Small Business Administration" and inserting in lieu thereof "Administrator of the Small Business Administration".

(b) REFERENCES TO DEPARTMENT OF MEDICINE AND SURGERY.—

(1) The following sections of title 38, United States Code, are amended by striking out "Department of Medicine and Surgery" each place it appears and inserting in lieu thereof "Veterans Health Administration": sections 3120(a), 3120(f), 3121(a)(3), 7603(a), 7603(c)(1)(B), 7604(1)(B), 7604(2)(D), 7612(c)(1)(B), 7615, 7616(b)(2), 7616(c), 7622(b)(1), 7622(c)(2)(A), 7623(b), 7635(a)(1), 7635(a)(2), and 8110(a).

(2) Section 7622(c)(2)(B) of such title is amended by striking out "such Department" and inserting in lieu thereof "the Veterans Health Administration".

(c) CONFORMING AMENDMENTS RELATING TO CONVERSION OF POSITIONS OF CHIEF MEDICAL DIRECTOR AND CHIEF BENEFITS DIRECTOR TO UNDER SECRETARY POSITIONS.—Title 38, United States Code, is amended as follows:

(1) Section 305 is amended—

(A) in subsection (a)(1), by striking out "a Under Secretary" and inserting in lieu thereof "an Under Secretary"; and

(B) in subsection (d)(2)(F), by striking out "Under Secretary" the second place it appears and all that follows through the closing parenthesis and inserting in lieu thereof "Chief Medical Director of the Veterans' Administration)".

(2) Section 306 is amended—

(A) in subsection (a), by striking out "a Under Secretary" and inserting in lieu thereof "an Under Secretary"; and

(B) in subsection (d)(2)(F), by striking out "Under Secretary" the second place it appears and all that follows through the closing parenthesis and inserting in lieu thereof "Chief Benefits Director of the Veterans' Administration)".

(3) Section 7306 is amended—

(A) in subsection (a)—

(i) in paragraph (3), by striking out "Assistant Chief Medical Directors" and inserting in lieu thereof "Assistant Under Secretaries for Health";

(ii) by redesignating the last three paragraphs as paragraphs (8), (7), and (9) respectively;

(iii) by reversing the order in which the penultimate and antepenultimate paragraphs appear; and

(iv) in paragraph (8), as so redesignated, by striking out "Chief Medical Director" and inserting in lieu thereof "Under Secretary for Health";

(B) in subsection (b), by striking out "Assistant Chief Medical Directors" in the matter preceding paragraph (1) and inserting in lieu thereof "Assistant Under Secretaries for Health"; and

(C) in subsection (c), by striking out "and (7)" and inserting in lieu thereof "and (8)".

(4) Section 7314(d) is amended—

(A) in paragraph (1)—

(i) by striking out "the Chief Medical Director and the Secretary to carry out" and inserting in lieu thereof "the Secretary and

the Under Secretary for Health in carrying out"; and

(ii) by striking out "the Assistant Chief Medical Director described in section 7306(b)(3)" and inserting in lieu thereof "the Assistant Under Secretary for Health described in section 7306(b)(3)"; and

(B) in paragraph (3), by striking out "Assistant Chief Medical Director" both places it appears and inserting in lieu thereof "Assistant Under Secretary".

(5) Section 7318 is amended by striking out "Chief Medical Director" each place it appears and inserting in lieu thereof "Under Secretary for Health".

(6) Section 7440(1) is amended by striking out "Chief Medical Director's" and inserting in lieu thereof "Under Secretary for Health's".

(7) Section 7451(g)(1) is amended by striking out "Chief Medical Director's" and inserting in lieu thereof "Under Secretary for Health's".

(d) CROSS REFERENCE AMENDMENTS TO PROVISIONS OF TITLE 38.—Title 38, United States Code, is amended as follows:

(1) Section 115 is amended by striking out "sections 230" and inserting in lieu thereof "sections 314, 315, 316,".

(2) Section 1710(f)(3)(E) is amended by striking out "section 1712(f)" and "section 1712(f)(4)" inserting in lieu thereof "section 1712(a)" and "section 1712(f)", respectively.

(3) Section 1712 is amended—

(A) in subsection (i)(5), by striking out "section 1722(a)(1)(C)" and inserting in lieu thereof "section 1722(a)(3)"; and

(B) in subsection (j), by striking out "Section 4116" and inserting in lieu thereof "Section 7316".

(4) Section 3018A(d)(3) is amended by striking out "section 3015(e)" and inserting in lieu thereof "section 3015(f)".

(5) Section 3018B(d)(3) is amended by striking out "section 3015(e)" and inserting in lieu thereof "section 3015(f)".

(6) Section 3032(f)(3) is amended by striking out "(c), or (d)(1)" and inserting in lieu thereof "(d), or (e)(1)".

(7) Section 3035(b) is amended—

(A) in paragraph (2), by striking out "section 3015(c)" and inserting in lieu thereof "section 3015(d)"; and

(B) in paragraph (3)(C), by striking out "section 3015(e)" and inserting in lieu thereof "section 3015(f)".

(8) Section 3103(b)(3) is amended by striking out "section 3102(1)(A)" and inserting in lieu thereof "section 3102(1)(A)(i)".

(9) Section 3106(a) is amended by striking out "section 3102(1)(A) or (B)" and inserting in lieu thereof "clause (i) or (ii) of section 3102(1)(A)".

(10) Section 3113(a) is amended by striking out "section 3102(1)(B) and (2)" and inserting in lieu thereof "subparagraphs (A)(ii) and (B) of section 3102(1)".

(11) Section 3120(b) is amended by striking out "section 3012(1)(A)" and inserting in lieu thereof "section 3102(1)(A)(i)".

(12) Section 3241(c) is amended by striking out "1663,".

(13) Section 3735(a)(1)(A) is amended by striking out "section 3402" and inserting in lieu thereof "section 5902".

(14) Section 4103(c)(2) is amended by striking out "subchapter IV of chapter 3" and inserting in lieu thereof "subchapter II of chapter 77".

(15) Section 5104(a) is amended by striking out "section 211(a)" and inserting in lieu thereof "section 511".

(16) Section 8103(d)(6)(A) is amended by striking out "section 230(c)" and inserting in lieu thereof "section 316".

(17) Section 8110(c)(3)(B) is amended by striking out "section 213 or 4117" and inserting in lieu thereof "section 513 or 7409".

(18) Section 8135(a)(3) is amended by striking out "section 8134(2)" and inserting in lieu thereof "section 8134(a)(2)".

(19) Section 8155(a) is amended by striking out "section 4112" and inserting in lieu thereof "section 7312".

(20) Section 8201(c) is amended by striking out "section 4112(a)" and inserting in lieu thereof "section 7312(a)".

(e) PUNCTUATION, CAPITALIZATION, SPELLING, ETC.—Title 38, United States Code, is amended as follows:

(1) Section 111(b)(3)(B) is amended by striking out "the Department facility" and inserting in lieu thereof "a Department facility".

(2) Sections 305(d)(2)(F) and 306(d)(2)(F) are amended by striking out "Commission" and inserting in lieu thereof "commission".

(3) Section 312(a) is amended by striking out "(5 U.S.C. App. 3)" and inserting in lieu thereof "(5 U.S.C. App.)".

(4) Section 317(b)(2) is amended by striking out "provided, by the" and inserting in lieu thereof "provided by, the".

(5) Section 711(d) is amended by striking out "Committees" and inserting in lieu thereof "committees".

(6) Section 1116(a)(1)(B) is amended by striking out "(1)" and "(2)" and inserting in lieu thereof "(i)" and "(ii)", respectively.

(7) Section 1722A(a)(1) is amended by striking out the closing parenthesis after "veteran" in the first sentence.

(8) Section 1969(e) is amended—

(A) by striking out "sections 1971 (a) and (c)" and inserting in lieu thereof "subsections (a) and (c) of section 1971"; and

(B) by striking out "sections 1971 (d) and (e)" and inserting in lieu thereof "subsections (d) and (e) of section 1971".

(9) Section 1977(f) is amended by striking out "sections 1971 (d) and (e)" and inserting in lieu thereof "subsections (d) and (e) of section 1971".

(10) Section 3011(f)(1) is amended by striking out "whose length" and inserting in lieu thereof "the length of which".

(11) Section 3018B(d) is amended—

(A) in paragraph (1), by striking out "(a)(2)(D) of this subsection" and inserting in lieu thereof "(a)(2)(D) of this section"; and

(B) in paragraph (3)—

(i) by striking out "such Account" and inserting in lieu thereof "such account"; and

(ii) by striking out "this chapter" and inserting in lieu thereof "this title".

(12) Section 3688(a)(6) is amended by inserting a comma after "3241(a)(2)".

(13) Section 3706 is amended by striking out "of this chapter" the second and third places it appears and inserting in lieu thereof "of this title".

(14) Section 3712 is amended—

(A) in subsection (c)(3)—

(i) by inserting "of" in subparagraph (D) after "subparagraph (B)"; and

(ii) by striking out "of this subsection" in subparagraph (E) and inserting in lieu thereof "of this paragraph"; and

(B) in subsection (m), by striking out "section 3704(d) and section 3721 of this chapter" and inserting in lieu thereof "sections 3704(d) and 3721 of this title".

(15) Section 3713(b) is amended in the last sentence by striking out "subsection 5302(b) of this title, if eligible thereunder" and inserting in lieu thereof "section 5302(b) of this title, if the veteran is eligible for relief under that section".

(16) Section 5702 is amended—

(A) by inserting "(a)" before "Any person desiring";

(B) by striking out "custody of" and all that follows through "stating" and inserting in lieu thereof "custody of the Secretary that may be disclosed under section 5701 of this title must submit to the Secretary an application in writing for such copy. The application shall state"; and

(C) in subsection (c), by striking out "is authorized to fix" and inserting in lieu thereof "may establish".

(17) Section 6101(a) is amended by inserting a comma after "title 18".

(18) Section 6103(d)(1) is amended in the second sentence—

(A) by striking out "(a)" and "(b)" and inserting in lieu thereof "(A)" and "(B)", respectively; and

(B) by striking out "prior to" and inserting in lieu thereof "before".

(19) Section 6105(c) is amended—

(A) in the first sentence, by striking out "clauses (2), (3), or (4) of subsection (b) of this section" and inserting in lieu thereof "paragraph (2), (3), or (4) of subsection (b)";

(B) in the second sentence, by striking out "clause (1) of that subsection" and inserting in lieu thereof "paragraph (1) of subsection (b)"; and

(C) by transposing the two sentences of that subsection (as so amended).

(20) Section 7312(d) is amended by striking out "the advisory groups activities" and inserting in lieu thereof "the activities of the advisory group".

(21) Section 7408(a) is amended by striking out "civil-service" and inserting in lieu thereof "civil service".

(22) Sections 7433(b)(3)(A) and 7435(b)(3)(A) are amended by striking out "nation-wide" and inserting in lieu thereof "nationwide".

(23) Section 7451(d)(3)(C)(i)(I) is amended by striking out "labor market area" and inserting in lieu thereof "labor-market area".

(24) Section 7453 is amended by striking out "subsections" in subsections (f) and (g) and inserting in lieu thereof "subsection".

(25) Section 7601(a) is amended by striking out the comma at the end of paragraph (1) and inserting in lieu thereof a semicolon.

(26) Section 7604 is amended by striking out "subchapters" in paragraphs (1)(A), (2)(D), and (5) and inserting in lieu thereof "subchapter".

(27) Section 8126 is amended—

(A) in subsection (e)(1)(A), by striking out "1-year" and inserting in lieu thereof "one-year"; and

(B) in subsection (f)(2), by striking out ", and" and inserting in lieu thereof a period.

(f) DATE OF ENACTMENT REFERENCES.—Title 38, United States Code, is amended as follows:

(1) Section 1922A(b) is amended by striking out "insurance not later than" and all that follows through "that the Department" and inserting in lieu thereof "insurance. Such application must be filed not later than (1) October 31, 1993, or (2) the end of the one-year period beginning on the date on which the Secretary".

(2) Sections 3011(e) and 3012(f) are amended by striking out "the end of the 24-month period beginning on the date of the enactment of this subsection" and inserting in lieu thereof "October 28, 1994,".

(3) Section 3018B(a)(2)(A) is amended by striking out "the date of enactment of this section" and inserting in lieu thereof "October 23, 1992,".

(4) Section 3702(a)(2)(E) is amended by striking out "For the 7-year period beginning on the date of enactment of this subparagraph," and inserting in lieu thereof

"For the period beginning on October 28, 1992, and ending on October 27, 1999,".

(5) Section 6103(d)(2) is amended by striking out "the date of enactment of this amendatory Act" and inserting in lieu thereof "June 30, 1972".

(6) Section 8126 is amended—

(A) in subsection (e)(1)(A), by striking out "30 days after the date of the enactment of this section" and inserting in lieu thereof "December 4, 1992"; and

(B) in subsection (g), by striking out "the date of the enactment of this section" in paragraphs (1) and (2) and inserting in lieu thereof "November 4, 1992".

(g) OBSOLETE OR EXECUTED PROVISIONS.—Title 38, United States Code, is amended as follows:

(1) Section 312(b) is amended by striking out paragraph (3).

(2) Section 1524(a)(2) is amended by striking out "Subject to paragraph (3) of this subsection, if" and inserting in lieu thereof "If".

(3) Section 4110(c)(1) is amended by striking out "shall, within 90 days after the date of the enactment of this section, appoint" and inserting in lieu thereof "shall appoint".

(4)(A) Section 5505 is repealed.

(B) The table of sections at the beginning of chapter 55 is amended by striking out the item relating to section 5505.

(5) Section 7311 is amended by striking out subsections (f) and (g).

(6) Section 7453(i)(3) is amended by striking out "of title 5".

(7) Section 8110(c) is amended by striking out paragraph (7).

(8) Section 8111(b) is amended—

(A) in paragraph (2)—

(i) by striking out "During fiscal years 1982 and 1983" in the second sentence and inserting in lieu thereof "During odd-numbered fiscal years";

(ii) by striking out "During fiscal year 1984" in the third sentence and inserting in lieu thereof "During even-numbered fiscal years"; and

(iii) by striking out the fourth sentence; and

(B) in paragraph (4), by striking out "Within nine months of the date of the enactment of this subsection and at such times thereafter as" and inserting in lieu thereof "At such times as".

(h) AMENDMENTS TO HEADINGS AND TABLES OF CONTENTS.—Title 38, United States Code, is amended as follows:

(1) The table of chapters before part I and the table of chapters at the beginning of part III are amended by striking out the item relating to chapter 42 and inserting in lieu thereof the following:

"42. Employment and Training of Veterans ..... 4211".

(2) The heading of section 2106 is amended by revising each word after the first word so that the initial letter of each such word is lower case.

(3) The item relating to subchapter III in the table of sections at the beginning of chapter 73 is amended to read as follows:

"SUBCHAPTER III—PROTECTION OF PATIENT RIGHTS".

(4) The heading of section 7458 is amended to read as follows:

"§ 7458. Recruitment and retention bonus pay".

(5) The heading of chapter 81 is amended by inserting "enhanced-use" before "leases of real".

(6) The item relating to section 8126 in the table of sections at the beginning of chapter 81 is amended to read as follows:

"8126. Limitation on prices of drugs procured by Department and certain other Federal agencies.".

(i) OTHER MISCELLANEOUS CORRECTIONS.—Title 38, United States Code, is amended as follows:

(1) Section 1718(c)(1) is amended by inserting "of Veterans Affairs" after "Department" in the first sentence.

(2) Section 1922(b)(4) is amended by striking out "Notwithstanding" and all that follows through "title," and inserting in lieu thereof "Notwithstanding section 1917 of this title,".

(3) Section 1969(d)(3) is amended by striking out "'General Operating Expenses, Department'" and inserting in lieu thereof "'General Operating Expenses, Department of Veterans Affairs'".

(4) Section 3018A(a)(1) is amended by striking "after December 31, 1990," and all that follows through "whichever is later," and inserting in lieu thereof "after February 2, 1991,".

(5) Section 3121(a)(3) is amended by striking out "Department of Veterans' Benefits" and inserting in lieu thereof "Veterans Benefits Administration".

(6) Section 3680(a)(C) is amended by striking out "1 full" and inserting in lieu thereof "one full".

(7) Section 4110(e)(3)(B) is amended—

(A) by striking out ", United States Code,"; and

(B) by striking out "the Board" and inserting in lieu thereof "the advisory committee".

(8) Section 5110 is amended by striking out subsection (m).

(9) Section 7315(b)(2) is amended by striking out "Department" and inserting in lieu thereof "Veterans' Administration".

(10) Section 8111(f)(6) is amended by inserting "of Defense" after "the Secretary" the second place it appears.

(11) Section 8502(d) is amended by striking out "General Post Fund, National Homes, Department," and inserting in lieu thereof "General Post Fund, National Homes, Department of Veterans Affairs,".

SEC. 1202. AMENDMENTS TO OTHER LAWS ADMINISTERED BY SECRETARY OF VETERANS AFFAIRS.

(a) PUBLIC LAW 102-54.—Effective as of June 13, 1991, and as if included in the enactment of Public Law 102-54, Public Law 102-54 is amended as follows:

(1) Section 13(e) (105 Stat. 275) is amended by striking out "subsection (b)(10)" and inserting in lieu thereof "subsection (c)(10)".

(2) Section 15(a)(1)(A) (105 Stat. 289) is amended by inserting "the first place it appears" before "in the first sentence".

(b) PUBLIC LAW 102-83.—Effective as of August 6, 1991, and as if included in the enactment of Public Law 102-83, section 4(a) of Public Law 102-83 (105 Stat. 403) is amended as follows:

(1) Paragraph (2)(E) is amended by striking out "Section 601(4)" and inserting in lieu thereof "Section 601(3)".

(2) Paragraph (4) is amended by adding at the end the following:

"(E) Sections 7314(b)(1) and 7315(b)(2).".

(c) PUBLIC LAW 102-86.—Section 403(b)(4) of the Veterans' Benefits Programs Improvement Act of 1991 (Public Law 102-86; 105 Stat. 423; 36 U.S.C. 493(b)(4)) is amended by striking out "section 235" and inserting in lieu thereof "section 707".

(d) PUBLIC LAW 102-547.—Section 10(b)(2) of the Veterans Home Loan Program Amendments of 1992 (106 Stat. 3643; 38 U.S.C. 3703 note) is amended by striking out "paragraph 4" and inserting in lieu thereof "paragraph (4)".

(e) PUBLIC LAW 102-585.—The Veterans Health Care Act of 1992 (Public Law 102-585) is amended as follows:

(1) Section 202 (38 U.S.C. 8111 note) is amended by striking out "the Chief Medical Director" and inserting in lieu thereof "the Under Secretary for Health of the Department of Veterans Affairs".

(2) Section 511(c) (38 U.S.C. 7318 note) is amended by striking out "Chief Medical Director" each place it appears and inserting in lieu thereof "Under Secretary for Health".

SEC. 1203. AMENDMENTS TO OTHER LAWS.

(a) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended as follows:

(1) Section 502(b)(2)(D) (42 U.S.C. 290aa-1(b)(2)(D)) is amended to read as follows:

"(D) the Under Secretary for Health of the Department of Veterans Affairs;".

(2) Section 542(b)(2) (42 U.S.C. 290dd-1(b)(2)) is amended by striking out "Chief Medical Director" and inserting in lieu thereof "Under Secretary for Health".

(3) Section 2604(b)(2)(A) (42 U.S.C. 300ff-14(b)(2)(A)) is amended by striking out "Veterans Administration facilities" and inserting in lieu thereof "Department of Veterans Affairs facilities".

(b) MISCELLANEOUS DEPARTMENT AND SECRETARY REFERENCES.—Section 5102(c)(3) of title 5, United States Code, is amended by striking out the comma after "Department of Veterans Affairs".

(c) MISCELLANEOUS CROSS-REFERENCE CORRECTIONS.—

(1) Section 1204(a)(1) of title 5, United States Code, is amended by striking out "section 4323" and inserting in lieu thereof "section 4303".

(2) Section 441(b)(2)(B) of the Job Training Partnership Act (29 U.S.C. 1721(b)(2)(B)) is amended—

(A) by striking out "subchapter IV of chapter 3" and inserting in lieu thereof "subchapter II of chapter 77"; and

(B) by striking out "sections 612A, 620A, 1787, and 2003A" and inserting in lieu thereof "sections 1712A, 1720A, 3687, and 4103A".

(3) Section 107 of the Local Public Works Capital Development and Investment Act of 1976 (42 U.S.C. 6706) is amended by striking out "section 4211(2)(A)" and "section 2011(1)" inserting in lieu thereof "section 4211(2)" and "section 4211(1)", respectively.

(4) Section 4(g)(2) of the Employment Act of 1946 (15 U.S.C. 1022a(g)(2)) is amended—

(A) by striking out "this subsection" and inserting in lieu thereof "this section"; and

(B) by striking out "section 2011(1) or (2)(A)" and inserting in lieu thereof "section 4211(1) or (2)".

MENTAL HEALTH AND SUBSTANCE ABUSE PROGRAMS REAUTHORIZATION ACT OF 1994

KENNEDY (AND KASSEBAUM) AMENDMENT NO. 2652

Mr. BREAUX (for Mr. KENNEDY, for himself and Mrs. KASSEBAUM) proposed an amendment to the bill (S. 2352) to amend the Public Health Service Act to reauthorize certain programs relating to the Substance Abuse and Mental Health Services Administration, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. FAILURE TO COMPLY WITH MAINTENANCE OF EFFORT PROVISIONS.

(a) MENTAL HEALTH.—Section 1915(b)(3)(A) of the Public Health Service Act (42 U.S.C. 300x-4(b)(3)(A)) is amended—

(1) by striking "material"; and

(2) by inserting before the period at the end thereof the following: ", except that the Secretary may defer the reduction for a reasonable period of time, but in no event to exceed 1 year, to afford the State an opportunity to correct or mitigate the violation of the agreement that the State made for the preceding year under paragraph (1), and the Secretary shall recalculate the reduction accordingly".

(b) SUBSTANCE ABUSE.—Section 1930(c)(1) of the Public Health Service Act (42 U.S.C. 300x-30(c)(1)) is amended—

(1) by striking "material"; and

(2) by inserting before the period at the end thereof the following: ", except that the Secretary may defer the reduction for a reasonable period of time, but in no event to exceed 1 year, to afford the State an opportunity to correct or mitigate the violation of the agreement that the State made for the preceding year under subsection (a), and the Secretary shall recalculate the reduction accordingly".

SEC. 2. BLOCK GRANTS TO STATES REGARDING MENTAL HEALTH AND SUBSTANCE ABUSE.

Section 205(b) of the ADAMHA Reorganization Act (42 U.S.C. 300x(b) note) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2), the following new paragraph:

"(3) FISCAL YEAR 1995.—With respect to an allotment for fiscal year 1995 under section 1911 or 1921, the Secretary shall, upon the request of the chief executive officer of a State, make a transfer as described under paragraph (1) or (2) in the case of any State for which such an allotment for fiscal year 1995 is—

"(A) in the case of an allotment under section 1911, at least 20 percent less than the amount of the allotment for such State under such section for fiscal year 1994; or

"(B) in the case of an allotment under section 1921, at least 20 percent less than the amount of the allotment for such State under such section for fiscal year 1994.".

HATCH AMENDMENT NO. 2653

Mr. SIMPSON (for Mr. HATCH) proposed an amendment to the bill (S. 2352) to amend the Public Health Service Act to reauthorize certain programs relating to the Substance Abuse and Mental Health Services Administration, and for other purposes; as follows:

At the end of the amendment add the following new sections:

SEC. 3. PREVENTION AND TREATMENT GRANTS.

Section 1924(b)(2) of the Public Health Service Act (42 U.S.C. 300x-24(b)(2)) is amended by striking "10 or more" and inserting "15 or more".

SEC. 4. EFFECTIVE DATE.

This Act shall take effect as if enacted on September 30, 1994.

TRAUMATIC BRAIN INJURY ACT OF 1994

KENNEDY (AND HATCH) AMENDMENT NO. 2654

Mr. FEINGOLD (for himself, Mr. KENNEDY, and Mr. HATCH) proposed an amendment to the bill (S. 725) to amend the Public Health Service Act to provide for the conduct of expanded studies and the establishment of innovative programs with respect to traumatic brain injury, and for other purposes, as follows.

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. PROGRAMS OF CENTERS FOR DISEASE CONTROL AND PREVENTION.

(a) IN GENERAL.—Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.), as amended by section 209 of the Minority Health Improvement Act of 1994, is amended by inserting after section 317G the following section:

"PREVENTION OF TRAUMATIC BRAIN INJURY

"SEC. 317H. (a) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may carry out projects to reduce the incidence of traumatic brain injury. Such projects may be carried out by the Secretary directly or through awards of grants or contracts to public or nonprofit private entities. The Secretary may directly or through such awards provide technical assistance with respect to the planning, development, and operation of such projects.

"(b) CERTAIN ACTIVITIES.—Activities under subsection (a) may include—

"(1) the conduct of research into identifying effective strategies for the prevention of traumatic brain injury; and

"(2) the implementation of public information and education programs for the prevention of such injury and for broadening the awareness of the public concerning the public health consequences of such injury.

"(c) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(d) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.".

SEC. 2. PROGRAMS OF NATIONAL INSTITUTES OF HEALTH.

Section 1261 of the Public Health Service Act (42 U.S.C. 300d-61) is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking "and" after the semicolon at the end;

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by adding at the end the following paragraph:

"(4) the authority to make awards of grants or contracts to public or nonprofit private entities for the conduct of basic and applied research regarding traumatic brain injury, which research may include—

"(A) the development of new methods and modalities for the more effective diagnosis, measurement of degree of injury, post-injury monitoring and prognostic assessment of head injury for acute, subacute and later phases of care;

"(B) the development, modification and evaluation of therapies that retard, prevent or reverse brain damage after acute head injury, that arrest further deterioration following injury and that provide the restitution of function for individuals with long-term injuries;

"(C) the development of research on a continuum of care from acute care through rehabilitation, designed, to the extent practicable, to integrate rehabilitation and long-term outcome evaluation with acute care research; and

"(D) the development of programs that increase the participation of academic centers of excellence in head injury treatment and rehabilitation research and training."; and

(2) in subsection (h), by adding at the end the following paragraph:

"(4) The term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.".

SEC. 3. PROGRAMS OF HEALTH RESOURCES AND SERVICES ADMINISTRATION.

Part E of title XII of the Public Health Service Act (42 U.S.C. 300d-51 et seq.) is amended by adding at the end the following section:

"SEC. 1252. STATE GRANTS FOR DEMONSTRATION PROJECTS REGARDING TRAUMATIC BRAIN INJURY.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of carrying out demonstration projects to improve the availability of health services regarding traumatic brain injury.

"(b) STATE ADVISORY BOARD.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State involved agrees to establish an advisory board within the appropriate health department of the State or within another department as designated by the chief executive officer of the State.

"(2) FUNCTIONS.—An advisory board established under paragraph (1) shall be cognizant of findings and concerns of Federal, State and local agencies, citizens groups, and private industry (such as insurance, health care, automobile, and other industry entities). Such advisory boards shall encourage citizen participation through the establishment of public hearings and other types of community outreach programs.

"(3) COMPOSITION.—An advisory board established under paragraph (1) shall be composed of—

"(A) representatives of—

"(i) the corresponding State agencies involved;

"(ii) public and nonprofit private health related organizations;

"(iii) other disability advisory or planning groups within the State;

"(iv) members of an organization or foundation representing traumatic brain injury survivors in that State; and

"(v) injury control programs at the State or local level if such programs exist; and

"(B) a substantial number of individuals who are survivors of traumatic brain injury, or the family members of such individuals.

"(c) MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs to be incurred by a State in carrying out the

purpose described in subsection (a), the Secretary may make a grant under such subsection only if the State agrees to make available, in cash, non-Federal contributions toward such costs in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(d) APPLICATION FOR GRANT.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) COORDINATION OF ACTIVITIES.—The Secretary shall ensure that activities under this section are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding traumatic brain injury.

"(f) REPORT.—Not later than 2 years after the effective date under section 901 of the Minority Health Improvement Act of 1994, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and results of the programs established under this section, including measures of outcomes and consumer and surrogate satisfaction.

"(g) DEFINITION.—For purposes of this section, the term 'traumatic brain injury' means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 and 1997.".

SEC. 4. STUDY; CONSENSUS CONFERENCE.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), acting through the appropriate agencies of the Public Health Service, shall conduct a study for the purpose of carrying out the following with respect to traumatic brain injury:

(A) In collaboration with appropriate State and local health-related agencies—

(i) determine the incidence and prevalence of traumatic brain injury; and

(ii) develop a uniform reporting system under which States report incidence of traumatic brain injury, if the Secretary determines that such a system is appropriate.

(B) Identify common therapeutic interventions which are used for the rehabilitation of individuals with such injuries, and shall, subject to the availability of information, include an analysis of—

(i) the effectiveness of each such intervention in improving the functioning of individuals with brain injuries;

(ii) the comparative effectiveness of interventions employed in the course of rehabilitation of individuals with brain injuries to achieve the same or similar clinical outcome; and

(iii) the adequacy of existing measures of outcomes and knowledge of factors influencing differential outcomes.

(C) Develop practice guidelines for the rehabilitation of traumatic brain injury at such time as appropriate scientific research becomes available.

(2) DATES CERTAIN FOR REPORTS.—

(A) Not later than 18 months after the effective date under section 901, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of carrying out paragraph (1)(A).

(B) Not later than 3 years after the effective date under section 901, the Secretary shall submit to the Committees specified in subparagraph (A) a report describing the findings made as a result of carrying out subparagraphs (B) and (C) of paragraph (1).

(b) CONSENSUS CONFERENCE.—The Secretary, acting through the Director of the National Center for Medical Rehabilitation Research within the National Institute for Child Health and Human Development, shall conduct a national consensus conference on managing traumatic brain injury and related rehabilitation concerns.

(c) DEFINITION.—For purposes of this section, the term "traumatic brain injury" means an acquired injury to the brain. Such term does not include brain dysfunction caused by congenital or degenerative disorders, nor birth trauma, but may include brain injuries caused by anoxia due to near drowning.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BREAUX. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, October 7, 1994, at 10 a.m., to hold a hearing entitled "Review of U.S. Policy Toward Cuba."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION, ARTS, AND HUMANITIES

Mr. BREAUX. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts, and Humanities be authorized to meet for a hearing on education and parental involvement, during the session of the Senate on October 7, 1994, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

IMPROVING AMERICA'S SCHOOLS ACT

• Mr. REID. During Senate consideration of S. 1513, the Senate accepted an amendment to specify that an eligible local education agency under the infrastructure title is one in which the United States owns Federal property of 90 percent or more. This amendment was also accepted by the conference committee. The intent of this provision, as established in the RECORD during its consideration, was to meet the needs of the Mineral County School District in Nevada which consists of 94 percent Federal land and is in dire need of new elementary school construction on the Walker River Indian Reservation at Schurz. The situation faced by the students at Schurz was also recognized by the Senate Appropriations Committee in its report on Labor, Health and Human Services, and Education fiscal year 1995 appropriations. A drafting inaccuracy in the definition, however, may construe a different meaning and should be interpreted to mean 90 percent Federal land by acre. Is this the understanding and intent of the committee?

Mr. PELL. The Senator is correct. The definition should be interpreted to authorize a local education agency as eligible under the infrastructure title if the district consists of at least 90 percent Federal land as is the case for the Mineral County School District in Nevada.

Mr. REID. Also included in title XII, section 12004(a)(2), is a special rule stating that the Secretary of Education may reserve up to 1 percent of the amount appropriated under section 12013 to provide assistance to Indian schools in accordance with this title. I would like to clarify with the chairman whether this provision, as intended by the committees of both the House and Senate, would include former Bureau of Indian Affairs schools that were transferred to a public school district before 1960, but still serves its intended population: high concentrations of Indian students.

Mr. PELL. The Senator is correct. Schools such as those he mentioned would qualify under the section that the Senator specifically cited, section 12004(a)(2).

Mr. REID. Finally, I would like to clarify for the record that the Secretary shall award grants made available under title XII, section 12005(a)(6), on the basis of six criteria with the sixth category being any such other criteria as the Secretary may prescribe.

Mr. PELL. The Senator is correct. I foresee this sixth category as essential in allowing the Secretary to award grants to districts like Mineral County. In fact, I urge the Secretary in implementing this legislation to utilize criteria within this category to fund a school infrastructure project in the Mineral County School District in your State of Nevada and remedy the critical need for a new school there at Schurz.

Mr. REID. I thank the chairman for clarifying these provisions of the bill and for his support of our Nation's educational infrastructure. The Senator from Rhode Island has worked diligently and admirably to improve the standards for education and educational opportunities for students across the Nation.

Mr. PELL. I thank the Senator from Nevada for his kind remarks.●

HI-LO-L

● Mr. JEFFORDS. Mr. President, there is, in my home State of Vermont, a long tradition of patriotism and of caring for the land that many feel makes Vermont unique. This has just been well exemplified through the selfless act of a Vermont family living on a hill farm at the very center of our State.

Gary and Alice Lake and Dorothy Wathley have sold the development rights on their dairy farm to the State of Vermont. This will Insure that this handsome acreage, high in the Green Mountain foothills, will remain forever in farming.

This is well and good. But in addition, the land happens to lie in full view of the Vermont Veterans Cemetery, dedicated just a year ago. Vermont's is a military history stretching from the capture of Fort Ticonderoga, through the War of 1812, Gettysburg and Cedar Creek, to Manila Bay, Belleau Wood, Guadalcanal and Normandy, to the present day.

The new veterans cemetery commands one of Vermont's fine views, southward from its hillside location over the ancient hills and valleys. The farm, known as Hi-Lo-L, is the centerpiece of that view. By the generosity of these wonderful people, this farm will ever be a farm. And the final resting place of those men and women who have given so much to their State and Nation will ever hold a view of the best of Vermont.●

JAPANESE FINANCIAL MARKETS

● Mr. DASCHLE. Mr. President, as we evaluate the results of the recent negotiations with Japan and take up the Uruguay round implementing legislation, our focus will understandably be drawn to more traditional trade concerns. Nevertheless, international financial issues can have as significant, if not more significant, an impact upon our economy as these trade agreements and should not be overlooked.

Over the course of the 1980's, Japan quietly had become a leading creditor nation, a major player in United States domestic public and private debt markets, and a significant factor in American commercial real estate. Thus, when reports of financial scandals, collapsing stock and real estate markets, and a banking crisis in Japan raised legitimate concerns within United States financial circles several years ago, I introduced legislation that directed the Treasury Department to report to Congress the results of a study of Japanese financial markets and their implications for the United States. Given that financial dislocations in Japan could not help but have an impact on the United States, it seemed to me that the findings of this study would help the administration and Congress base policy in this area on a solid foundation of knowledge and understanding.

Events since the introduction of that bill have affirmed the importance of these issues. Japanese banks remain mired in problems comparable to the American savings and loan debacle. The Japanese real estate market has not recovered from its collapse. The Japanese stock market index hovers around one-half of its 1989 peak. And reform initiatives falter under political upheaval.

Meanwhile, American investment in Japanese securities has increased markedly over the past year. Among the leading investors are American pension funds and mutual funds.

Continuing Japanese financial difficulties and the importance of the economic relationship between Japan and the United States serve to reinforce the need for a comprehensive study of Japan's financial markets. Although the Senate likely will not be in session when the Treasury report is issued later this year, I would ask my colleagues—as well as the relevant officials in the White House, the Treasury Department, the United States Trade Representative's office, the Securities and Exchange Commission, and other executive branch agencies—to do some homework on Japan's financial problems while Congress is in recess.

First, I would encourage my colleagues and administration officials to take a moment to review Treasury's conclusions when they receive this important study. Second, I raise for consideration alongside the Treasury report five proposals for reform of the Japanese financial martets offered by a leading critic of Japanese financial practices. Ideas such as these, as well as the results of Treasury's study, could guide us in formulating United States objectives in future negotiations with Japan.

If adopted, these proposal reforms could help ensure that American investors enjoy adequate rights and protections for their investments in Japan. Three of the proposals would encourage Japanese stock market reform that would make that market more responsive to the forces of supply and demand. Specifically, they seek to: First, foster more competition in the Japanese brokerage industry; second, improve Japanese enforcement of existing securities and consumer laws in the securities industry; and third, encourage greater liquidity standards for continued listing of a stock on the exchange.

The reform proposals also would address the rights of American shareholders in Japanese corporations. With the increase in American investment in Japanese stocks, the proposals seek to ensure that American shareholders will enjoy adequate rights to participate in the management of Japanese corporations.

Finally, the proposals suggest reforms to the Japanese legal system to ensure that foreign investors can obtain fair and impartial arbitration of disputes with Japanese institutions.

These proposals attempt to address concerns about Japanese financial practices raised by events of the past few years. But, if adopted, their impact could reach beyond financial practices and help break down structural barriers that the United States has been attempting to address in other ways.

For example, United States manufacturers have complained about close intercorporate relationships in Japan as barriers to penetrating the Japanese market. It is my understanding that these kinds of relationships are often premised, at least in part, upon cross-shareholding relationships. One way to loosen those bonds, and the commercial linkages they foster, is through reform of the Japanese stock market,

I look forward to the opportunity to review the Treasury Department's report and hope that the next Congress will take a serious and timely look at the issues it raises. In the meantime, I would encourage my colleagues and our trade negotiators to consider the Treasury study and these reform proposals. I believe that they contribute to our efforts to strengthen policymaking on these vital issues.●

ISSUES CRITICAL TO FARMERS

● Mr. GRASSLEY. Mr. President, in anticipation of the 1995 farm bill, I would like my colleagues to have the benefit of a series which appeared earlier this year in the Cedar Rapids Gazette from Cedar Rapids, IA.

These thoughtful reports represent the work of three Gazette reporters: Marlene Lucas, rural affairs writer; Dale Kueter, staff writer; and David Lynch, Washington reporter. I am proud to submit them for the CONGRESSIONAL RECORD as they address issues critical to farmers, rural communities, and the economy generally in the upper Midwest.

[From the Cedar Rapids Gazette, May 1, 1994]

CASH CROP

(By Phyllis Fleming)

Federal farm subsidies are under attack. Critics hit them hard on several fronts: They cost billions in tax dollars each year, appear to help only one segment of the population and some programs "pay people to do nothing." They are incredibly complicated and not well understood—even by many farmers.

One thing that's clear, however, is that subsidies and price supports don't affect only farmers. They ripple through the entire economy—rural and urban.

That's especially true in Iowa, the second biggest recipient of farm subsidies in the country. Only Texas receives more.

Indeed, farm subsidies have been a significant cash crop in Iowa for over a half century. Last year, subsidies and farm disaster payments brought $1.2 billion to the state; in 1992, Iowa received $662 million in subsidies.

Although subsidies come in for most of the criticism, at $18 billion they are not the main part of the current $72 billion federal agriculture budget. More than half of that—$40 billion—goes for food stamps and other food assistance programs.

The current system of farm subsidies was born 61 years ago during the Depression. World Was II helped lock them into the system as a way of guaranteeing a stable and cheap food supply.

There has been general public support for the paternal politics that fostered their growth. Americans have long had a romantic notion about rural life and family farms.

Some of these notions are fading as farming becomes a bigger and bigger business.

And as farms get bigger the number of farmers shrinks.

Shrinking, too, is support in Congress and urban America for farm subsidies.

The subsidy system is being overwhelmed by the forces of international trade agreements and the pressures to cut the federal budget. Some experts, like Stanley Johnson of Iowa State University, predict the end of subsidies by 2000.

If payments to farmers survive at all, some say, it will be only in "green" money—rewards for protecting the environment.

"The idea of paying farmers to do nothing," says Coggon farmer Doran Zumbach, 44, "no longer has much support."

So what will it mean if, as expected, farm subsidies eventually end?

Will food and other prices climb?

Will more farmers be forced off the land?

Will more small towns wither along with implement dealers, sales barns and other farm-related businesses?

The 1995 farm bill, now being developed, may help provide some answers.

The Gazette will be taking a weeklong look at all these issues starting today.

TIMELINE

From the administration of George Washington to that of Bill Clinton, farmers have dealt with federal bureaucrats and agriculture policies. What shape will farm programs take in years to come? A look back suggests a wide range of possibilities.

1776: Declaration of Independence encourages development of agriculture by allowing settlers to move west. Exports freed from taxation by the British Empire.

1796: A National Board of Agriculture is created at the recommendation of President Washington.

1837: Patent office begins distribution of improved seeds and plants, the first federal effort to support improved farming methods.

1839: Congress provides $1,000 for collecting agricultural statistics.

1855: Pennsylvania and Michigan become home to the nation's first agricultural colleges.

1861: Civil War begins. Food demand—and farm prices—rise sharply. Producers push for more output and expand use of new horse-drawn machinery.

1862: The U.S. Department of Agriculture is established by President Lincoln. The Land Grant College Act provides sites for state agricultural colleges. The Homestead Act gives 160 acres to anyone who will live on it for five years.

1887: Legislation provides for federal funding of state experiment stations.

1889: USDA gains cabinet status.

1896: Rural Free Delivery of mail starts.

1910–14: Period of prosperity, which is later used as a base to set parity price supports from 1938 to 1954.

1914: World War I begins in Europe. Smith-Lever Act establishes the Cooperative Extension Service to bring the results of agricultural research to farmers.

1916: Federal Farm Loan Act provides for a system of 12 Federal Land Banks to be regulated by a Federal Farm Loan Board.

1917: The U.S. enters World War I. Concerned about food for the war effort, President Wilson sets minimum prices on wheat and provides price supports for hogs. New legislation funds a nationwide program of vocational education.

1918: World War I ends and so do wartime food production incentives, minimum hog prices and food distribution controls.

1920: Wheat price guarantees end. Farm prices drop sharply.

1933: As the U.S. slips into economic depression, President Franklin Roosevelt's New Deal moves to attack farm problems. The Commodity Credit Corp. (CCC) is created to handle "non-recourse" loans. That is, grain used as equity for government loans can, for the first time, be forfeited without penalty or payment of interest. Farmers who agree to maintain planting within newly created acreage allotments qualify for loan programs. The Farm Credit Administration forms to provide subsidized credit.

1934: First great dust storm begins in "Dust Bowl" of Great Plains.

1935: Declaring soil erosion a national menace, Congress establishes the Soil Conservation Service.

1936: The Supreme Court invalidates farm production controls established by 1933 legislation.

1938: Legislation is revised to comply with Supreme Court ruling. A new "parity price" formula is added to set price support levels. The objective is to bring back the good times farmers enjoyed in 1910–14 when there was a greater parity of income between farmers and non-farmers. Congress also establishes Federal Crop Insurance Corp.

1939: World War II breaks out in Europe.

1940: Roosevelt orders USDA to begin post-war planning to prevent another farm depression like the one that occurred after World War I.

1941: Lend-Lease Act approved, giving aid to Allies. USDA establishes price support program for hogs, dairy products, chickens and eggs at rates above market prices. Hogs were to be supported at not less than $9 per hundredweight. Japan bombs Pearl Harbor. Congress raises loan rates on basic farm commodities to encourage production.

1942: Price controls are put in place. Food rationing begins with sugar and is later extended to a long list of foods, including meat, fats, oils, processed fruits and vegetables and processed dairy products. Selective Service Act amended to provide deferment of farm labor.

1945: Surrender of Germany and Japan. U.S. food rationing ends on all products but sugar.

1946: Post-war period begins. Price controls end on all food products except sugar and rice.

1948: Parity formula revised to use most recent 10 years as a base. Price supports on non-basic commodities, including soybeans, turkeys, beans, dry peas and flax seed, are lowered from 90 percent of parity to 60 percent.

1950: Price supports on hogs, chickens, turkeys, long-staple cotton, peas and sweet potatoes discontinued. Korean War breaks out.

1951: Wartime economy returns. President Truman given authority to control prices. Acreage controls removed from 1951 and 1952 crops.

1953: War winds down, price controls removed, surplus concerns return. Secretary of Agriculture applies mandatory quotas on wheat.

1954: New farm program established to provide flexible price supports tied to stocks level.

1956: Soil bank established to idle land in an effort to reduce surplus production and cut erosion.

1958: Corn farmers vote in referendum against maintaining acreage allotments and having prices supported between 75 percent and 90 percent of parity. They vote instead for no allotments, with prices supported at 90 percent of the past three years or 65 percent of parity whichever is highest.

1959: Food stamp program authorized.

1961: Feed Grain Act approved, idles land from production in return for payments for conservation efforts. Farmers set aside 25 million feed grain acres and receive payment-in-kind (PIK) certificates.

1963: Wheat growers vote down mandatory quotas in referendum. They're given the option to divert a percentage of their acreage allotment in return for a direct payment.

1965: Cropland Adjustment Program introduced with five- to 10-year land retirement contracts.

1970: New agricultural act introduces acreage set-aside requirements to qualify for program benefits. Set-asides to be maintained in soil conserving cover crops.

1973: First use of target prices based upon cost of production rather than a parity formula.

1974–76: Period of expanding exports. Market prices remain above program targets.

1977: Establishment of Farmer-Owned Reserve, which provides for three- to five-year grain storage loans. Acreage allotments replaced with set-asides and Normal Crop Acreage (NCA) concept created. Set-aside for each crop must maintain soil conserving cover crop. Total plantings and diversions must not exceed NCA.

1980: President Carter embargoes grain sales to Soviet Union. Target prices set at $3.63 a bushel for wheat and $2.35 a bushel for corn.

1983: Farmers receive PIK certificates to reduce acreage. Serious drought hits and production drops sharply.

1985: New five-year farm legislation scales back target prices over five years. Loan rates lowered and export bonuses provided to expand markets. In-kind certificate payments used to move surpluses—CCC stocks and crops held under loan by farmers) into market channels. Ten-year Conservation Reserve Program established.

1988 and 1989: Disaster relief provided over and above crop insurance payments.

1990: New farm bill authorized wetland reserve program.

1991: Reduced payment on corn acres by 15 percent.

1993: Start of major disaster payments for flood losses.

BOTTOM LINE NOT ROMANTIC

(By Dale Kueter)

WASHINGTON, IOWA.—Ezra and Wanda Smith bought a house in town eight years ago. "It's a nice house," say Ezra. But they never moved into it, instead retiring on their farm along Highway 1 on the road to Kalona.

It's hard to get off the soil," say Ezra, 77, fully admitting he's the one who doesn't want to move.

There has long been a romantic notice about farming, about rural life and family farms. Mostly these are urban sentiments, void of sweat and hard times. But most farmers, too, hold a kinship with the soil, a love of seeing things grow.

Some of these images of farming are fading fast as fewer farmers work bigger farms. Somewhere between those who envision farming as a Norman Rockwell painting and those who size it up with bottom-line Wall Street savvy lies the present state of agriculture.

Nowhere does this changing picture of agriculture come more into focus than on the issue of farm subsidies, a staple on American farms for six decades. Fewer farmers translates into less political clout, which has led to declining subsidies and now the possibility of no subsidies at all.

Yet farm subsidies are important to Iowa's economy. Aside from Social Security and Medicare, subsidies have been the main pipeline for federal dollars coming back to the state—$1.2 billion in subsidies and disaster payments in 1993; $662 million in 1992.

Farm subsidies were born out of economic crisis 61 years ago as part of President Franklin Roosevelt's New Deal. Critics called it economic tinkering. There were 7 million farms then. Today, with fewer than 400,000 farms, those opposed to dumping the farm subsidy machinery are being overwhelmed by the forces of international trade agreements and pressures to cut the budget.

Congress has already acted to eliminate subsidies on honey, wool and mohair. However, eliminating subsidies is easier said than done. The honey subsidy, because of confusing congressional procedures, will buzz to new life in fiscal 1995.

Says one U.S. Department of Agriculture official: "Congress didn't know what it was doing."

SUBSIDIES TO BE LEFT ALONE?

Not all agree that farm subsidies are about to be plowed under. Wayne Rasmussen, retired U.S. Department of Agriculture (USDA) historian, says subsidies have been shrinking during the last decade, "and Congress may just leave them alone. They will see the ag budget contains a lot of money for food stamps and comparatively little for subsidies, and say, 'Let them go.' "

The scope of farm subsidies has long been exaggerated. The fiscal 1994 USDA budget is $72 billion, or 4.8 percent of a $1.5 trillion federal budget. Of that $72 billion, $40 billion goes for food stamps and other food assistance programs.

This year's USDA budget has $18 billion for the Commodity Credit Corp., which, minus administration, constitutes the primary source for farm subsidies. Another $1.7 billion goes toward the Conservation Reserve program, a plan that idles hilly cropland. Some 1.2 billion more goes toward other conservation programs.

There are older farmers—and sons and daughters of older farmers—who sing the praises of farm supports. They remember corn prices so low that they burned corn instead of wood. They remember spending summer without shoes. "I have a warms pot in my heart for FDR's programs," says Ezra. "It allowed my dad to sell corn (government loan) at 45 cents a bushel, gave him some cash flow and allowed him to keep on farming."

Today, farm income has improved dramatically along with farm productivity. In 1985, the average income of farm households—even though nearly half is from off-farm sources—surpassed the average income of urban households.

"It's hard to convince non-farm people anymore that they should be taxed (for subsidies) if farm household income is higher," says Stanley Johnson, an Iowa State University economist and adviser on congressional farm policy. "They may be convinced to help the low-end farmer, but that requires more targeting of assistance. Most government payments are going to large farmers, those with annual gross sales of over $250,000."

Coggon farmer Doran Zumbach says about one-third of farmers are "doing well," while another one-third are "getting by" and a bottom third are "doing poorly."

While greater productivity boosts income, ISU's William Edwards says most farmers maintain income levels through expansion. "They are running their equipment over more acres. Larger and larger farms make the difference.

American farmers have always fed the nation and then some. Surpluses have been the offspring of farmer productivity. While some policy-makers want to put the brakes on production, even removing marginal lands permanently from crop growing, others see American land as an asset to supply the world.

ISU's Johnson says the old farm subsidy pillars—food security, price stability and maintenance of farm income—are gone. Price protection, he says, can be achieved through the futures market. An adequate food supply is ensured by international markets, he claims.

Urban consumers, says Rodney Leonard, executive director of the Community Nutrition Institute in Washington, DC, have less interest in continuing farm subsidies "because 90 percent of it goes to big farmers." They have more interest in healthy foods "and they are willing to pay a premium price."

NEED FOR A SAFETY NET?

Many, like Iowa Secretary of Agriculture Dale Cochran, argue that the nature of farming, with its peculiar reliance on fickle weather, requires some sort of publicly financed safety net. There is even stronger support for the idea that the costs of conservation—terraces, grassways or idling of land—should be shared by all.

"I got a subsidy check in the mail today," says Ezra, whose 120 acres are rented on a 50–50 share basis. "Sure, I'm glad to get it. Some think it's all a big giveaway, but it's helped stabilize things, and it's good for younger farmers.

Ezra began farming in 1938. "For a good many years we'd be just as poor at the first of the year as the year before, but we built up net worth. If I had to do it all over, I definitely would farm. I liked all of it. We never put in just eight-hour days. But it's an enjoyable lifestyle. I just wish I could still be out there doing it."

SUBSIDIES

Top receivers of subsidies in 1992:

1. Texas—$1,158,606,607, much of it from cotton and rice.
2. Iowa—$662 million including $449,566,621 in corn deficiency payments, the highest of any state.
3. Kansas—$591 million including $250 million in wheat deficiency payments and $124 million in corn deficiency payments.
4. Illinois—$481 million.
5. Nebraska—$477 million.
6. North Dakota—$443 million.
7. California—$430 million.
8. Minnesota—$422 million.
9. Arkansas—$410 million.
10. Montana—$298 million.

Source: USDA.

INCOME

Farm income has not come close to keeping pace with inflation.

In 1940, according to Iowa State University economists, Iowa farms averaged $27 an acre in net income.

In 1992, an acre had net income of $70. In that period, inflation rose 886 percent, making that $27 worth $239 today.

WITHOUT SUBSIDIES, IOWA'S ECONOMY WILL SUFFER: COCHRAN

Dale Cochran, Iowa secretary of agriculture, believes if farm subsidies end, "and they are not replaced by new programs to stimulate the farm economy, there will be a major impact on Iowa's economy."

Cochran says more than half of Iowans gain income directly or indirectly from agriculture.

"So when ag falters, it's quite an effect on the state. That's the thing people need to understand."

He says the 1980s farm recession was proof of that. Farm receipts account for about 8 percent of Iowa's economy.

A Democrat, Cochran acknowledges that farm subsidies are likely to be eliminated.

Farmers, he says, will have to change with the times.

"Farmers have been an independent lot," says Cochran, who owns a 400-acre farm near Fort Dodge and has participated in subsidy programs.

"I know. We used to get together for threshing and similar chores. Then as we all got our own machinery we became very independent."

"Just as we worked together in production, now we have to work together in marketing. Farmers have become master producers. Now they must become master marketers."

FARM FACTS

Iowa farms numbered 96,543 in 1992, dropping from 105,180 in 1987.

Average size of an Iowa farm was 325 acres in 1992, an increase of 24 acres since 1987.

Farms of 1,000 acres or more grew in number from 3,742 in 1987 to 4,733 in 1992.

Farms with 180 to 4599 acres decreased from 39,071 in 1987 to 33,988 in 1992.

Farming was the principal occupation of 66,900 Iowans in 1992. That's 8,394 fewer than in 1987.

43,610 Iowa farms raised cattle and calves in 1992, down from 49,469 in 1987.

31,790 Iowa farms raised hogs and pigs, down from 36,670 in 1987.

BIG CASH CROP

Farmers are about to weather the end of an era. Sixty years of farm subsidies are about to be shifted to another form, if not reduced or ended entirely. These changes will affect the rest of us, not just because we all eat, but because we live in Iowa. Only one other state, Texas, receives more farm subsidy dollars than this one.

The public has long had romantic notions about farming and rural life and family farms, as pointed out in a week-long series beginning in The Gazette today. The images are fading as fewer farmers work bigger farms. One of many results is declining clout, in Congress and in competition with urban America: When subsidies began in the 1930s, 10.6 percent of the gross national product came from the country's 7 million farms; farmers represented 25 percent of the population. Today, farm crops and livestock account for 2.8 percent of the gross national product, which is generated by 400,000 farms; farmers comprise less than 2 percent of the nation's population. Consequently, as a means of reducing federal spending and the national debt, farm programs make an easy target.

As Coggon farmer Doran Zumbach laments, "There are about 2 percent producers

in this country and 100 percent eaters. That tells the political clout tale."

But don't expect the end of subsidies to either erase your tax burden or to leave Iowa unmarked.

As an overview story in today's Gazette points out, the scope of farm subsidies has long been exaggerated. Subsidies account for $18 billion of the current $72 billion agriculture budget. More than half the ag budget—$40 billion—goes to food stamps and other assistance programs. Still, on the receiving end, farm subsidies have been a significant Iowa cash crop for a half century: Subsidies and farm disaster payments brought $1.2 billion here last year; Iowa received $662 million in subsidies in 1992. Some economists say most government payments go to farmers whose gross annual sales exceed $250,000—another blemish on the romantic image of farming. Even so, the economies of many small towns across Iowa will likely be hurt first if dollars in circulation are reduced.

And even if crop subsidies are modified or reduced, society will likely retain, if not expand, its participation in conservation costs. That's only fair: Taking land out of production costs owners money. Expect the Conservation Reserve Program ($1.7 billion), wetlands reserve ($1.2 billion) and other programs to continue.

What else lies ahead? A coalition of Iowa farm groups has developed a plan that would assure farmers some support in years of bad prices or poor weather. The fact that those groups could work together is heartening. If the plan is adopted, farmers would have more freedom to decide for themselves what crops to plant and how many acres. Similar results were seen in New Zealand, where farm subsidies were dropped nine years ago and where both land and crops are now priced more realistically.

Whatever happens, you should know something about it. It's a part of your world. And The Gazette will bring that part of your world a little closer between now and next Sunday.

FARM PROGRAMS, SUBSIDIES CONFUSE E. IOWANS

(By Dale Kueter)

Add to the list of federal issues that baffle Iowans—things such as health care reform and the actions of the Federal Reserve Board—the complicated machinery of farm subsidies.

In conjunction with preparing this series of stories, The Gazette's research department sought opinions on farm subsidies from farmers, and small-town and urban people throughout Eastern Iowa. One-third of those contacted decline participation because of a lack of knowledge on the subject.

"This is much higher than normal," says Jeff Wolff, research director. "Most surveys we conduct have a refusal rate of between 5 percent and 10 percent."

Lack of understanding about farm subsidies is pervasive. During interviews for the series, it became clear that farmers and bureaucrats alike were befuddled about parts—even significant portions—of federal programs.

The 308 people who participate in the survey were asked to assess on a 1 to 5 scale, with 1 meaning "nothing" and 5 meaning "a lot," their knowledge of farm subsidy programs. Farmers rated themselves at 2.7 on average; urban residents, 1.9; and small-town residents, 2.

In general, respondents believe farm subsidies are important to Iowa. However, if eliminating them would reduce the federal budget, a majority would favor it. That includes 54 percent of urban residents, 54 percent of small town residents and 51.7 percent of farmers.

When asked to estimate 1993 subsidies coming into Iowa, 40 percent said they didn't have any idea. Given a range of choice, 31 percent pegged the amount at about $60 million. In reality, Iowa farmers received more than 10 times that amount.

The $60 million guess was the main choice by farmers as well as small-town and urban residents.

However, when asked where most farm subsidies go, about two-thirds in each group said "big farmers," the correct answer.

See accompanying charts for details. The survey, which has a 5.8 percent margin of error, was taken in mid-April. All respondents were over age 21.

SMALLEST CUT OF ALL

(By Marlene Lucas)

It's no wonder consumers have a hard time understanding why they should care whether farmers get subsidies.

Looking at the food on grocery store shelves, they see little change in the prices they pay even though farmers are watching commodity prices rise and fall.

"Prices in the grocery stores are cushioned from the prices farmers get by all the processors in between," says Dennis Dunham, an economic researcher for the U.S. Department of Agriculture (USDA) in Washington, D.C.

"The price of grains is a small portion of the final selling price of bread. Farm prices can be quite volatile and not affect the price of the final product," he says. "A 3 to 4 percent change in the price of a bushel of wheat is nothing. It's a 3 to 4 percent change in price at the retail level that we think is significant."

And as has been pointed out many times, those providing the box get more money than the farmer who grows the grain used in the cereal in the box. That $1.46 box of corn flakes sends only 9 cents to farmers, says the USDA in 1990 figures.

Additionally, government officials may seem to talk out of both sides of their mouths when they discuss farm subsidies. In one breath, they say subsidies benefit consumers by keeping food cheap. In the next, they say subsidies support farmers.

They say farm programs are needed to control the overall supply of food. And yet, it's clear that if U.S. farmers reduce their corn crop to raise their prices, foreign corn growers will supply the markets with cheaper corn.

They say subsidies are needed to stabilize the rural economy, but on the other hand, fiscal responsibilities must be met by reducing subsidies.

Two of the largest subsidy and/or price support programs with the most potential to affect consumer prices are also the two that Iowa farmers benefit from the most—feed grains and dairy.

We'll look at feed grains today; dairy tomorrow.

Grains grown in Iowa that are part of the program include corn, sorghum, barley, oats and rye. Soybeans are not a subsidized crop.

The earliest form of the feed grains program was initiated in 1933 during the Depression. Prices were low and farmers had a crop surplus, says Phil Sronce, an analyst for the USDA.

[From the Cedar Rapids Gazette, May 3, 1994]

SENDING COWS TO SLAUGHTER

(By Dale Kueter)

EARLVILLE.—On July 6, 1986, it took Vern and Margaret Bockenstedt a couple of hours to milk 38 Holsteins and do other farm chores. The next day, chores took only 10 minutes.

In between they had gotten out of the dairy business and had been paid $52,000 by the federal government to do it. As part of the agreement, Vern put "X" marks on jaws of the cows, a sign that they were destined for slaughter.

Under the program, entire herds had to be sent to slaughter or exported to another country. Like most, the Bockenstedts sold their herd to a packinghouse.

"Did you ever wake up in the morning with a headache and not feel so good?" asks Vern. "That's the way I felt the first morning. You do something all your life, and it bothers you. I went out and bought some beef cows."

In Iowa alone, the dairy termination program, as it was called in the 1985 farm bill, sent 51,000 dairy cows, heifers and calves to slaughter over a two-year period. It cost the government nearly $53 million.

Nationwide, more than a million cows—9 percent of the total—and 590,000 heifers and calves were sent to slaughter. The Federal government paid $1.8 billion for the dairy termination program; however, 30 percent of the cost was assessed to dairy farmers still in business. The goal, of course, was to reduce milk production so that the government would not be forced, under the dairy price support program, to buy more surplus cheese, butter and dry milk.

Did it work? According to the Government Accounting Office (GAO), the government will save an estimated $8.5 billion by 2001 and consumers will save $3.3 billion in that time.

The GAO report, issued a year ago, actually underestimated the decline in government surplus purchases. In the early 1980s, surplus purchases were in the 11-billion-pound range annually. Now purchases are about half that.

The Bockenstedts and 14,000 others who sold their herds agreed to keep themselves and their facilities out of dairy production for five years. Bockenstedt felt bad when a neighbor, after his dairy barn burned down, asked to use theirs. He had to tell him no.

"I didn't want to be mean, but I wasn't allowed to do it," says Vern.

Bockenstedt, 58, could have returned to dairying in 1991. Like most who sold their cows, he didn't. He has since retired from farming and does construction work.

The GAO in 1991 surveyed 1,145 farmers who disposed of milk cows. Fifty-five percent said they definitely would not return to dairying, and another 28 percent said it was unlikely.

DAIRY TERMINATION

The Dairy Termination Program in the 1985 farm bill allowed female dairy cows, heifers and calves to be slaughtered over a two-year period. The goal was to reduce milk production.

County	Farmers' bids to sell herds	Bids accepted by ASCS	Amount paid to farmers
Allamakee	119	34	$2,605,500
Benton	15	4	213,710
Black Hawk	22	15	1,096,111
Buchanan	44	8	356,300
Cedar	13	12	739,760
Clayton	176	50	3,777,450
Clinton	32	16	1,406,580
Delaware	92	36	2,639,280
Dubuque	158	62	6,032,820

County	Farmers' bids to sell herds	Bids accepted by ASCS	Amount paid to farmers
Fayette	103	32	2,065,160
Iowa	14	8	304,660
Jackson	85	36	2,117,000
Johnson	13	4	276,280
Jones	37	19	1,036,740
Keokuk	5	5	264,540
Linn	35	15	898,060
Marshall	8	4	211,750
Muscatine	13	7	413,130
Poweshiek	4	2	200,160
Tama	13	2	50,570
Washington	4	4	416,080
Winneshiek	204	57	3,819,740
Iowa	1,951	803	52,776,000

Source: U.S. Department of Agriculture.

DAIRY PRODUCERS GROUP DESIGNS NEW PLAN TO EXPORT SURPLUS MILK

(By Dale Kueter)

Last month officials of the National Milk Producers Federation walked into the office of Secretary of Agriculture Mike Espy. They were hoping to make some political hay with an idea they claim would yield both higher dairy income and government savings.

So far, it appears Espy and his U.S. Department of Agriculture colleagues have been skeptical.

The federation, the umbrella group for dairy cooperatives, is hoping to get dairy's foot in the legislative door this year—before Congress settles on the 1995 farm program.

Its plan is known as "self-help." The idea would be to open more foreign markets for U.S. dairymen through a program financed by producers themselves.

"Self-help would give us a bridge to compete in world markets," says Gary Hanman, chief executive officer of Mid-America Dairymen, a cooperative based in Springfield, Mo.

"All it says is let dairy farmers step forward, and through a national board like they have in New Zealand buy surplus products we don't use domestically. The board would then be able to sell the surpluses anywhere."

The board's export marketing efforts would be financed with a 10-cent-per-hundredweight assessment on dairy farmers. Even though proceeds from the assessment would in part be used to lower prices on the international market, Hanman and other self-help boosters believe such a plan would be legal under new GATT subsidy restrictions.

Steve Eure, federation director for legislative affairs, says the plan would buy up to 2 billion pounds of dairy products that the government would have to buy currently.

By lowering the government's surplus-buying obligation, Eure says "we can save (the federal treasury) $150 million a year and make more money for farmers."

The USDA thinks those estimates are optimistic. One top agency official also believes that over time GATT will not only prohibit the present dairy export enhancement program but rule out the self-help concept.

Marjorie Foust, assistant professor and Extension dairy specialist at Iowa State University, says there is a danger the present milk support program could evaporate if "self-help" is adopted.

She says there are great uncertainties about what will happen with any replacement policy. "The devil we do know may be better than the one we don't know."

But Hanman doesn't foresee any change in the dairy price support program—at least in the upcoming farm bill. "We would like to see the support price increased, but the flip side is a federal ag policy not driven by need but by budget.

"Even though we have lowered (federal) costs of the dairy program from $2 billion to $200 million, we still have exposure. To be a safety net, the support price should be raised beyond (the present) $10.10. People tell us it takes $12 to $12.50 to stay in business."

COMPLEX MACHINERY OF MILK PRICES

(By Dale Kueter)

Years ago it was simple. The dairy farmer hauled his milk to a nearby town where he bartered with the customer over the price.

Today, milk from cows just outside Cedar Rapids may end up in St. Louis, and milk in Cedar Rapids stores may come from cows hundreds of miles away. The price farmers get—which affects what consumers pay—filters through government machinery so complicated that few understand it.

Dairy policy and regulations are distinct and far more complex than those affecting grain and other commodities. Milk, unlike corn, cannot be put into storage until prices improve. Price stability for a product that pours into the marketplace every day has long been the goal of dairy interests.

Supply and demand has a role in what consumers pay for milk, but price also is influenced by three government programs:

Federal price supports: The 1990 farm bill sets the milk support price at $10.10 per hundred pounds. Government, through the Commodity Credit Corp. (CCC), is willing to buy what the free market doesn't consume in an effort to keep the price paid to farmers above $10.10. The market price today is high enough—above $13—that the government is purchasing little surplus.

Milk orders: The average price farmers receive for milk in any given locality is established by a system known as federal milk orders. Two-thirds of the nation, including Iowa, are covered by the orders.

Dairy export subsidy: The government, through subsidies to brokers, allows U.S. dairy products to cost less in the export marketplace. This practice will end with new international trade agreements.

SUPPORTS' UP-AND-DOWN HISTORY

Federal milk price supports were begun during World War II under wartime legislation to stimulate production. They became a permanent part of agriculture policy in 1949.

That year the milk support price was $3.14. Over the years it was increased several times until it peaked at $13.10 in 1980, a price that spurred production and created major surpluses the government had to buy.

The USDA during the Reagan-Bush era sought to lower government supports and production. It paid farmers to sell their entire herds. Then during the cost-cutting clamor of the 1990 Budget Reconciliation Act, Congress and President bush decided dairy farmers should pay back 1 percent of costs for dairy supports. While a drop in the bucket toward balancing the budget, dairy farmers must return $700 million over five years ending in 1995.

However, that same year the dairy lobby convinced Congress that farmers who do not increase milk production from one year to the next should get that money back.

So for fiscal 1993, the CCC collected $202 million in assessments and refunded $51 million. The assessments lowered the net cost of the dairy support program to $253 million.

The CCC collects the money with assessments on farmers' checks ranging from 11.25 cents to 16 cents or higher per hundred pounds. The size of the assessment depends on how many farmers seek refunds.

The CCC continues to buy surplus milk products for two reasons—to keep raw milk at or above the $10.10 support level and to provide food for various federal programs. Currently, it pays 65 cents a pound for surplus butter, $1.03 for dry milk and $1.12 for cheese—figures all below today's market price.

The surplus products are used for school lunch programs and as assistance for needy families. The government at times has also returned some of its purchases to the market, which has a depressing impact on prices. In the mid-1980s it bought so much surplus cheese it had to give it away.

The 1990 farm bill also established trigger levels for adjusting the milk price support. Twice a year—Aug. 1 and Nov. 1—the USDA estimates how much dairy surplus it expects to buy in the next year.

If estimates are less than 3.5 billion pounds, the support price is increased, sending a signal to farmers to produce more milk.

If the estimate is between 3.5 billion and 5 billion pounds, the situation is considered stable and the price is not changed.

If the amount is above 5 billion pounds, the price support is lowered, signaling farmers to cut production. However, the price support cannot be cut below the $10.10 base.

For that reason last November, even though the 1994 dairy surplus was estimated to reach 6.5 billion pounds, the support price didn't change.

The law also provides that if surpluses exceed 7 billion pounds, dairy farmers would be assessed to cover the costs. However, that has never occurred.

ORDERS DICTATE PAYMENTS

In 1937, Congress approved laws establishing the federal milk marketing system. This process is separate from price supports.

Cooperatives and other milk handlers are told through monthly federal milk marketing orders what they must pay farmers. Farmers in a certain area are paid the same minimum price based on a formula.

The system, which some call antiquated, is based on Minnesota-Wisconsin market prices, called the M-W, for Class B milk—milk destined to become cheese. Historically, those two states have been the major producers of milk. Eau Claire, Wis. is designated as the center for M-W prices.

The M-W market price for Class B milk plus $1.04 a hundredweight differential price for Class I drinking milk are combined to produce the base price and that's the price paid Eau Claire area farmers. The differential price increases in proportion to distance from Eau Claire to reflect hauling costs.

For instance, at Dubuque the differential is $1.36; in Iowa City, $1.48. Hence, if a Monticello farmer sells his milk to a Dubuque plant, the minimum he gets is 12 cents a hundredweight less than at Iowa City.

Butterfat and protein content boost the total price received.

The system was established initially to stabilize prices received by farmers and encourage dairy production in places far from Minnesota and Wisconsin. The southeast United States has long been a milk-deficient area.

With no pricing order system, it is argued, some surplus Wisconsin and Minnesota milk would be hauled to Iowa City or Florida and put the squeeze on local farmers.

In reality, say experts, hauling costs are slightly higher than the differential allows. Hence, a Wisconsin tanker taking milk to Florida for the fluid market usually cannot compete with Florida prices. The only reason Florida buys milk from Wisconsin is because of shortages in local production.

INFLUENCING GLOBAL MARKET

Export subsidies are also part of the federal government's effort to boost U.S. dairy

prices. World prices right now are roughly 5 to 10 percent lower than U.S. markets. Brokers seek bids for surplus U.S. dairy products from foreign buyers, then present the offer and subsidy needed to the USDA's Foreign Agriculture Service. If approved, the deal goes forward.

In 1992, the Dairy Export Incentive Program amounted to $24.2 million. Last year the subsidy swelled to $134 million.

One USDA official said the 1993 export allocation was set during the 1992 presidential campaign. However, the 1994 allocation announced last month is about the same.

Early each year the government sets export allocations for countries. For example, 25,000 metric tons of powdered milk is allocated to Mexico this year under the subsidy program.

Both the North America Free Trade Agreement and General Agreement on Trades and Tariffs mandate substantial reductions in government subsidies in coming years.

MISUNDERSTOOD MILK

(By Dale Kueter)

DELHI.—The Holsteins file into the milking barn as methodically as kindergarteners coming in from recess. There's Molly followed by her offspring, Mol and Molla. There's Crunch and Carmel. They all know where to go.

Every morning, every night, 365 days a year, Nancy and Larry Shover milk nearly 70 cows. They have one of the top-producing herds in northeast Iowa, averaging 22,000 pounds of milk per head annually.

Every day they send about 600 gallons of milk to the Mid-America Dairymen cooperative transfer plant in Marion. From there, the milk is trucked to Roberts Home Town Dairies in Iowa City where it is processed, bottled and sent to area stores.

"We get up about 5:30 every day," says Nancy. She and their herdsman usually handle the milking. Setup, milking and cleanup is a 6 to 9 routine. Larry mixes the silage and grain.

Dairy farming is a demanding business. Not only must cows be milked twice a day, but the product cannot be held until market prices get better. The Shovers, as members of the co-op, have an ongoing contract with Mid-America.

The Shovers usually get top price for their grade A milk, currently $13.26 a hundred pounds for 3.5 percent butterfat content.

Like most farm programs, dairy price supports began more than a half a century ago and are complex. Contrary to what many believe, there is no direct federal subsidy payment.

Instead, the government sets a support price—currently $10.10 per hundred pounds. To maintain prices paid to farmers at or above that point, the Commodity Credit Corp. (CCC) buys cheese, butter and non-fat dry milk—ideally in quantities that will stimulate the market, but not lead to vast surpluses.

The CCC also acts as a consumer, using the surplus dairy products for government programs such as school lunches.

MISUNDERSTOOD MACHINERY

How such government economic machinery works is widely misunderstood (see dairy regulations story). And the whole picture is complicated by international trade considerations.

"Farm support programs provide a price floor," says Larry, 46, a 1969 graduate of Iowa State University, "but they also serve as a ceiling. While the government buys excess dairy products, these surplus commodities always hang over the market."

Is it time to dump the federal dairy program and put farmers and milk drinkers at the mercy of the free market?

"If we could be assured of fair competition internationally," replies Larry, "I'd say let's go with a free market system."

"The objective of the dairy price support program has been to provide support at a level that will assure adequate supplies," says Charlie Shaw, a dairy economist in the U.S. Department of Agriculture. "We believe the program has done that, although sometimes we've had too large a surplus.

"Assuring an adequate supply is really all the support program ought to do. When the program has been used in that manner historically, we've had a reasonable supply-demand balance. It's been mainly in those periods," he says, "when the program was used for income enhancement instead of price stability where we saw more farmers come into dairy, with resulting surpluses."

POLITICS PLAYS ROLE

Translate Shaw's statement about "income enhancement" to mean politics—manipulating the support base for political rather than economic reasons. And both political parties have done it.

"Right now we've got a market price that is well above the support price. We're not buying much surplus." Economically, says Shaw, the dairy industry today may not be too far off from what it would be under a free market system, "assuming all other countries did the same.

Last year the government's net cost for the dairy price support program was $253 million. In 1992 it was $232 million. For 1983, the cost peaked at $2.5 billion (see chart).

The Carter Administration boosted milk supports, adjusting them twice annually for inflation. The price floor hit a maximum of $13.10 per hundred pounds in 1980, spurring unprecedented milk production. By 1984, the government's cost just for handling and storing surpluses zoomed to $79 million.

To bring down surpluses and government costs, the Reagan administration launched cheese give-aways and paid farmers to get out of the dairy business (see accompanying story).

PRODUCTION ON DECLINE

Milk production has taken a downward splash—declining 1 percent just in the last year. The number of cows on farms is nearing 8 million, some 125,000 below September of 1992.

The government does not purchase fluid milk but rather what is called manufactured products. It pays 65 cents a pound for butter, $1.12 cents for American cheese and $1.03 for dry milk. Right now, it is buying no cheese and little dry milk. Butter in storage—about 216 million pounds—is half the amount of a year ago.

While it's hard work, dairying has its positives. There's a regular paycheck. Most Iowa dairy farmers are able to grow their own forage and grain.

BUILDING NET WORTH

Like many dairy farmers, Nancy and Larry Shover have accumulated a sizeable net worth. They are not poor. Neither do they live in a $200,000 house nor drive a Cadillac.

With nearly 70 cows, their dairy paychecks may look like milk and honey. But there are plenty of expenses. And the $13.26 price is lowered by 11 to 16 cents in a federal assessment (see government machinery story), 15 cents to promote dairy products and hauling costs.

Earlier this year, the Shovers paid 48 cents per hundredweight for hauling. That has dropped to 7 cents to match offers by a Wisconsin dairy plant looking for new customers in northeast Iowa. "Farmers must build net worth," Larry emphasizes. "if you don't grow in net worth you have no reservoir to withstand the rough years. Basically, net worth is your ticket for a bank loan and your retirement plan."

"It's a stable way of life," says Nancy. "There is never any problem about being fully employed," she jokes. "It is labor demanding, but that's a good way to raise a family. There are chores for youngsters."

The Shover's son, Todd, is a senior at Iowa State University. He is majoring in dairy science.

"We would like him to come back and be part of the farm," says his mother. "But he needs to make that decision. If you don't have farming in your heart, there is not much fun in getting up at the crack of dawn and working late hours.

"At Christmas, he said he would like to become a doctor, a pediatrician. He will take some courses at Drake this summer and take medical school entrance exams (at the University of Iowa) in August."

Whatever Todd decides is fine with Larry and Nancy. They plan to stick with dairy farming. They like cows. "They are docile animals," says Larry. "Each has a distinct personality."

FARMERS NOW IN BUSINESS AS EDUCATED ENVIRONMENTALISTS

(By Marlene Lucas)

Farmers are no longer farmers. Now they are in business—and their business is farming.

"The old adage of the farmyard with chickens, sheep and cows is gone," says Stan Herr, regional manager for the Iowa Farm Bureau Federation, based in Marion. "Those days are long gone. It's a great tradition, but the use of technology has changed the farmer as well as anyone else."

The typical farmer is "extremely (well) educated," he says. Many have college degrees, and most have attended college.

Farmers must know the Environmental Protection Agency regulations regarding their use of chemicals. They must keep detailed records of the amount they use, the way the wind was blowing and the equipment used during application.

"They're environmentalists. No one is more concerned about the environment than farmers nowadays. Water quality is their main concern, and they get picked on over water quality and the chemicals they use. Farmers in the country are drinking water, too," Herr says.

City people driving down country roads see a farmer driving a big new tractor and assume he's wealthy, he says. They don't consider the farmer's debt, and "its a major debt."

Farmers are taxpayers, too. They pay an average of $18 per acre and could easily face a $9,000 tax bill every six months, he says.

The lifestyle of the farmer is often envied by others as the ideal way to have lots of free time. Herr points out that Rockwell employees get 11 paid holidays a year, have two weeks off at Christmas and get several weeks of vacation.

"A farmer's work doesn't stop on the Fourth of July. He's got to fee the livestock and milk the cows every day," he says. During busy times, farmers will work 18-hour days.

As for those city cousins objecting to paying farm subsidies, "we are trying to work

with them. We are not the bad guys. We're getting low prices for our products, and the profit is low," he says.

"Most farmers would like to do without a farm program. The reason we have cheap food is the government subsidizes food production. If it was market driven, we could get rid of the program and get a fair market price for our products," he says.

EASTERN IOWA FARMS

[Eastern Iowa counties in 1993: number of farms, land in farms and average size of farms]

Counties	Number of farms	Land in farms acres	Average size acres
Allamakee	1,020	369,300	362
Benton	1,370	429,700	314
Black Hawk	1,220	305,200	250
Buchanan	1,270	344,500	271
Cedar	1,120	349,800	312
Clayton	1,590	463,300	291
Delaware	1,360	346,000	254
Dubuique	1,570	345,700	220
Fayette	1,440	440,500	306
Iowa	1,010	357,500	354
Jackson	1,290	375,500	291
Johnson	1,300	232,000	248
Jones	1,110	346,600	312
Keokuk	980	353,000	360
Linn	1,600	381,200	238
Louisa	600	230,300	384
Powershiek	990	355,200	359
Tama	1,330	428,800	322
Washington	1,100	340,500	310
Winneshiek	1,550	416,800	269

Source: Iowa Agricultural Statistics.

BENEFITS OF BEES—HONEY SUBSIDY HELPS KEEP PRICES OF OTHER PRODUCTS LOW

(By Marlene Lucas)

MONONA.—Many consumers can take honey or leave it.

In fact, they probably would be quick to say that ending the annual subsidy of $22 million would be a good way to save money.

But they are likely to pay more at the grocery store, not necessarily for honey but for other food products, if that happens and beekeepers go out of business.

"Bees are pollinators, and you need bees to have seeds," says Dave Fassbinder, a full-time honey producer in Clayton County. "If there were no bees to pollinate alfalfa, which is already expensive, it would be even more expensive."

Costly alfalfa would drive up the cost of feeding cows, which could drive up the price of hamburgers and ice cream. Bees also are invaluable as pollinators of the California almond and Florida citrus crops.

"If the honey (subsidy) goes, beekeepers will have to raise fees for pollination and make things more expensive. It will be a whole different way of beekeeping," he says.

POLLINATION SERVICE

By maintaining bee colonies on area farmland, Fassbinder provides free pollination services for a Waukon farmer who grows strawberries and melons and a Postville farmer who grows crown vetch. Other colonies are spread out from north of Waukon and north of Garnavillo to Postville.

His payment is the honey he collects.

"I don't think the melon farmer and crown vetch farmer could afford to pay me for pollination services. I don't feel it's ethical (to ask for payment) as long as I'm getting good crops of honey, especially with the support price. So why should I charge them extra?" he asks.

But without the government subsidy and the income from the nursing career of his wife, Barb, Fassbinder doubts he could afford to stay in beekeeping. The market price for honey is too low.

One reason is cheap honey coming from China.

Fassbinder needs to sell his honey at 60 cents a pound to cover his costs and earn a living. But that never happens, so the subsidy helps make up the difference. He sells honey to smaller companies, when he can, for 56 cents a pound. Commercial buyers pay 51 or 52 cents a pound.

Honey production is much affected by weather. Last year, Fassbinder's bees produced 18,900 pounds of honey, the smallest amount since he began keeping bees 17 years ago. The best was 81,900 pounds.

His expenses last year were $21,500, without including his labor.

SUPPORT UP AND DOWN

Although Fassbinder needs the subsidy, he sees problems in the way it is tied to production. Beekeepers receive the most support during high production years and less support in low production years, when they most need it.

"I wish they could regulate it so you get support only in bad years," he says.

He calls himself a midsize producer. This year he will increase his 600-colony operation to 1,000 colonies, the limit of hives he can handle by himself.

"In the last few years, costs have gone up in just keeping bees. Two mites have come into the United States and are causing havoc in the bee industry. It costs $5 per hive a year to treat for mites," he says.

Wild honey bees are being decimated by the mites, he says, eradicating the chances of crops being pollinated without the help of bees from treated hives.

In 1993, the government program allowed producers to use their honey as collateral for a government loan at 54 cents a pound. They could repay the loan at 47 cents, creating a 7-cent subsidy. Producers also could claim the 7-cent subsidy without getting a loan. However, the government assesses 1 cent a pound to fund the National Honey Board, which promotes honey consumption.

SUSPENSION ENDING

For fiscal year 1994, the Congressional Appropriations Committee suspended the honey support subsidy but maintained the loan program. Honey producers may borrow against their honey stocks at 50 cents a pound and repay the loan at that rate plus interest.

The suspension of the subsidy expires Sept. 30. On Oct. 1, the program reverts to its former system unless Congress acts again, says Jane Phillips, a government honey analyst.

"The main reason for a honey program is to ensure pollination. We can't support pollination directly, so we support honey production. According to recent Cornell University study, pollination by bees adds about $9 billion in value to crops," Phillips says.

In fiscal 1993, the honey program cost taxpayers $22.1 million. However, some of that reflects loans made that weren't due at the close of the year. In 1992, the program cost $16.6 million; in 1991 $18.6 million and in 1990 $46.7 million. After 1990, the loan rate went down and the market got stronger, so subsidies were reduced, Phillips says.

The number of producers who participate varies from 4,000 to 7,000, she says. In 1991, the latest available statistics, Iowa had 160 producers in the program.

Iowa participants received $2.6 million in 1993; $2.6 million in 1992; $2.2 million in 1991; and $2.1 million in 1990.

The honey subsidy began in 1949 and has been as high as $100 million in 1988 and as low as less than $1 million during several years in the '60s and early '70s. In 1979, the program showed a credit of $2 million when more loans were paid back than loans were granted.

FYI

1993 Honey production in Iowa:

Beekeepers maintained 60,000 colonies.

Bees produced 3 million pounds of honey.

Each colony produced an average of 49 pounds of honey.

Value of the 1993 honey crop was $1.6 million.

Source: USDA.

PENNIES A POUND—WOOL PRODUCERS FACE LOSS OF GOV'T SUPPORT

(By Marlene Lucas)

OXFORD.—Nick Greiner, holding a squirming sheep with one hand, motions to a pile of wool with the other and says, "That's worth about a dollar.

"That 5 pounds of wool is worth about 20 cents a pound to the farmer as it is. When it's washed and cleaned, it'll weight about 2.5 pounds and will make about four or five sweaters. So you have about $150 worth of sweaters from something that's worth $1 to a farmer."

And if Greiner hadn't owned the sheep, he would have collected $2.25, at least, for his work.

So why, at those prices, don't producers just leave the wool on sheep raised for meat?

Greiner, who shears sheep for area producers and raises 2,000 sheep a year on 20 acres near Oxford, says sheared sheep gain weight better than non-sheared sheep. Sheared sheep also are worth more per pound when sold to packers.

With wool being a money-loser, it's easy to see why Iowa producers favor continuation of the federal wool subsidy, scheduled to be phased out by 1995 to trim federal expenditures.

About 5,600 of Iowa's 8,000 sheep producers participated in the wool subsidy program and received $2,033,984 in 1992. Nationally, the U.S. sheep industry supports 100,000 families and 350,000 rural jobs.

The Wool Act was initiated in 1954 after domestic producers experienced hardships when the government lowered wool import tariffs from 25 cents to 10 cents a pound. Producers asked that imports be limited, but instead the government created the current subsidy system.

SUBSIDY TIED TO PRICE

The subsidy is a percentage tied to the wool's selling price.

For instance, Midwest farmers, whose sheep produce medium-quality wool, sold their wool for 10 cents a pound in 1993. Because the program pays wool producers 300 percent of the price they received, Midwest producers actually received 40 cents for each pound sold—10 cents plus a 30-cent subsidy. In the West, where the wool is considered higher quality and sells for $1 a pound, producers get a subsidy of $3 per pound.

The 1993 subsidy of 300 percent was calculated to pay producers the difference between the year's national average wool market price of 51 cents and the government's price level of $2.04. The price level is set each year based on the amount producers spend raising wool.

Another factor is a national checkoff supporting the American Sheep Industry, a promotional organization. Growers are assessed 8.5 cents a pound.

PROGRAM ENDS IN '95

Iowa sheep producers, who raise sheep mainly for meat, will be little affected by the 1995 ending of the subsidy, Greiner said,

but those in Western states stand to lose a lot.

Of the total $103.4 million paid in wool subsidies in 1993, Texas producers received $24.9 million, Wyoming producers received $11.7 million and Montana producers received $9.5 million.

While rural communities will likely feel the loss of subsidy income, urban consumers will see little difference in the supply of wool products.

"Australia has such a supply of wool that the best guestimates say it will take until 1997 to reduce the stockpile. We can't expect better prices until that glut is finished," Greiner says.

TERMINATION CALLED POLITICAL

Voting to end the wool subsidy was "a big political move. It was an easy target. It didn't have too many people that would bitch, and there's not a lot of votes to be lost, but they get a lot of publicity for cutting programs," Greiner says.

Supporters of the subsidy claim that no money will be saved by ending the program because the program is funded by tariffs on imported wool. However, Sharon Diel at the Agricultural Stabilization and Conservation Service in Washington says that's not so.

"The tariff revenues go directly into the treasury and are not earmarked for the subsidy. That's always been a confusing area. The money for the wool and mohair subsidy is appropriated by Congress," she says.

"The only thing the act specifically says is that our program shall not cost more than 70 percent of the amount the tariff collects," she says.

In 1991, the tariff collected more than $401 million, and $172 million was paid out in subsidies.

CROPLAND BACK TO WETLAND—GOVERNMENT AND FARMER SHARE COST OF RESTORATION

(By Marlene Lucas)

BRIGHTON.—In a horseshoe bend of the Skunk River north of Brighton, 102 acres of cropland are becoming a home for ducks and frogs.

Burnett Smith, who has owned the land for 32 years, recently tore up 40 feet of tile that drained the cropland and is watching the low area slowly fill with water. During the floods last year, it was awash 13 times.

"I've always thought that's what should be down there. I've never been real thrilled with river bottoms as croplands," says Smith, 67, who runs a cow-calf operation on 1,000 acres. "You can fight the river or decide to live with it. We decided to live with it. When you look at the power of water and the power of man, water will win. I think a lot of people found that out last year."

Smith has placed the land in the Wetlands Reserve Program (WRP), a federal program that purchases a permanent easement to croplands converted from wetlands. The land is restored to wetland conditions by the owner with cost-sharing by the government.

Smith is among the first group to enroll. He signed up in 1992, and the easement purchase was completed this year.

"I don't want to say how much we got for it. We found out we were about half of what others bid. But I thought it was a fair value when I put in my bid," he says.

Pre-acre prices paid to date in Washington County have ranged from $650 to $1,500.

PROGRAM GROWING

At a time when most government farm programs are shrinking, WRP is growing.

"The proposal for the 1995 budget includes" $241 million for WRP, says Lois Hubbard, Agriculture Stabilization and Conservation Service program specialist in Washington, D.C. "The proposed goal is to have 330,000 acres in the program by the end of '95. Everything depends on appropriations."

The federal government accepted 49,888 acres in six states, at a cost of $46.1 million, in the 1992 WRP enrollment. For the second enrollment, held this year, $66.7 million has been allotted for 75,000 acres. Landowners have offered 508,735 acres.

Hubbard says program officials initially thought farmers would be turned off by the program's permanent easement clause, but "we've been pleasantly surprised. There has been a lot more intentions to participate than we could accept."

"They're more interested in . . . protecting the land," she says.

Wendell Jones, district conservationist for the Soil Conservation Service in Washington, Iowa, says, "Burnett had an appreciation for the program for what it could do for the land.

"For other farmers, their first objective can be to unload the land." They see the program as a way to make money on cropland that floods or produces less-than-average crops.

Farmers struggle with marginal croplands because "the farming economy is such that some farmers feel they have to use every acre to make a living," Jones says. "There are different answers for different farmers."

5,000 ACRES IN IOWA

A total of 587 acres in Washington County, where Smith lives, was accepted in the 1992 enrollment. Across Iowa, 5,096 acres are in the program. In the 1994 enrollment, 1,058 Iowa farmers offered a total of 57,702 acres. Offers will be evaluated by the end of May.

Land is accepted into WRP according to the amount of money the farmer requests for the permanent easement and on the expected cost of restoration to wetland. The government will pay up to 75 percent of the restoration costs.

Smith retains ownership of the land and will continue to pay taxes. But the taxes will be reduced as the value of the land decreases now that it is no longer producing crops. He is permitted to grow hay and graze the land, he retains access for hunting and recreation, and he may sell the land. But, the land would remain in WRP under the new owner's care.

"The WRP benefits the public in several ways," Jones says. "It creates a wildlife habitat very quickly and you see the return of water fowl, plants and vegetation. A major benefit is improved water quality, and it's a floodwater storage area.

"This little bit of land may not make a tremendous amount of change, but it's a start. This is a reversal piece by piece."

GREEN FARMING—MARKET PRICES AND ENVIRONMENT BENEFIT FROM IDLED LAND

(By Dale Kueter)

SCOTCH GROVE.—The fields that surround the farm buildings at Barb and Glenn Tobiason's place are out of an Iowa picture book—fertile loam on gentle Jones County slopes.

You can smell the soil's richness as it is reopened to once again accept the seeds that produce the crops that make Iowa famous as America's breadbasket. It's the essence of Iowa.

Three miles to the south the Tobiasons own 250 acres of clayish loam, less productive soil that lies on hills and is highly susceptible to erosion. In 1986, a farm crisis time when the Tobiasons were looking for some steady income, they placed these acres in the Conservation Reserve Program (CRP).

Again this spring, the CRP land is sprouting alfalfa, brome and other grasses the Tobiasons seeded eight years ago as required by the program. CRP yields are measured in erosion protection, nesting places for wildlife and idling corn production that would otherwise depress prices.

CRP, begun in 1985, is a major component of the U.S. farm program. Conservationists like it. Urban politicians prefer it to crop subsidies. Farmers have mixed feelings.

Nationwide, 36.5 million acres are idled in CRP—8 percent of all U.S. cropland. Farmers are paid an average of $50 per CRP acre per year by the government. The CRP contracts are for 10 years, and no one knows what will happen when the first acres come out of CRP in 1995.

"They have not come up with any follow-up to CRP," says Glenn Tobiason. "I don't think it will be extended because of budget problems." The Tobiasons' CRP contract expires in 1996. "We could put ours back into crops or use it for grazing, but we'd have to do a lot of fencing for grazing, so now it looks like we'll go back to cropping it."

Tobiason, 48, lifts his Pioneer seed corn hat and scratches his head in one motion.

"If you want to analyze farm programs," he cautions, "you can't. Remember, it took a lot of lawyers to do this."

Yet, Tobiason is uncertain about throwing out farm subsidies altogether. He's interested in something simpler, perhaps the so-called Iowa Plan—revenue assurance—that would guarantee farmers 70 percent of some base-period income.

"The principle of a free market is great," says Tobiason, "if all countries are playing the same game. Without a farm program, I think you'd see more volatility in grocery prices. And programs—price supports and subsidy—help get young people into farming.

"CRP is not that costly compared to other things," he adds, "and I help pay for it, too, through my taxes. Still, I don't know if the government can afford to keep it. It's a society program, really. How important is it?"

COST OF CONSERVATION

CRP will cost $1.8 billion this fiscal year. Meanwhile, the government will shell out $18 billion for commodity subsidy programs, including corn deficiency payments.

Agriculture budget number-crunching has already begun. The trick is to cut the budget but keep farm production down and conservation practices up.

Doing all that is a little like slopping the hogs in your best suit and coming out smelling like a rose.

Bob Wisner, grain marketing economist at Iowa State University, tends to agree with Tobiason's CRP predictions.

"I expect that much of the CRP land will go back into production," says Wisner. "There may be federal payments for filter strips along creeks but not much more."

One floor up from Wisner's office, Professor Stan Johnson, director of ISU's Center for Agriculture and Rural Development (CARD), envisions a different future. CARD and a team at the University of Missouri are advising Congress on options for the 1995 farm program.

"CRP or something like it will be renewed" he predicts. "It may not survive as a line item in the agriculture budget, but conservationists want it. And if necessary, they will push to take money from deficiency (subsidy) payments to pay for it."

One of Johnson's ideas would pay farmers a reduced amount to keep CRP land out of

corn and soybean production but allow them to harvest the hay. Farmers could cut CRP hay last year only because wet weather produced emergency conditions and a poor hay crop.

Some critics say the government made a mistake in 1985 when CRP was created. Instead of paying an annual rent, they say the government should simply have purchased the marginal acres. As it is, they say, the government is spending an average of $500 an acre over 10 years and farmers still own the land.

But explains one agriculture observer, "that's the price of politics." Congress, he says, wasn't about to buy up a lot of farmland and accelerate the depopulation of rural America and hasten the demise of rural towns.

FARMERS BID FOR PROGRAM

The Tobiasons receive $85 an acre for their CRP land, considerably above average. Farmers who applied for CRP had to submit a "bid" that did not exceed prevailing local rent for comparable land. Payments are limited to $50,000 per farm operator per year.

Tobiason, once he figures his costs—equipment, fuel, seed, fertilizer, chemicals, land, taxes and labor—and assuming an average yield of 125 bushels per acre at a price of $2.80 a bushel, expects corn land will yield $70 more an acre than CRP.

"But there is no risk with CRP," he quickly adds. Last year, because wet weather drastically reduced yields, CRP produced the most income. Many farmers lost money on corn.

The Soil and Water Conservation Society, an ardent booster of CRP, estimates the program will cost upwards to $20 billion over the life of current contracts, not including administration. The estimate also does not reflect savings of price and income support programs resulting from idling acres.

Environmental benefits of CRP are difficult to quantify. USDA officials have made broad estimates for environmental benefits of $6 billion to $13 billion.

Clearly, says the Soil and Water Conservation Society, CRP has reduced top soil erosion and resulting sediment damage, provided an emergency source of forage, reduced federal commodity program costs and stabilized land prices. But, it added, dollar estimates of these benefits have not been made.

With environmentalists overtaking farmers in political clout, agriculture policy experts expect CRP legislation or something "similarly green" will be planted in the 1995 farm fill.

FYI

A look at the farm operation of Glen and Barb Tobiason, Scotch Grove:

Own 450 acres of cropland.

250 acres in Conservation Reserve Program (CRP).

Rent 150 acres more for crops.

Finish 400 head of feeder cattle.

Farrow and finish 1,500 hogs a year.

STUDENTS PEN NARRATIVE OF REVENUE ASSURANCE PLAN

(By Marlene Lucas)

A group of high school English students took on a project last fall that could make them part of farming history.

They wrote the narrative of a revolutionary proposal that would replace the federal feed grains program with a Revenue Assurance program. Instead of the complex provisions of crop insurance, disaster programs, set-asides and deficiency payments, farmers would be guaranteed 70 percent of their income in a bad crop year.

Doran Zumbach, a Coggon farmer who headed the Iowa Farm Bill Study Team, contacted Jim Oberbroeckling, North Linn High School English teacher, with the idea of having his students write the narrative of the proposal.

"We wanted a group without preconceived prejudices. We wanted someone that would mirror our feelings. Adults have preconceived ideas. We saw this in this age of youth," Zumbach says.

"We needed a group with writing skills. And everyone talks about involving youth in agriculture, but no one does anything about it," he says.

LEARNING ABOUT FARMING

The students agreed to take on the project. Several of them are from farming families and have a rudimentary understanding of farm programs. Others have always lived in a city and were ignorant of the programs. The students were surprised by what they learned from the project.

"It was worse than we actually realized. I didn't realize how the farmers were hit. I didn't pay attention," says student Deidra Blin.

"The target price and the set yields aren't up to date. They were set 15 years ago. They relied on ARPs (acreage reduction program), and they haven't done what they set out to do (which was to reduce supply and raise prices). There's a lot more behind the scenes that go on than we thought before," says Kristin Michael.

Krista Moenk and Nicole Price were surprised that some farmers didn't buy crop insurance and that they could receive as much or more from disaster programs than those who bought insurance.

Nichole Zumbach, Doran's daughter, became more aware of the politics that formulated the farm program and about the practice of piggybacking special interest bills onto other bills.

"I learned about dirty politics and how everyone has to get something for themselves. The Brady bill and flood disaster aid bill both had something tacked on. Why do (politicians) act that way? Why do they have to have something for themselves?" she asks.

Other students who participated are Nikki Aden, Chris Chrystal, Jamie Meier, Mark Neighbor, Stephania Sauer, Alan Schaul and Tami Webster.

Oberbroeckling regularly assigns a research paper to his senior, college-bound English class and writing this narrative took the place of that assignment for the students who chose to participate.

"I was quite skeptical at first," he says. "Many of these students are not farm-reared. They are living in town. I didn't know if they would get involved and understand what they were doing.

"I'm really pleased and happy and proud of the accomplishment on the part of the students. They did a good job, all of them."

PROPOSAL PRESENT

The 18-page document titled "The Findings of the 1994 Farm Bill Study Team" discusses the impact of current policies and their shortcomings and describes the benefits of Revenue Assurance.

Doran Zumback presented the proposal at the Iowa Farm Bureau Federation annual meeting in December, and the members adopted it. He continues to promote the plan at meetings of other farm organizations.

He's happy with the reaction so far. "I'm not naive enough to think it's a done deal, but Congress is ready for a change. We have been successful at setting the early debate. We're hopeful it will become law," Zumbach says.

LEANER HARVEST—1995 FARM BILL SEEN AS LESS GENEROUS

(By David Lynch)

WASHINGTON, DC.—Rep. E (Kika) de la Garza, D-Texas, is famous for his "Submarine Story."

The submarine is a modern masterpiece of machinery, he says, able to go on and on, but ultimately it is forced to come to the surface.

Why?

The chairman of the House Agriculture Committee, with great glee and a flourish, then delivers the punch line: "Because they have no food left."

Food production, he explains, is what has made this country great and why the federal government has to help the people who grow the food. Since we eat cheaply compared to other nations, he continues, we should feel indebted to the federal farm program.

There are many, and their number is growing, who no longer fully share the chairman's convictions for assisting agriculture. Reps. Dick Armey, a conservative Republican from Texas, and Rep. Charles Schumer, a liberal Brooklyn Democrat, are among them.

Four years ago they waged a sophisticated attack against the 1990 farm bill, offering a series of amendments aimed at capping federal farm payments, eliminating the honey and wool and mohair programs as well as cutting the price supports on sugar.

They landed some body blows to the farm bloc, still felt today. It allowed President Clinton to win congressional approval of his proposals to suspend the honey price support program and to phase out the wool and mohair price support program in 1996.

Armey and Schumer are back, as are the environmental lobbies that scored major successes in the 1985 farm bill with soil and wetlands preservation provisions that are tied to participation in the federal farm program. In other words, farmers who apply for federal price supports must comply with federal soil and wetlands provisions.

"Conventional wisdom says the 1995 farm bill will look a lot like the 1990 bill—only less generous," says John Campbell, a former undersecretary of agriculture to Clayton Yeutter.

"Conventional wisdom says that commodity loans, target prices and set-asides will stay. Conventional wisdom says that the Conservation Reserve Program (CRP) will hang around in midget form and a larger triple base will be offered up for the budget cutters.

"Unfortunately, conventional wisdom is usually right," adds Campbell.

"I really don't know what to expect," admits Susan Keith, an official with the National Corn Growers Association. She says the future is clouded with questions about the General Agreement on Tariffs and Trade (GATT), "green boxes," the Iowa Plan and, of course, money.

"We really won't know what the bill's going to look like until January when the president makes his budget request to Congress. But when it comes to the farm bill, I'll always bet with the status quo."

Campbell, now a top executive with AGP, an Omaha-based agribusiness, warns that if the status guo and conventional wisdom hold, "agriculture has nothing but less of the same to look forward to." He says American agriculture "will continue its post-1970s state of splendid decline."

PROGRAM BEGAN IN 1933

What is the farm bill, anyway?

Technically, it's the reauthorization of permanent federal law that dictates long-term farm legislation.

The first farm bill was the Agricultural Adjustment Act of 1933. The purpose then was the same as the purpose today—to protect farmers from the unknowns of weather and market fluctuations so they may stay in business through bumper crops and disasters and so the American people can reap the fruits of a cheap food policy.

The farm bill was reauthorized every four years, but in 1985 lawmakers realized it would be less job threatening if they did the farm bill every five years. Not only did it give them more political breathing room, but it took the issue out of cycle with presidential elections.

The CRP that Campbell referred to provides federal rent checks for highly erodible land that is kept out of production. The first parcels under 10-year CRP contracts with the government are coming due. Keith, the former agriculture adviser to former Rep. Dave Nagle, D-Iowa, says there is no funding to renew these contracts. She says farm bill formulators will have the unenviable task of having to find the money or drop the mostly successful CRP.

The environmental lobby has grown in stature and clout since 1985, and that is not being lost on any of the players in the coming farm bill debate.

Dean Kleckner, president of the American Farm Bureau Federation, warned in 1990 that to give in to the environmental extremists would be to give up control of federal farm policy. His rhetoric is toned down a bit, but he continues to warn farm audiences that the Nature Conservancy has an annual budget of $173 million; the National Wildlife Federation, $87 million; the Sierra Club, $50 million plus; and "the 10 wealthiest environmental organizations have a total budget approaching a half a billion dollars."

LITTLE FROM ESPY

Agriculture Secretary Mike Espy has not had much to say about the farm bill yet. However, he has made a number of references to Revenue Assurance. The concept would assure farmers a certain percentage of past crop revenue. The most common figure used has been 70 percent, but it could be adjusted.

The plan would combine crop insurance, price support and conservation practices, and ideally would allow the farmer to make the basic choices on what to plant in reaction to market prices.

No one expects Espy and Congress to buy the proposal lock, stock and barrel. Keith thinks that if it is made a part of the farm bill, it will be a voluntary pilot program.

Given budget constraints, pressure from non-farm elements in Congress and the environmentalists, change can no longer be held back.

Campbell urges farmers to resist conventional wisdom. He urges them to form a new farm bloc that includes environmentalists, who he says "offer a natural political partnership with progressive and market-oriented agricultural interests."

"The average person is much more worried about how food is produced than the adequacy of farm income or the need to pay farmers for not working," says Campbell.

"A positive political and economic strategy for agriculture would be to trade in the worn-out supply/management, command and control income support programs for new environmental enhancement programs."

He recommends government lock in all future projected budget outlays for price and income support payments and earmark them for producers who need only to live up to current sodbuster, swampbuster and conservation compliance measures. Farmers would therefore have full flexibility to plant for the market, not the farm program.

The program would bring farmers and environmentalists together on greener, more productive ground.

NEW SAFETY NET—IOWA'S REVENUE ASSURANCE PROPOSAL TOUTED AS IMPROVEMENT OVER SUBSIDIES

(By Dale Kueter)

COGGON.—A year ago 11 Iowa agriculture groups, motivated by changing times, developed the seeds for a new federal farm program—a hybrid that would end traditional subsidies yet protect farmers from disaster.

Getting diverse farm organizations to sit down together was amazing enough. That they produced a new concept for farm economic security was regarded by some as a miracle.

The proposal has become known as Revenue Assurance. Some call it the Iowa Plan. In its simplest form, it would assure farmers—in years of bad prices or poor weather—a certain percentage of past crop revenue. Seventy percent of gross revenue is commonly used, but it could be some other figure.

Conservaton practices would be tied to the plan, but farmers would decide for themselves—reacting to market prices—what crop and how many acres to plant.

Federal price supports have been used for 60 years. But there is a realization, says Doran Zumbach, 44, that less money will be available in the 1995 farm bill. Many believe the subsidy concept will be plowed under by the turn of the century.

Zumbach, who farms north of Coggon in Delaware County, is vice president of the Iowa Corn Growers Association and was chairman of the Iowa Farm Bill Study Team that created Revenue Assurance. He calls the concept a "safety net."

"Revenue Assurance is like auto insurance," says Zumbach. "You hope you never have to collect. In 1977, central Iowa farmers had a poor crop because of a localized drought. Prices didn't respond upward because yields elsewhere were good. So they had both a poor crop and low prices. That's what the producer fears."

The study team projects the program would pay farmers once every five years instead of nearly every year as under the current system. Savings to the government is estimated in excess of $2 billion annually.

Zumbach says farmers "can holler all they want, but there will be more cuts in the agriculture budget." He says President Clinton has promised to cut the deficit, "a pledge he must keep to be re-elected."

"There are 2 percent producers in this country and 100 percent eaters. That tells the political clout tale."

ISU ANALYZING PROJECT

Stan Johnson, Iowa State University professor who is among those advising the U.S. House and Senate agriculture committees on the 1995 farm bill, praised the Iowa agriculture organizations for working together. He says, "It's a sign that farm groups are . . . realizing it will be difficult to hold traditional deficiency payments."

ISU is doing an analysis of Revenue Assurance with results due in June. "We need to translate what is a loose concept," says Johnson. "How will you calculate the 70 percent? Will it be on basis of county average yields or farm average yields? There are lots of mechanical questions."

If incorporated into federal farm policy, Johnson believes Revenue Assurance would come down to "less price protection and more weather protection." Price protection, he says, can be purchased through the futures market. Johnson says the trigger for Revenue Assurance should be on the basis of county yield averages.

"So if you are a bad farmer, an inefficient farmer and all others in the county do a good job, you don't get any payments," he explains. Once a county would be declared eligible for Revenue Assurance payments, then individual farm records would be used to determine amounts, he says.

Revenue Assurance would be the farmer's reward, says Zumbach, for conservation compliance. There has long been a belief among agriculture policy-makers that all society should share in conservation costs. "It costs farmers real dollars to build terraces or buy no-till drills," he adds.

PLENTY OF CRITICISM

The plan has plenty of critics. Farmers are not famous for building consensus. Negative response has already come from some rice and cotton farmers in the South and wheat interests in the Midwest. Iowa Plan proponents argue that most opposition is based on fear of change.

Sen. Tom Harkin, D-Iowa, initially charged the plan would lead to expanded corn production. Zumbach believes the opposite.

"Now the farmer is locked in by the program," says Zumbach, referring to corn-base acres that provide the starting point for figuring subsidies. "Ask farmers if they plant corn on corn, and two-thirds will say yes. Ask them if they would grow less corn if it weren't for maintaining a base or receiving a subsidy, and 80 percent will say yes."

Zumbach and other proponents say there would be more crop rotation under a system that didn't subsidize corn.

Zumbach says Canada is revising its farm program along the lines of Revenue Assurance. No all of the 11 organizations that helped draft the plan have formally endorsed it yet. However, Zumbach says he would be surprised if any didn't.

WHAT SENATORS SAY

Sen. Charles Grassley, R-Iowa: "We've got to get away from the traditional commodity programs because of the reduced (federal) budget." Grassley said he likes the Revenue Assurance plan. "On my farm we would be better off if we could rotate between corn and soybeans, but the (present) farm program requires that we maintain a corn base." Grassley said he is struck by the fact that disparate farm organizations have endorsed Revenue Assurance.

Sen. Tom Harkin, D-Iowa: The Revenue Assurance proposal is a good starting point for the farm bill debate, but it has to be studied to see how it would really work, he said. "It's a serious effort that should be put through the hoops." While it is an interesting idea, he said it's too soon to say if it should be part of the farm bill.

A FUTURE WITHOUT SUBSIDIES

(By Dale Kueter)

In 1984, New Zealand was a nation of 3 million people and 60 million sheep. The large sheep population was in part attributed to the country's generous farm subsidy program, which was based on livestock numbers.

Then in 1984, after bitter debate, New Zealand's Parliament abolished its subsidy system. In protest, farmers slit the throats of

sheep. Some political opponents predicted half the farmers would go out of business.

"In the end only 3 percent of farmers went under," said Denis McLean, New Zealand's ambassador to the United States. "There's barely a farmer today who wants to go back to the old system," he added during a telephone interview.

After a 60-year run, farm subsidies in the United States, too, are getting close review. Some even predict their elimination by the end of the century. Subsidies are caught up in changing times, the drive to cut the federal deficit and new international trade agreements that restrict such programs.

Stanley Johnson, farm policy expert at Iowa State University, says paying farmers a subsidy to make up for low prices has declining support. If direct payments survive at all, he says, they will be targeted to smaller farmers who need them. "Most government payments now to the largest farmers."

What would the future be like without farm subsidies?

There is an array of opinion. Some say farm prices would initially go down, forcing many marginal farmers out of business. Then prices would rise. Many see a period of volatile consumer prices. Others predict a hastening of corporate involvement in farming.

It's clear that more than just farmers would feel the impact. Coggan farmer Doran Zumbach puts it this way: Even though farmers make up less than 2 percent of the U.S. population, "100 percent of Americans eat." Food prices affect everyone.

The ripple would go beyond farmers and consumers. Rural towns that grew up on providing services to farmers would be hurt by fewer farmers. Rural schools, churches and hospitals would be affected.

"And what do we do with displaced farmers?" asks Bob Wisner, ISU grain marketing economist. "That's something we need to be aware of. They will be competing with urban people for city jobs."

The subsidy issue has been debated for years. Farming is a business like any other, some have argued, and should stand on its own. Subsidies have not only benefited farmers, others counter, but have maintained a cheap food policy in the nation.

The subsidy debate has been joined by new forces and new attitudes.

Environmentalists, who gained a foothold in farm policy with the 1985 farm bill, are poised to assert greater influence. So called "green" programs, incentives to farmers for environmental protection, will likely expand.

Federal farm programs have been tied to conservation compliance. Even though farmers generally are good stewards of the soil, it is feared conservation practices would decline if subsidies were eliminated. Some believe environmentalists would then seek mandatory conservation steps without reimbursing farmers.

"Our programs traditionally have required farmers to idle cropland, to take conservation steps in return for payments to help stabilize prices," says Wisner. "In Europe, farmers have produced all they wanted and were paid for the excess."

ATTITUDES CHANGE

ISU's Johnson says urban attitudes toward the family farm have changed dramatically. He says city people, generally, "are more interested in preserving the rural landscape than farm families. The traditional idea of the family farm is dead.

"Not that there won't be family farms," he says. Instead of mom and dad and the kids, "family farms will be family partnerships or proprietorships and family corporations." He says several family entities will operate bigger and bigger farms.

In six decades of existence, farm support programs have taken on the layered look. Responding to various interests, they have been patched together in a complex pattern that itself is a basis for criticism. Many farmers don't understand them.

A 1991 survey of dairy farmers by the Government Accounting Office showed that half were not familiar with the 1990 farm bill.

"I don't know which way the future will take farm subsidies," says Wayne Rasmussen, who served as USDA historian for a half century. "I believe they will survive in some form, but most certainly be tied to environmental concerns."

If subsidies are eliminated, Rasmussen says farm markets are stable enough "that we wouldn't drop into any 1920s kind of collapse." The farm economy then constituted 40 percent of the country's economy, he said. "If subsidies are dropped, I think some farmers will be driven out of business. But somebody will be out there to produce the food."

AFFORDABLE FOOD

"I don't think our food will ever get expensive under any scenario because of our inherent ability to produce," says Gary Hanman, chief executive officer of Mid-America Dairymen. "Right now we have agriculture production throttled back to 60 percent.

"Our farmers are the most productive anywhere. They are the first to adopt new technology. We ought to be producing the food because we are more efficient than farmers in Europe. They ought to be doing something else."

But with the General Agreement on Tariffs and Trade (GATT), farm products are likely to be moving in all directions. Most experts say GATT is good for U.S. farmers. While more foreign food products will be coming into the United States, American farmers expect to be sending more out.

GATT has yet to be ratified by Congress. Some farm groups and farm state senators have threatened to oppose GATT if farm subsidies are cut to make up for income lost because of reduced tariffs.

ISU's Johnson says the old pillars for farm programs—an adequate and cheap supply of food, stability in agriculture and maintenance of farm income—are being replaced. Global trade has changed the food supply issue. Market tools like futures trading can protect farmers from price changes, he says.

In the future, he predicts, agriculture policy and expenditures will be shifted further to environmental issues, control of food quality, research, and development of rural infrastructure.

Next year's farm bill, however, will retain some price protection for farmers, many believe. That will either come through the present deficiency payments system or adoption of some new program like the Iowa Plan. The latter, developed by a coalition of Iowa farm groups, would put a price "safety net" under farm revenue.

There is also a move to revise the 1937 federal milk marketing order system, a complex formula regarded by many as antiquated. A federal judge has ordered Agriculture Secretary Mike Espy to restudy the system, which helps determine the price of liquid milk.

In New Zealand, farm subsidies were the first to go in reforming government involvement in the economy. In the United States, too, other subsidies may be in for examination.

"We all receive some subsidies," says USDA spokesman Ray Wagner. "Newspapers get favorable postal rates. When I deduct mortgage interest from my income tax, that's a form of subsidy."

But farmers' political clout has withered. And the cash crop that subsidies have provided for 60 years is withering with it.

FYI

One scenario if subsidies end:

Prices of some goods will go up, while prices of other goods will go down. The resulting changes in prices will affect farm markets and consumer prices.

Marginal farmers will probably go out of business.

The number of large, family corporation farms likely will grow.

Fewer farmers will mean less business for small-town merchants. Many communities in rural America would suffer unless jobs were created.

Jobless farmers will compete with urban residents for city jobs.

Trade agreements will steer food policy and markets in new directions.

USDA REFUSES TO DIVULGE NAMES OF SUBSIDY RECIPIENTS

(By Dale Kueter)

Legal counsel for the U.S. Department of Agriculture says privacy rights of individual farmers prohibit the agency from releasing names of top recipients of agriculture subsidies.

The Gazette sought the names in preparing this series of stories on federal farm programs. The USDA spokesman said a 1989 Supreme Court ruling elevates privacy rights to new standards. The media must show that the public interest clearly surpasses privacy interests, he says.

Prior to the 1989 ruling names of subsidy recipients could be published.

The newspaper had sought the information in an effort to help both rural and urban readers decide if dwindling federal subsidies were being used in a fashion they agree with. The newspaper argued that such information was vital for any debate on the future direction of farm policy and subsidies.

USDA officials said they can release information about subsidies given to farm corporations, unless they represent family operations. Nearly all Iowa farm corporations are those involving family farmers.

Federal law restricts deficiency payments on commodities such as corn to $50,000 a year. There is also a $50,000 limit on payments for land idled under the Conservation Reserve Program.

The number of Eastern Iowa farmers who received the maximum payment in 1992 ranged from none in Clayton and Winneshiek counties to 27 in Buchanan and 19 in Fayette. However, officials at Iowa State University say many farmers reach payment levels of $30,000, $40,000 and amounts just short of $50,000.

Some, including economists at ISU, believe that over the years many farmers have managed, legally, to work around the $50,000 limit. Souses, parents or siblings would form separate corporations to establish ownership in part of a farm to qualify for separate subsidy payments. A prominent Eastern Iowa grain producer says "any farmer with a halfway decent lawyer" could work around the $50,000 limit.

USDA officials in Des Moines questioned claims that such legal maneuvering was widespread. Most Iowa farmers, they say, aren't big enough to reach the payment limit.

However, after a mid-1980s scandal in Mississippi, in which a group of individuals formed 21 corporations to reap federal subsidies, Congress passed legislation limiting each individual to forming three such entities.

With the 1990 farm bill, Congress said a husband and wife can be treated as separate persons for purposes of subsidy qualification without each forming a corporation.

In such a 50-50 joint operation, each, in theory, could qualify for up to $50,000 in payments. However, stresses Steve Phillips, an Iowa USDA official, a spouse must make a labor and management contribution to be eligible.

If, for example, the wife holds an off-farm job, the USDA could decide it is a 55-45 partnership. In such a case, the husband could receive the full $50,000 in payments, but the wife could not receive more than 45 percent of that.

For 1994, Phillips says, based on the proposed deficiency payment schedule, a farmer would have to have some 1,250 acres of corn base before nearing subsidy payment limits. For a spouse to also qualify for payments, the acreage would have to be even more.

The Gazette has requested congressional agriculture leaders to include language in the upcoming farm bill that would inform farmers who receive subsidy payments that their names would be published. A USDA official says that would be similar to a law regarding publishing of salaries received by federal employees.●

"ISLAM ENGAGES THE WORLD"

● Mr. SIMON. Mr. President, we live in a world where Islam is an important cultural, religious and political phenomenon.

Even in the United States, we now have more Moslems than Presbyterians.

And, unquestionably, there is prejudice against Moslems because frequently there is a tie-in in the public mind with fanaticism.

The Christian Century, obviously, not a Moslem publication, recently had an article titled "Islam engages the world." No author is given for the item, but it is an insight into the Moslem world that is divided just as the Christian world, the Jewish world, the Buddhist world, and the Hindu world are divided.

Because we need to have more understanding and because every avenue for pursuing that understanding should be followed, I ask to insert the Christian Century article into the RECORD at this point.

The article follows:

[From the Christian Century, Sep. 21, 1994]

ISLAM ENGAGES THE WORLD

So much attention was focused on Vatican opposition to abortion at the UN International Conference on Population and Development that it was easy to overlook a far more significant religious milestone. After Cairo, Muslims and non-Muslims have even fewer reasons to speak about a monolithic Islamic world. Such a world, of course, has never existed: Islam has always been a rich mixture of different theological and political traditions. But the Cairo conference marked the first time that Muslims from countries throughout the world met and debated under the glare of such an intense international spotlight.

It also was the first time that such a major international conference had been held—Egypt—a fact that afforded many non-Muslim delegates and journalists their first significant exposure to a predominantly Muslim country. The resulting encounters, said Riffat Hassan, a Muslim scholar who teaches at the University of Louisville, may prove to be one of those rare moments in history when understanding wins out over intolerance and misunderstanding.

When it convened September 5, the conference was threatened with violence by Muslim extremists, who said discussion of such issues as birth control, family planning and abortion demeaned Islamic belief. By the end it was clear that the conference "broke a lot of stereotypes," Hassan said, and in doing so it became apparent that there is not one Muslim world, but many. "We are much more diverse than people think we are," said Hassan, a Pakistani who participated in the conference as both an observer and frequent lecturer on problems facing Muslim women. In Hassan's view, Cairo represented a kind of breakthrough for Muslim women. "We are on the threshold of what women in the United States were experiencing in the '60s—a kind of opening up, a chance to become more vocal."

The women had some important allies, particularly on what many consider the most obvious example of repression against Muslim women: female circumcision, the removal of a woman's clitoris. At a public forum on the issue, several of Egypt's most respected scholars and clerics condemned the practice. "Mecca does not know about female circumcision," said Sheikh Mansour Abdel Gaffar. "The Prophet Muhammad did not circumcise his own daughters." At moments like these the Islamic faith put itself through what Hassan called "something necessary for all religions self-critique."

In Cairo the public face of Islam was not limited to strictly theological concerns. Abdallah Schleifer, an American-born Muslim journalist and a professor at Cairo's American University, said the fact that a number of Islamic nations—including Iran—ignored a call by other Muslim countries to boycott the conference affirmed a long Islamic tradition of "being ready to engage intellectually" with the rest of the world. "by participating, they [the Iranians] ceased to be 'The Other,'" Schleifer said.

The Cairo conference generated vocal criticism from a number of Islamic and non-Islamic observers. Saudi Arabia, the Sudan and Lebanon boycotted the conference, saying it was a Western, secular-oriented gathering that would weaken the family and undercut sexual ethics. Many Muslim leaders, citing Islamic law and tradition, joined with the Vatican to condemn what they perceived as the conference's support for abortion as a means of birth control. Participants in an early September meeting of the Islamic Society of North America in Chicago maintained that the Cairo conference's action plan for population control is essentially a Western conspiracy to ruin the Muslim world.

Still other critics objected that the conference glossed over consumption and development issues—issues expected to be addressed at the UN's Social Development Summit next year. A coalition that included the World YWCA and various Third World organizations declared that "we find the Program of Action to be nothing but an insult to women, men and children of the South who will receive an ever-growing dose of population assistance, while their issues of life and death will await" the 1995 summit. Charges were also made that the conference's emphasis on reproductive issues ignored more pressing social and economic problems in developing nations, such as the servicing of foreign debt and continued widespread poverty.

"For us, coming from the South, [reproductive issues] don't form the crux of the central issue that affects the lives of millions of women in our countries," noted Evelyn Hong, a member of the activist group Third World Network. "The burning issues are social and economic problems." As the conference neared its end September 12, a dozen protesters representing a coalition of several hundred Third World women ringed the gates of the conference site terming the event an attempt by richer nations to impose order on the developing world. International conferences, argued Cairo University professor Awatef Abdel-Rahman, have become a way for the North to impose its "new world order" on the South.

Despite such harsh, unbending criticism, some Western delegates nevertheless expressed appreciation for what they characterized as the pointed but reasoned stance that the participating Islamic nations took against abortion. One senior U.S. delegate, quoted by the *Egyptian Gazette*, said Muslim countries "were among those that contributed most to this process." One reason for the Iranians' popularity among some Western delegations was that in their view the Islamic position on abortion proved more nuanced than the Vatican's.

Egypt's chief Islamic cleric, Grand Mufti Mohamed Said Tantawy, stressed that while Islamic scholars and jurists have declared abortion wrong, they have also said it is permissible when a mother's life is in danger. In an interview Tantawy said he believes that abortion is neither fully permissible nor fully forbidden in Islam, but that each case should be decided "one by one, each on its own merits."

Tantawy went on to say that the Cairo conference exemplified Islamic traditions of tolerance, diversity of opinions, and intellectualism—traditions he said Muslim extremists have ignored by embracing a political fanaticism that "is not real Islam."●

TRIBUTE TO GRAND LODGE OF VERMONT

● Mr. JEFFORDS. Mr. President, I rise today to commend my fellow Vermonters, the Freemason Grand Lodge of Vermont, for their contributions to the rich history of the State of Vermont in celebration of the bicentennial of Freemasonry in Vermont on October 14, 1994.

Freemasonry made its entry into Vermont during the period of the French and Indian wars as English military forces moved through the region. The surrender of Quebec to the British took place on September 18, 1759; 2 months later, on November 28, 1759, a meeting of Masons belonging to the several military lodges in the vicinity was held there—including lodges which had traversed Vermont and had introduced the craft to the Green Mountain State.

In 1791, in Vergennes, the first civilian Masonic Lodge was chartered in Vermont. Thereafter, town after town received their charters and the fraternity became firmly entrenched into the fabric of the State.

On October 14, 1794, the Grand Lodge of Vermont was formed at Rutland at the site of the present Lindholm Block at the corners of Main and West Streets, to govern the several lodges within the State.

Freemasons were prominent in the struggle for Vermont independence. Among them were Thomas Chittenden, Seth Warner, Remember Baker, Robert Cochran, Joseph Wait, Ira Allen and, it is believed, Ethan Allen.

Freemasons have continued to be prominent in the affairs of the State, including Governors Thomas Chittenden, George D. Aiken, Harold A. Arthur, Joseph B. Johnson, Robert T. Stafford, F. Ray Keyser, Jr., Dean C. Davis, and Richard A. Snelling. Other well-know Vermont Masons include Warren R. Austin, who was the first U.S. Ambassador to the United Nations, and noted artist, Norman Rockwell.

For all the foregoing reasons, it is right and proper to join together and wish Freemasonry continued success as it celebrates its bicentennial in Vermont on October 14, 1994.●

ANNOUNCING THE 25TH ANNIVERSARY OF THE MICHIGAN STATE UNIVERSITY COLLEGE OF OSTEOPATHIC MEDICINE

● Mr. LEVIN. Mr. President, this year the Michigan State University College of Osteopathic Medicine celebrates its 25th anniversary. I would like to congratulate the school on its exceptional academic work and service to communities in Michigan.

The College of Osteopathic Medicine serves as an educational model for other medical schools as its many achievements prove.

The school produces more primary-care physicians than any other college in the State and ranks near the top in this category nationwide. Approximately 65 percent of all graduates of the college practice family medicine, internal medicine or pediatrics—more than double the national average.

The College of Osteopathic Medicine is the first medical school to implement a community integration program. This program brings students, alumni and the community together to volunteer time where it is needed most.

The school was also the first osteopathic school in the Nation to award joint D.O.-Ph.D. degrees for physician scientists, establishing itself as a leader in osteopathic manual medicine.

I would like to congratulate Michigan State University's College of Osteopathic Medicine for its many achievements and wish the school continued success on its 25th anniversary.●

IN HONOR OF 94TH AMERICAN INFANTRY DIVISION

● Mr. WARNER. Mr. President, I rise today to honor a group of distinguished Americans, the men of the 94th American Infantry Division who served during World War II. These men demonstrated their devotion to the infallible principle of democracy and made the supreme sacrifice for freedom.

I call attention to these men and their families because today, in Paris, France, they are participating in the relighting ceremony of the Eternal Flame at the Tomb of the Unknown Soldier at the Arch de Triomphe. This great honor is only the beginning of an anniversary tour that marks the great victories of the 94th Infantry Division, and culminates in the dedication ceremony of the "Peace Monument" on October 16.

On October 16, a memorial will be dedicated to recognize the heroic men who broke through the heavily defended German line at Siegfried almost 50 years ago today. This memorial is aptly named the "Peace Monument," and it will be dedicated at Potsdamer Platz on the former Siegfried Line near Nennig, Germany.

This memorial has special significance. The original monument was established in 1945, and it was one of the first memorials built after V–J Day. The idea to construct a permanent memorial was jointly conceived by World War II veterans of both nations, namely the 94th Infantry Division and Germany's 11th Panzer Division.

The "Peace Memorial" is constructed on land generously donated by the Federated Republic of Germany. The focal point of the monument will be two bronze tablets inscribed with a message written in English and German from former President George Bush. The design and setting are truly worthy of the name "Park of Peace."

The sole purpose of this shrine is to demonstrate the goodwill of both Germany and the United States of America in its hopes of lasting peace.

I would like to note that this memorial is the only World War II monument of its kind which the United States of America constructed on a historic battlefield on former enemy soil. In the words of those responsible for this monument, "it is the only monument/memorial of its kind on the entire planet, on a former battlefield, dedicated to peace between former enemies who have been at war twice this century, twice in a single generation."

Accordingly, I would like this body to hereby recognize that this commemoration should be remembered and cherished. Henceforth, the monument should be regarded as an emblem of peace the world so desires, and for which World War II was fought for so honorably.●

STATUS OF MEDICARE PHYSICIAN PAYMENT REFORM

● Mr. ROCKEFELLER. Mr. President, it is my strong belief that the defeat of comprehensive health care reform legislation in this session of Congress affects not only the health security of virtually every single American, but our Nation's long term economic security as well.

Beyond the human tragedy of the failure to extend universal health care coverage to every American, Congress' inaction on health care legislation will have a great many specific programmatic effects which we will have to deal with next year.

As the chairman of the Medicare and Long Term Care Subcommittee on the Senate Finance Committee, I want my colleagues to be award what since we were unable to make some important technical corrections and improvements in the Medicare program, we missed an opportunity to do some general housekeeping regarding certain parts of the program that is truly regrettable.

Today, I would like to discuss one particular section of the Medicare program that we will have to turn our attention to next year—Medicare's physician payment system. The absence of congressional action on health care legislation this year will mean that physicians who participate in the Medicare program will receive payment updates that are specified by a statutory default formula written in the legislation I authored in 1989. For fiscal year 1995, this amounts to, on average, an update of almost 8 percent for all physicians and over 12 percent for surgeons.

I am concerned that in 3 of the 5 years that an update has been established under the Medicare volume performance standard [MVPS] system—enacted as part of physician have both been set by the default formula in the statute and not according to policy adopted by the Congress. When we passed this reform, Congress did not intend that we would regularly resort to the default. The legislative history will certainly testify to that. A default was put into place as a safeguard.

The default formula for the MVP standard produces a high standard, and a high standard leads to a high update. For example, the 1995 update is based on the 1993 MVP standard which was established by the default formula. This is the second year in a row that the update and standard have been established by the default formulas which partly explains why they are high. The 1995 default standard will similarly lead to a high 1997 update.

To review, Medicare physician payment reform consisted of three separate but interrelated provisions. The first part consisted of developing a resource-based relative value scale which properly valued surgical and other procedures in relationship to primary care

procedures. This helped to end the payment imbalance in Medicare which contributed to the underpayment of primary care services.

The second part consisted of the Medicare volume performance standard [MVPS] which was designed to slow the growth in the volume and intensity of Medicare part B services. Medicare part B expenditures had an annual average growth approaching 15 percent during the 1980s. The MVPS system was designed to reward physicians for controlling volume and intensity of Medicare services by allowing for higher updates if they did so. Prior to 1989, the default update was the amount estimated that physician input prices would increase. This usually averages three to four percent a year. Congress sometimes enacted a lower amount. It rarely established a higher amount.

Thirdly, Medicare physician payment reform put in place beneficiary protections that limited the amounts physicians could extra-bill beneficiaries.

The first MVP standard was set in 1990 which governed the 1992 physician update. The relative value scale is currently being phased-in over 4 years. Although the transition will not be completed for another year, Medicare payments for overpriced procedures have been dramatically reduced. Balance billing limits were phased in and were fully effective in 1992 resulting in millions of dollars of beneficiary liability being removed from the system.

Part B growth has slowed dramatically in recent years. However, it is still unclear whether the national system of updates gives an individual physician an incentive to control his or her volume and intensity of services. It is also unclear whether the recent lower growth in Medicare part B physician outlays is attributable to lower inflation in general and national trends in utilization that go beyond Medicare.

I believe that we ought to examine the Medicare volume performance system in the next Congress to see whether fundamental changes are warranted. On the one hand, we need to avoid the further erosion of Medicare fees in relationship to private sector fees to protect beneficiary access. On the other hand, Medicare physician fees should not increase more rapidly than Medicare payments to hospitals, home health agencies, nurses, and other providers or general medical inflation absent unique justification for such increases.

I believe we should explore a variety of options which could include returning to an update based on the rise in input prices, shortening the time between measurement of performance, or testing a system base on withholds. I am sure there are other options which should be reviewed as well.

I also strongly believe we ought to explore several refinements to the existing system if it is concluded that more fundamental changes are not desirable at this time. These include decentralizing the reward system to the State or speciality level, redressing the growing imbalance in the relative value system between services engendered by the system of differential updates for surgeons, primary care and other physicians, and reexamining the default formulas to determine if a more objective baseline for growth should be used, such as per capita GDP.

Finally, we should also explore other ways, outside of the MVPS system to redress the balance between payment for primary and specialty care. These include reforming the methodology for paying practice expenses and the system of bonuses paid to physicians practicing in underserved areas. Many of these ideas were promoted as parts of health care reform measures which a large number of my colleagues supported.

Mr. President, I believe, that after five Congressional sessions since the enactment of physician payment reform, it is time to evaluate and reexamine the systems we put in place. Improvements and refinements are needed and I intend to make that a high priority in the next Congress.●

IS IMMIGRATION A THREAT TO NATIONAL SECURITY?

● Mr. SHELBY. Mr. President, I ask that the following statement by Mr. Dan Stein, executive director of the Federation for American Immigration Reform before the National War College, entitled, "Population, Migration and America: Is Immigration a Threat to National Security?" be entered into the RECORD.

Mr. Stein's comments before the War College's class of 1995 raises critical security issues that this country will face in the future if we do not act soon to control our national borders, slow our exploding population, and ensure political and societal stability.

His call for a better understanding of immigration in this country and a pressing need for immigration reform is well-taken. There is no doubt that immigration reform will a top priority in the 104th Congress.

The speech follows.

POPULATION, MIGRATION AND AMERICA: IS IMMIGRATION A THREAT TO NATIONAL SECURITY?

(By Dan Stein)

If the grass is always greener on the other side, then a quick glance at our daily papers tells us that for an awful lot of people worldwide, the grass they covet grows in the United States. Never before in the history of this nation have so many people wanted to move here. Never before have we faced so many difficult choices in deciding who, out of hundreds of millions of basically nice folks, we will allow to enter. And never before have we faced a greater challenge in trying to regulate the force of millions pressing at our national borders.

A storm is brewing. The differential pressure inside and outside our borders has left the nation vulnerable to unregulated storm surges of people seeking our shores. Never has a well meaning group of public-spirited Americans been so perfectly positioned to be blind-sided by the thrall of outdated notion.

We are truly at a watershed today. Americans are beginning to wake up to this fact. The out-migrations from Cuba, Haiti, the Dominican Republic and Mexico reveal that we are at the headstreams of what could be a chronic state of unmanaged immigration for the next forty years. Before us lie stark choices that are now within our power to decide. Soon they may not be. The international demographic forces at work are strong and powerful. They are perhaps the strongest external forces this nation has ever faced. If we hope to control them, we must choose soon, or it will be too late.

The patterns of regional population growth—and the dynamics of that growth—will generate the most unregulated flow of migrants in the history of the human race. This has profound national security implications for the United States today and tomorrow. Are we prepared?

THE LARGER PICTURE: POPULATION DYNAMICS AND MIGRATION PRESSURE

This metronome in my hand illustrates the rate of world population growth: 171 more people a minute—that's births minus deaths. The United Nations estimates that 90 million people are now added to the population of the planet each year. In just the next ten years, more people will be added to the population than there were in the entire world in the year 1800. Just two generations ago, total world population was 2.5 billion. And that was considered a remarkable number. In 1992, we reached the 5.5 billion mark, and the UN estimates that we will exceed 10 billion in the next century before population growth levels off.

This demographic force will generate an unprecedented wave of human migration in the 21st Century as ten of millions seek economic opportunity, escape from environmental disaster, civil strife and repression. The patterns have just begun to emerge and will grow with intensity in decades to come.

Abstract figures don't tell the whole story. To consider fully the national security implications of in-migrations, we must also examine the dynamics of the demographic picture. It's an aphorism now to observe that demographics is destiny, but it's true. The size of the youthful component, in particular the size and growth rate of the illiterate young male population entering the labor force relative to the size of the labor force as a whole, has a great bearing on a nation's (tribe or bloc's), political stability. Idle young men are the leading edge of any radical political force. They are the pool of discontent that most readily challenges static institutions and habits. Other factors, such as rural to urban migration, educational attainment generally, and differential growth rates between different ethnic groups are key to any fair appraisal of the security implications of immigration.

Robert Kaplan's now much-cited "The Coming Anarchy," from the February (1994) issue of the Atlantic Monthly, painted a dismal mosaic of fragmenting nations and tribes in regional and local flare-ups worldwide. Citing Samuel Huntington's thought-provoking piece in Foreign Affairs (Summer 1993), entitled "the Clash of Civilizations," Kaplan observes that "the world * * * has been moving during the course of this century from nation-state conflict to ideological conflict to, finally, cultural conflict. I

(Kaplan) would add that as refugee flows increase and as peasants continue migrating to cities around the world—turning them into sprawling villages—national borders will mean less, even as more power will fall into the hands of less educated, less sophisticated groups. In the eyes of these uneducated but newly empowered millions, the real borders are the most tangible and intracticable ones: those of culture and tribe * * * It is apparent how surging populations, environmental degradation, and ethnic conflict are deeply related." (at 60)

Look at Haiti. Haiti today is a very poor nation of 6.3 million. It has a rapidly growing population (2.3 percent per annum), and a population doubling time of 30 years. From a population under 5 million in 1980, its extraordinary growth will cause it to exceed 7.6 milion people by the year 2000. the "population pyramid" of Haiti compares to Rwanda, and starkly contrasts with that of France (a nation that enjoys population size stabilization, a high standard of living and the political stability that accompanies healthy national institutions). Today, most of Haiti's civilian legal structure is dysfunctional, its economy is in ruins, and the nation lacks even the ability to enforce its own frontiers. It is an ecological disaster, and the povery/illiteracy rate is over 80 percent. And, as Kaplan says, the rapid growth of young people—especially young males—into such an unstable and overcrowded situation can throw a nation into anarchy.

Haiti is not unique, of course. We don't need Kaplan to remind us that Haiti's troubles are part of a pattern emerging worldwide. As the political situation deteriorates, general civil violence erupts. Power and influence are spread about each community as local thugs—Kaplan calls them "less sophisticated groups"—control access to necessities of life. Official and unofficial corruption merge and blur into a generalized pattern of bribery, favoritism and fraud. As more and more young people enter their teenage years (as a result of a very rapid teen growth), they are recruited into what amounts to street gangs. Central political control collapses into generalized anarchy and civil war. In the coming decades, scholars and the United Nations suggest, this scenario will repeat itself over and over in country after country.

In much of the less developed world we have witnessed the flight from rural to urban areas of the past two generations. Those in the countryside are moving—voting with their feet—in response to poor and declining living conditions. Pushed from the countryside and pulled by the city's bright lights and economic opportunity—real or imagined—tens of millions have elected to crowd into teeming metropolitan areas. Mexico City, for example, with 3.5 million people as recently as 1950, now holds around 18 million. And what we have witnessed to date is only the tip of the iceberg. The UN estimates that between 1987 and 2025, the urban population of the Third World will have grown by 2.75 billion—twice the amount that were added during the period from 1950 to 1987. In 1950, North America had an urban population of 108 million; Asia (excluding Japan) had an urban population of 175 million. In 1990, the figures were 207 million and 900 million, respectively. By 2025, North America is projected to have 280 million urban dwellers, while Asia will have an urban population of 2.5 billion—roughly the population of the entire world in 1950.

In other words, by 2025, Asia's urban population will be as large—in itself—as was the population of the entire world in 1950 (about the time many of us here today were born!).

In 1990, the entire labor force of the more developed regions was 584 million people. In just the next 10 years, the less developed countries will have to produce 372 million jobs to accommodate all the new labor force entrants. These are not projections. The workers of the early 21st Century are already born. By 2025, another billion people will be seeking employment, a number more than double the present total labor force of the more developed regions.

These figures represent an economic challenge unsurpassed in the history of the human race. They paint a picture of tomorrow's megacity: teaming with uneducated souls, trapped in urban squalor and poverty, who, gaping at U.S.-made movies, believe that passage to the United States is the only real opportunity for an improved state of being. These same figures reveal that the size of the population most likely to migrate—15 to 45—is growing explosively in real terms unimaginable to earlier generations. Of those who want to move and can physically move, the numbers are swelling at a staggering rate.

We do not know the degree to which civil war and violence will intensify this desire to move, but we do know that many who would like to move only want to move to a particular country. If only those fleeing under emergent conditions are admitted to a country like the United States, then soon everyone will try to flee under the same pretense of emergency.

THE "GOOD OLD DAYS"

This acute pressure can only grow in intensity. Any loophole in our immigration processes, any opportunity for exploitation or illegal border crossing will produce uncontrolled waves of in-migrants. This is the most obvious impact on our national security.

I will discuss more about border security in a bit. But for now, let's keep in mind that these are the "good old days." That may seem hard to believe, but recently, the United Nations named 17 nations as "potential Somalias," or nations that could face collapse, including Mexico, Egypt, Nigeria, and Algeria. Thirteen are already in various stages of crisis, including Afghanistan, Angola, Haiti, Iraq, Mozambique, Burma, Sudan, Zaire, Rwanda, Burundi, Georgia, Liberia, and Tajikistan. The Chiapas region of Mexico is considered extremely volatile. Cuba, Haiti, Venezuela, Mexico, the Dominican Republic, and portions of Central America remain the greatest migration threats in our Hemisphere. In each nation or region, we see similar phenomena: a breakdown of civil order, a large, growing, poorly-educated and dissatisfied population in danger of starvation. There are right now perhaps fifteen to twenty ongoing secessionist movements worldwide, most in full swing.[1] Civil war, separatist movements, generalized civil and social breakdown—each produce large refugee flows. It is a scenario we have warned was coming for many years. It was brought on—or made much more significant—by rapid, uncontrolled or differential population growth rates in high-risk nations.

This pattern has already generated an explosion in the number of refugees worldwide, and, over the next thirty years, is going to generate the most unregulated flow of migrants in the history of the human race. (The most recent estimates provided by the United Nations High Commissioner for Refugees suggest there are about 20 million refugees who live outside their home countries—eight times the number of two decades ago—and another 24 million displaced within their own borders.)

WHAT IS THE AMERICAN SECURITY INTEREST?

A typhoon occurs not because of pressure per se, but because of relative differences in pressure. In our case, the United States, with its generous entitlement structure, free public education, relatively high wages and lower density, is attractive for those who would like to leave a country that lacks those characteristics. Relative pressure dictates that those with the greatest advantage from the move will try to make the move—and all the pressure is moving more this way. The poor, less educated and lesser skilled have the most to gain by moving to the United States. Because of our high tax rates, relatively low quality of life factors, we have more difficulty in attracting the best and the brightest.

But let's not get ahead of ourselves, here.

The implications of these regional demographic facts are staggering. The U.S. security agencies were discussing the long-range challenges presented by this picture years ago. The National Security Council, in "National Security Study Memorandum 200: Implications of Worldwide Population Growth for U.S. Security and Overseas Interests," Washington, D.C., December 10, 1974," stated the threats this way: [P]opulation factors are indeed critical in, and often determinants of, violent conflict in developing areas. Segmental (religious, social, racial) differences, migration, rapid population growth, differential levels of knowledge and skills, rural/urban differences, population pressure and the spatial location of population in relation to resources—in this rough order of importance—all appear to be important contributions to conflict and violence * * * Clearly, conflicts which are regarded in primarily political terms often have demographic roots. Recognition of these relationships appear crucial to any understanding or prevention of such hostilities. (at 66)[2]

When this analysis was written, the 1980 Mariel Cuban boatlift had not occurred. Immigration from Mexico was problematic but still under some control, and illegal immigration was a minor political issue.

Today, things are different. We now know that this analysis correctly analyzed the relationship between population mobility/hostility dynamics and other security issues. It just didn't bother to place the United States anywhere in the picture. (This is not surprising, of course. Until recently, the United States was in the thrall of the "myth of American exceptionalism." This holds that all the lessons of human history have no bearing on the United States. We're different. "We're special," says immigration expansionist Larry King.)

Here is the bad news: Simply put, unless the United States develops better control over its borders and curtails immigration, we will simply be overhwelmed. Our institutions will erode, our harmony of outlook will disappear, and our entire sense of national cohesion will evaporate. In short, we will cease to be a nation. We will not continue to function as we have in the past. We will become, instead, groups living on this land, each contending for a larger share of its remaining resources.

Here is why.

THE SECURITY PERSPECTIVE

First, let me make one thing perfectly clear. The United States does not now have

Footnotes at end of article.

any security interest in additional immigration. We don't need immigration.

Now, on its face, that might not seem to be a very profound statement (particularly through our romanticized notions of our history). But consider that the United States did have a profound security interest in immigration from 1607 until 1920. The fledgling colonies needed immigration to create a buffer zone between themselves and the hostile Native American forces. They, and later the original thirteen states, also needed settlers to populate new territories that were subject to hostile foreign colonial domination. In other words, settling the continent—settling the land and claiming the territory—was a condition precedent to projecting jurisdiction and, therefore, the nation. That land would not have been left to the Indians. It would have been claimed by Spain, France, Russia, China, Holland, or some other colonial power.

So imperative was the need to populate the continent that the United States was admitting a new state almost every year in the early 19th Century. The mold for the new territories, laid out in the Northwest Ordinance of 1787, established the entire frame of government, legal and philosophical institutions, and basic natural rights of the future inhabitants.[3]

It might be worth noting here that the level of immigration was much, much lower than it is today. In fact, it was tiny by comparison. And most of the immigrants came from Northern Europe. So even though there was a language problem, these immigrant groups came primarily from Northern European nations, with the Enlightenment traditions of Western Civilization. (Even so, British immigration was high enough, relative to Dutch immigration, to virtually wipe out the colony of New Amsterdam in the mid-17th century. This was true demographic hegemony; New Amsterdam slipped under the waves without a fight.)

The Framers surely knew the relative importance of actors in making a nation competitive. Shortly after the Northwest Ordinance was passed by Congress, Alexander Hamilton noted in the Federalist Papers that: The wealth of nations depends upon an infinite variety of causes. Situation, soil, climate, the nature of the productions, the nature of the government, the genius of the citizens—the degree of information they possess—the state of commerce, of arts, of industry—these circumstances and many much too complex, minute, or adventitious, to admit of a particular specification, occasion differences hardly conceivable in the relative opulence and riches of different countries. (No. 21)

In the case of the United States, we undertook a long, protracted process of establishing a new nation across a vast, mostly unsettled territory. It was a territory possessed of vast, resource-rich tracts of land, game, wildlife, strategic and life-giving rivers and streams, and great natural bounty. This enormous resource base, the selective nature of immigration, the form of government (and its underlying philosophy), the social and civic institutions, and the industriousness of the citizens, all fused to create a great national superpower in the 20th Century.

Israel Zangwill's "melting pot" succeeded because:

(1) a firm, long-developed framework of national political and economic culture and operations had been firmly established by the time the largest immigration waves hit;

(2) sheer abundance of physical space permitted immigrants and their descendants extraordinary mobility, and an ability to move to, or establish, new communities in which to live;

(3) the absence of any large population that laid an a priori claim to burial grounds, holy land, ancestral homes or sacred grounds that would resist the encroachment of new settlers.

(4) the absence of any officially-sanctioned linguistic and cultural preservation, preference or priority that could discourage assimilation.

If the United States is exceptional, it is exceptional because of past historical circumstances and the recency of its settlement. But, as noted ecologist Garret Hardin has observed, the same factors that enable a group or nation to prosper and multiply are often the same ones that lead to its demise.

The nation's need for immigration ended shortly after the turn of this century. With the labor supplies met for the industrial revolution (accomplished through immigration from 1870 through 1920, and internal rural to urban migration over the same period), the annual immigration level was firmly capped at that point (below 200,000 a year). And, most importantly from our standpoint, there was never any national consensus to this day to raise the numbers. Lost in our somewhat rosy view of immigration history is the fact that this turn-of-the-century wave was an exception, not a rule. Most of our immigration history was of much lower levels, usually below 250,000, and often far below that.

We enjoyed a virtual end to immigration from 1920 through 1965. It was during this period that the children of the Ellis Island wave made great strides toward assimilating into the national culture. Arguably, this assimilation would not have occurred had there not been a stop to immigration in 1920. World War II gave immigrants' children a chance to enter the labor force, compete on equal terms and prove their worth in combat. Post-war prosperity led to the creation of new suburban communities that enabled the melting pot to work in earnest. A new suburban neighborhood had the advantage of eliminating the force of prior territorial claim so characteristic of urban ghettos. Everyone's new on the block.

Everything seemed to be working fine, until 1965. At that point, some in Congress and the holdovers from the Kennedy Administration decided that immigration should be viewed as a "civil rights issue," rather than one tailored to meet the national needs. In 1965, without meaningful debate, we put in place new immigration laws that set in motion the greatest single flow of immigration in American history. Why? At this point in our history, why do we need immigration?

Do we need more people? Are we underpopulated?

Is there an acute labor shortage in the U.S.?

Is there insufficient traffic on our roads?

Are the water tables in Florida, California and Texas flooded?

Is there an excess of prime farmland in America?

Is there too much wildlife in our national parks?

Is there an overabundance of beachfront property to be developed?

Do we need immigration to improve American public education?

Do we need immigration to reduce crime in America?

Do we need immigration to improve medical care?

Are there too many acres of wetlands in need of paving?

Are we too homogeneous to be a legitimate nation?

Does our national security depend on any way on significant immigration?[4]

I think (and FAIR thinks) the answer to each of these questions is no. So if we don't need immigration, why have it?

The answer seems to be perceived tradition and habit.

But this habit is going to create a lot of problems.

First, legal immigration ("legal immigration" is a fictional concept that implies "by consent of the majority," something that is not in any way happening today) is running too high for any reasonable national future. According to demographers Lindsey Grant and Leon Bouvier: the United States grew from a nation of 76 million in 1900 to 249 million in 1990 (and to an estimated 260 million in 1994). Forty-three percent of that growth consisted of post-1990 immigrants and their descendants. Present immigration and fertility patterns place us on the path to a population of 397 million by 2050 and 492 million in 2100. More than 90% of that growth will be a direct result of post-2000 immigration.* * * We find the idea of another doubling of U.S. population thoroughly frightening. Consider the impact of many of the nation's current problems: urban decay and unemployment, energy dependence, nuclear waste and sewage disposal; loss of biodiversity and resistance of agricultural pests and diseases to pesticides and medicines; acid rain, climate change, depletion of water resources, topsoil erosion, loss of agricultural lands and destruction of forests, wetlands and fisheries, to name just some.[5]

Most of this population growth will take place in America's coastal counties (the counties that include big cities like New York, Los Angeles and Miami). Fully 60 percent of the coastal county population increase during the 1980's is due to immigrants entering the U.S. during the decade, compared to a much smaller 20 percent share in the non-coastal counties. If you've driven through many of America's coastal counties, you know what is already happening: crowding and congestion are the norm, open space is the exception. Well, things are going to get a lot worse, thanks in large part to immigration.

In California's coastal counties, where 80 percent of the state's population is concentrated, population density is currently just over 600 people per square mile. By 2010, when California's population is projected to reach 50 million (or more—the projections grow faster than I can keep up with them), population density in the coastal areas would be a staggering 1,050 people per square mile! That's twice the population density of Haiti. Most of this growth is concentrated in the urban core or the coasts itself.[6]

So it's easy to see why Bouvier and Grant are concerned about urban decay, sewage disposal, housing, wetlands loss, crowding and congestion. Who wouldn't be? Most people don't seem concerned because they don't really know about it. But others who do know are turning a blind eye: most of the "establishment" environmental community, population organizations and government planning agencies have accepted a growth projection that cannot possibly be accommodated in these coastal regions without dramatic changes to our quality of life, living standards and basic liberties. Where are the roads? What about the housing, the infrastructure, jobs, waste removal and water? We will be marshalling our scarce national resources to try to accommodate this huge

influx of people without any sense of our national destiny or goal. Yet no one seems to want to pull heads out of the sand and ask "why"?

THE SKILLS MISMATCH

Another security concern relates to the mismatch of immigrants to skills. The family preference policies in place since the mid-1960's continue to select most immigrants based on who they know, not what they know. At a time when our economy is placing a premium on a highly skilled, educated work force, our immigration policies are admitting ever-growing numbers of unskilled, poorly educated people. Moreover, our policies, as they are currently formulated to favor family "reunification" (a euphemism of classic proportions), will result in an acceleration of this trend in the coming decades. Family preferences are self-promoting, self-multiplying, and capable of fueling downstream expectations prematurely among millions of prospective immigrants. These factors lead to a de-skilling of the immigrant stream.

In other word, immigrants are getting . . . well, less literate and technically endowed. Of the nearly 1 million people who come here through the legal immigration, refugee or asylum processes, a mere 160,000 visas are set aside for people based on their skills. And even that is a misleading statistic, because approximately two-thirds of those visas go to the dependents of the skilled workers. In addition, between 250,000 and 500,000 illegal aliens settle permanently each year. Thus, of the 1.2 to 1.4 million permanent immigrants who come to the United States each year, only about 60,000 or 5% are selected because they have some unique qualifications that our country desires. No doubt some highly skilled individuals come through the family preference or refugee process, but relying on that is the policy equivalent of fishing with a drift net. (Including educational and income data on the recent amnesty recipients only skews the data more dramatically in the same direction. Unlike 1970, today's immigrant is more likely to be on welfare, more likely to be working in a low income job, and more likely to be eligible for the Federal Earned Income Tax Credit than the native born American.)

As honest, sincere and hard working as most may be, the profile of today's immigrants simply does not match our needs as a nation. Faced with the already daunting task of making the transition to the high-tech, highly competitive global economy of the 21st Century, an immigration policy that admits more than a million people a year, without regard to their skills, is a luxury we can no longer afford.

BRAIN DRAIN

It has been often observed that the developed nations probably do not want to siphon all the technical talent from the developing nations. The American interest in the respective security of all nations means sometimes resisting the impulse to substitute American technical labor for cheaper imported labor.

But new evidence just reported in Money (July 1994) confirms what many of us have feared for some time. We are losing the best and the brightest to other nations. According to Money, "driven by rising crime rates, and limited job opportunities, as many as 250,000 Americans are leaving the country for good every year. Nearly one in five Americans are thinking about moving abroad, and fully 26% of those with incomes of $50,000 or more have contemplated it." The article claims this foreign flight is related to "a pervasive sense of disillusionment and pessimism in the country today." Many cite objective quality of life factors (many, I think, related to overcrowding). This out-migration trend would put the U.S. in the same position Britain found herself in back in the 1960's. Large scale unskilled immigration, native-born highly-skilled emigration. It is devastating to national competitiveness.

RAPID ETHNIC CHANGE—THE SECURITY OF AMERICA'S INSTITUTIONS

Immigration is an emotional issue for many good reasons. Race and ethnicity are two of them. These sensitive topics have a long history of exploitation by ethnic leaders, demagogues and historians. But the implications of current trends are so marked that they must be mentioned in any serious discussion of the impact of immigration on national security. Again, Leon Bouvier: If current demographic trends persist, that is to say, if fertility remains fairly low, if life expectancy increases slightly, and if net immigration is about 950,000 annually, the majority Anglo group, now representing about three-quarters of the population, will comprise just over half of that population by the middle of the twenty-first century. The Latino group will surpass Blacks before 2020 and comprise 22 percent of the nation's population by 2050 while the Black share will be about 13 percent. The proportion held by Asians too will grow—from 3 percent in 1990 to 11 percent sixty years later.[7]

We know from the growing border pressures down the line, these are probably conservative projections. Bouvier notes that "the remarkable shifts taking place in the composition of the population of the United States are bound to have momentous impact on the political structure of the United States." (Supra. note 6 at 7) This takes us back to the security questions enumerated earlier: we must look at the nature of these shifts, and their relative dynamic within the nation as a whole. In other words, we need to look at what is really going on.

There really is no precedent for these kinds of rapid ethnic shifts taking place in the U.S. over so short a period of time. (And no nation has ever sustained these kinds of shifts for any prolonged period of time and survived as a nation.) The last wave (still smaller than today's) at the turn of the century had features different than this one. First, in 1900 many Americans were also migrating from farms to cities. This meant that both foreign immigrants and native Americans were converging on cities simultaneously. Today, as we'll discuss in a moment, native Blacks and whites are fleeing high impact areas (Florida is the only exception, for its peculiar reasons).

Second, the rate of ethnic change is much faster now because of the stable population growth rates previously established by most of the U.S. population in the 1970's. At the turn of the century, the U.S. birth rate was much higher, as much as twice the current level. Today, whites are at or below replacement level, while minorities are above it. That means that immigration is a higher proportion of population change now than it was at the turn of the century-and it means that immigration in the 1980's (and 1990's) has been contributing to a higher percentage of population growth (over 35%) than it was in the first decade of this century (about 28%).

The result: faster and more robust ethnic changes, with greater regional concentration and growing fragmentation.

The 1990 Census revealed these troubling trends: sharpening regional divisions along racial and economic lines. University of Michigan's Dr. William Frey, a demographer, says that "rather than leading toward a new national diversity, the new migration dynamics are contributing to a demographic 'Balkanization' across broad regions and areas of the country." The evidence is clear: poor immigrants move in, poor whites and blacks move out. This is a new trend, not consistent with earlier historic immigration and internal mobility patterns. There emerges an increasingly bifurcated economy, in which low-skilled immigrant laborers have relatively few opportunities to work their way up into higher paying, skilled jobs and middle-class status. The loss of a middle class, combined with ethnic fragmentation, should be the first real flare in the sky. People have to want to live together, interact and assimilate to get along. At some point this must happen. But can it ever happen if there is no let up in immigration?

None of this new evidence surprises me, of course. Why should it? They are the natural consequences of the nation's immigration laws: admissions without planning, oversight or consideration of domestic impacts. (Not a single sponsor of the 1965 Act accurately predicted the full consequences of the laws effects.)

But these changes are happening, and we must face them or alter their course. While immigration policy should not discriminate against any particular immigrant based on race, religion or ethnicity, these ethnic concentrations must be considered within the context of our future security and health as a nation. We must consider whether we want to keep doing what we are doing, or try something else for a while. (Polls show most Americans want immigration reduced, and FAIR thinks the nation could use a moratorium or "time out" on immigration for a while.)

Few would deny that we are balkanizing and re-segregating the nation into regional enclaves at a time when our political, academic and cultural institutions eschew the "melting pot" concept. It is fashionable to foster the barriers that divide, and on college campuses today, it is required for social acceptance that one be part of an ethnically-defined subgroup. Through the operation of laws such as the Voting Rights Act (guaranteed seats, ethnically-based districts, bilingual ballots), the Census Act (counting illegal immigrants in the Census for reapportionment), the watering of distinctions of citizenship (non-citizen voting, certain "equal protection" holdings), and a full battery of federal and state programs, such as Affirmative Action and long-term, non-transitional bilingual education, that encourage separate identification, immigrants and their self-appointed ethnic leaders are inundated with messages that "unum" is out, "pluribus" is in.[8]

What does it all mean for the nation and its security? It depends on our speculations regarding the health of our institutions. For those influentials who believe that "United States is simply an idea," or "a nation of immigrants," or "a concept," all this probably means nothing much.

But a nation is more. It is a people, its land and its institutions. The institutions include customs and conventions, common conceptions of right and just, a shared history sufficient to create some bond, and shared habits and traditions that enable them to co-exist, interact and engage in commerce and political life. In short, through our civic institutions, a people must recognize one another and what defines them

as part of a national community. We must look realistically at the conditions that have allowed us to prosper and cohere as a nation. With those in mind, a people must be prepared to defend its land and institutions against outside assault. If we do not wish to protect American institutions, and defend the land for our people, then at that point we will cease to be a nation. Do we have a lot of time?

THE SECURITY OF THE LAND

If we don't really care to defend our domestic institutions, and we don't much care to define who we are as a people, then what about the land? Look at our borders. We've had ten million illegal immigrants come to the country since 1970, and more enter each year. Until recently, most Americans seemed willing to ignore this invasion of the soil. But polls show a changing public mood. People are ready for a change: they want the nation to control its borders. The reasons are simple: when illegal immigrants enter at low rates, no one minds a few harvesters and service workers. But on a sustained, chronic basis, large scale illegal immigration is a wage subsidy for employers that ultimately undermines the entire labor base of an area. And the costs all fall on state and local taxpayers. The voting public has again asserted its desire for meaningful borders and its prerogative to describe who "We the People" are and are not.

The dismal state of political asylum is now common knowledge.[9] Asylum has become a symbol of the broken state of America's entire immigration control system. People just show up at our airports and make phony asylum claims. Shortly, they receive work documents and a hearing date, often without any positive proof of identification. Many are never heard from again. The public is outraged at the situation. But what has Congress done? Nothing.

Attached as Appendix A is a flowchart of the steps required in the deportation process. The chart looks like something from the health care debate. No one could easily follow or understand it. But this is the procedural morass that has rendered America's borders unenforceable. Yet this chart illustrates the variety of appeals and delays that are available to the alien to stall deportation indefinitely. The possibilities for collateral attacks, motions to reopen, motions to reconsider, and parallel avenues of relief are endless, and so is the process.

Lacking adequate detention space for all but a tiny fraction of illegal aliens, most go free. This maze of delay serves their interest quite well. The entire process continues, broken and unabated, until the nation is faced with a highly visible national security crisis such as the World Trade Center bombing, or the Haiti and Cuba outflows. Then, suddenly, the political leadership pays attention.

CRIMINAL ALIENS

A series of jarring incidents in 1993 gave the public the unmistakable impression that immigrants are not all honest and hard working. Some are here to commit crimes, while others are part of a growing number of international organized crime rings that specialize in everything from alien smuggling to computer and credit card fraud. Criminal aliens are overrepresented in the Federal criminal justice system, and information about the nature of sophisticated international syndicates is creating resentment and anxiety among the general public.

The security threat comes from an inability to identify someone as an alien during pretrial screening or arrest. A person's capacity to slip in and out of the country with several identities certainly facilitates criminal activity. Agencies do not check with one another, and everyone knows the Immigration and Naturalization Service lacks the basic capacity to verify its own documents and information.

The internationalization of organized crime poses a particular security threat to the United States. Our ineffective identification technologies make it very easy for international criminal syndicates to manipulate U.S. admissions and eligibility procedures to render an illegal alien "entitled" to medical treatment, employment or residence. As the level of desperation to move grows around the world, these international syndicates that specialize in the movement of people are only going to grow, and be a more powerful component in the field of organized crime.

THE SECURITY OF A SECURE ID

In the United States today, we do not have any way of linking people to their birth records. This means there is an enormous gap between personal identity and basic government documents. For years, commissions and agencies have sought improved documentary standards. Nearly all advanced industrialized nations have ID systems. Yet, here in the U.S., we steadfastly oppose them. Why?

We will never properly secure our borders without improved ID systems. Yet just this month, we had another flare up over the ID issue. It was as predictable as the sun rising in the east. No sooner had Barbara Jordan, head of the Commission on Immigration Reform recommended a pilot program to test a verifiable Social Security card than the fear mongers leaped into action. The usual buzz words and phrases, designed to strike fear into the hearts of various groups of Americans flew in all directions. Jordan's recommendation was to simply create a fraud-proof social security card to verify the number electronically. Even that was tough to swallow (even though the Internal Revenue Service has several pilot Social Security number verification programs now underway).

The United States today maintains citizenship on the honor system, and millions of people around the world know it and are prepared to take advantage of that weakness. The nation needs a national birth-death registry.

Why this loophole hasn't been corrected seems less to do with the fact the idea is controversial and more to do with fact that no Federal agency really has responsibility for the problem. Secret Service worries about fraud and Social Security hands out numbers based on presentation of a (hopefully) valid state birth certificate. That's it at the Federal level. And there seems to be a great deal of inertia to tackle this problem. Given the absence of revenue possibilities, the projects seems to fall into the "too hard bin." Yet the security of our borders, and our ability to detect criminal aliens, depends upon more and better systems of identification verification now.

No amount of border enforcement will work without improved capacity to identify who is a citizen, and who is here legally and who is not. Unless we clean up the citizenship records, a vital crack in our national security remains vulnerable to exploitation.

CUBA AND HAITI

What a disaster! The Clinton Administration seems to be determined to demonstrate its inability to anticipate events that its own intelligence predict will occur with 100% certainty. Our intelligence agencies have seen this outflow from Cuba coming for at least two years (surely longer).

The Governor of Florida has just asked the Federal Government to declare a "state of immigration emergency." This is new. This is a new name to describe a phenomenon that has underscored the acute national security implications of massive, uncontrolled in-migration situations to Florida. First there are costs to Florida. State and county costs for health care, education, resettlement assistance, food stamps and related expenditures are prompting Florida to ask for Federal assistance.

Secondly, there is the Federal and national security interest in the regulation of our borders. A foreign nation that seeks to export its opposition, or its unemployed labor force should be considered as engaging in a hostile act. This interest must be asserted in a way that is consistent with our overall foreign policy in the region. But since we now know that these situations will be common and growing in frequency and magnitude, we cannot allow our foreign policy to be dictated by threats of massive expulsions or uncontrolled out-migrations of people.

As the Cuba and Haiti disasters reveal, the chronic threat of uncontrolled migration has the potential to jeopardize U.S. security interests in regional Hemispheric operations and in vulnerable domestic communities. It is also possible that larger U.S. security interests are threatened by the apparent readiness implications of the concentrated deployment of Navy ships in the affected regions. Drug trafficking, refugee and humanitarian relief, economic blockades and immigration interdiction emergencies have all siphoned money from potentially vital strategic hardware acquisition programs and related projects. Soon, if not already, America's military capacity is likely to be compromised.

Lastly, the Clinton Administration announced this week that it was prepared to detain Cubans in Guantanamo Bay Naval Base "indefinitely." While this threat was made to try to discourage Cubans from leaving Cuba, it may also produce a disaster at Gitmo. Firstly, the United States has as security interest in not detaining thousands—tens of hundreds of thousands perhaps—of foreign nations indefinitely on our soil (lease or otherwise). Putting that aside, what happens if Castro removes his Guards from the Cuba side of Gitmo and Cubans run in? Has anyone considered this?

CONCLUSION

The ad hocracy of this administration's response to migration crises amply illustrates the hazards and potential threats to our national security represented by uncontrolled migration. We must have a better plan in the future. We must have a better understanding now. As a nation, we must be better prepared psychologically to make the sure calls that sound principles permit. We need to understand that the age when international migration could solve human problems is over for the overwhelming majority of mankind. If we and the other developed nations are to control our own destinies and respective national security, then we must recognize the most worldwide will have to "bloom where they're planted." Most will never be able to move from their place of birth, instead individuals will have to work to change those conditions they find unacceptable.

Our role must be to try to help people improve conditions where they are, within our capacity as a people. While we have a moral

obligation to use our resources wisely, nations are and must remain the essential unit of governance. Some say the nation state is a thing of the past. I do not agree. Nation states will emerge from the present age stronger then ever.

But ours will not necessarily survive unless we prepare to weather the forces in our path these next thirty years. We must re-assert control over our borders now—before it is too late. We have been too lax for too long. Sovereignty is the guarantee of a nation's and its citizens' right to exist—and their right to regulate entry. It is the sole guarantor of our ability to pass along our natural and environmental resources in healthy conditions to future generations. It is our only reliable security for our future.

Thank you.

FOOTNOTES

[1]These include the Kurdish secessionist movements in three countries, Northern Somalia, the Tamils of Sri Lanka, the South Ossetians and Abkhazians in Georgia, the Indian Kashmiris, the Sikhs of India's Punjab, the Armenians of Nagorno-Karabakh, Northern Cyprus, the Southern Sudanese, the Oromo of Ethiopia, the continuing secessionist embroglio in Burma, Bougainville in Papua New Guinea, and the Chittangong Hill Tracts in Bangladesh. Basques, Quebec, Sardinia, Corsica, Wales, Scotland and Bretons are examples of ethnonational movements in the Western world. "Historical and Contemporary Assessment of How States Use Secessionist/Ethnic Movements to Achieve Political Objectives," Alexis Heraclides, et. al., June 1993, National Strategy Information Center paper, at 15.

[2]Reprinted in The Social Contract, Winter 1992-93, at 118.

[3]These were mostly carried forward in the Constitution of the United States as ratified, and later amended by Bill of Rights.

[4]Here there is some difficulty. Some argue, like Edward Luttwak and Ben Wattenberg, that the nation needs young people to form the modern day equivalent of Napoleon's Grand Armee. A nation that is unwilling to risk the lives of its (definitionally) expendable young people must no longer be a great power, says Luttwak in the July/August issue 1994 of Foreign Affairs. Wattenberg claims that a rapidly growing population is vital to national strength, especially if your enemies are growing faster. In 1987, for example, in a book entitled "The Birth Dearth," Wattenberg claimed we were in trouble because our population growth was not slated to grow as rapidly as that of the Soviet Union. This, he claimed, would leave us in mortal jeopardy by the year 2000. These arguments, like those arguments that insist immigration is needed to insure the solvency of Social Security, rely on a cramped view of the true source of national power. In the former case, it is a high quality, well trained and educated workforce, in the latter case, it is fiscal discipline at the federal level.

It's also possible that an Albert Einstein could immigrate as a refugee. No question about it. Albert Einstein not only expanded the productive potential of the American economy, he did wonders for improving our national security. But we can't run an immigration program admitting millions of people in the hopes of getting another Einstein. It is just not practical. The problem is that Einstein's greatness had nothing to do with the fact that he was a refugee. Had he been allowed to work anywhere, he would have made great contributions where ever he was. Remember, many great inventors produced inventions in other nations that led to great commercial advances here. Ideas can be freely exchanged more easily than people. (Of course, if you know you have an Einstein who wants to immigrate to the U.S., we could hardly be faulted for making the extra effort to bring him or her in. On the other hand, if America's only immigration problem was that ten Einstein's wanted to immigrate to the U.S. each year, I would not be here talking with you today.)

[5]Bouvier and Grant, "The issue is Overpopulation," Los Angeles Times, August 10, 1994, B7.

[6]For more information on these trends, see Fox and Mehlman * * * Crowding Out the Future: World Population Growth, U.S. Immigration, and Pressure on Natural Resources, Federal * * * American Immigration Reform (1992).

[7]Bouvier, "The Domestic Political Consequences of Projected Immigration to the United States in the First Quarter of the Twenty-first Century," National Strategy Information Center, June 3, 1993. It is a tribute to assimilation that today, all non-Hispanic whites are being labelled "Anglo."

[8]Bilingual translations and training in the military has been a mighty challenge when it has been tried. Consider that over 50 languages are now spoken in Los Angeles County public schools. Surely the maintenance of a common language in the military is of vital interest in ensuring the efficient operations of our military establishments.

[9]See, e.g., transcript of 60 Minutes, CBS News, air date, March 15, 1993, 7 p.m., e.s.t., segment "A" on political asylum abuse at JFK airport FAIR has endorsed several bills pending in Congress that would accelerate the hearing process and provide for "summary denials" at ports of entry. We believe that if the Clinton Administration had moved more aggressively to implement a one-shot summary procedure, there would be much less need for these chaotic, embarrassing interdiction efforts in the Windward Passage and between Cuba and Florida.●

HONORING HARRY LEMIEUX

● Mr. DURENBERGER. Mr. President, I rise today to honor a good friend of mine and a man who devoted his life to serving his country and advancing its health care institutions. Today we mourn the passing of Harry Lemieux of Eagan, MI, a champion of veteran's rights and the health care providers of our state.

Harry was born in St. Paul where he graduated from the old Marshall High School. He enlisted in the Navy and served for 22 years, including several years in the South Pacific during World War II. He specialized in submarine warfare and worked with the Naval Reserve's Weekend Warrior Program until his retirement from the military in 1966.

As chairman of the Veterans' Legislative Committee for 8 years, Harry led a coalition of military groups that still fights on the veterans' front. He was a member of the American Legion, VFW, Fleet Reserve, Shekinah Masonic Lodge 171, and Osman Temple Shrine.

He worked briefly for the St. Paul Housing and Redevelopment Authority before he and wife, Pearl, bought West St. Paul's Southview Acres, a nursing home complex in 1966, which they enlarged from 71 to 257 beds. In 1983, he built the 200-bed Apple Valley Health Care Center, and 3 years later a 208-bed Villa apartment complex for senior citizens attached to the health care center.

Harry was also an active leader in the health industry. He was president of the Minnesota Association of Health Care Facilities and lobbied the legislature on bills to benefit the elderly.

My good neighbor Harry Lemieux's contributions remind us, as we discuss health care reform, how important it is to maintain a system that cares for the individual and rewards individual achievement. Harry's contributions will not soon be forgotten by those who most benefited from his work—the veterans, the elderly and the beneficiaries of his innovative care. We will miss him greatly.●

UPDATE ON PROGRESS ON THE NATIONAL COMMISSION ON CHILDREN'S CHALLENGE: BEYOND RHETORIC: A NEW AMERICAN AGENDA FOR CHILDREN AND FAMILIES

● Mr. ROCKEFELLER. Mr. President, almost six years ago, thanks to the leadership of Lloyd Bentsen who was chairman of the Senate Finance Committee at the time, Congress established a bipartisan panel to take a comprehensive look at the well-being of children and families—the National Commission on Children.

It was my distinct honor and privilege to chair this panel of 32 members that included elected officials, child advocates, academics, and leaders from all levels representing the complete range of the political spectrum. Each of these individuals continue to provide tremendous service to children and families across the country.

As the Commission's charter directed, our group dedicated 4 years to studying the challenges facing America's children and families through intense study and by traveling the country to meet, not only with experts, but also with American children and parents.

Many of the most moving events and greatest learning experiences for the Commission were at our meetings with children who spoke in compelling personal terms about their needs and their fears. Our visit to West Virginia, to talk to families struggling to make ends meet and to explore ways to help them raise their children, was memorable.

After 2½ years of hard work and intense study, this diverse group voted unanimously in support of our final report released in 1991, Beyond Rhetoric: A New American Agenda for Children and Families.

The process of forging this historic consensus among such a diverse group was an important experience for me. It convinced me that when leaders are willing to set partisanship aside and focus on the core problems facing children and families, there is tremendous agreement on what should be done.

After issuing our report, the Commission stayed active for 2 more years to aggressively publicize our recommendations and the information gathered throughout our work. Our goal was to ensure that the course of action suggested in our unanimous report did not vanish into thin air. To go beyond rhetoric, we felt we had to promote the decisions and commitment needed at all levels to build a better future for America's children and families.

The Commission's final event was a major summit in Washington, DC, in 1993 to gather leaders and child advocates from around the country together to discuss how to move beyond rhetoric and into action. There, we

passed the torch from a commission to the people and organizations committed to children and families. I was especially proud that several Cabinet officials participated in our summit along with a wide array of leaders from communities, States, and national groups.

The report of the Children's Commission has become my own personal and legislative blueprint for action on behalf of children and families. I believe it charts the right course for helping children by strengthening families, a goal which has attracted increasing attention and bipartisan support since 1991.

Today, I want to report on the accomplishments made during this Congress in implementing recommendations of the National Commission on Children. This is also my chance to renew my pledge to push forward—bit by bit—until the full proposals of the Children's Commission becomes the Nation's agenda.

In order to keep pushing ahead, I think it is essential to recognize the results achieved on behalf of children and families since our Children's summit last year.

The Commission outlined several major areas for action on behalf of children and families. It challenges all of us—elected officials at every level, community leaders, parents, and concerned citizens to each do our part. It is gratifying to report that real progress has made in each of seven specific areas highlighted by the Commission for change:

ENSURING INCOME SECURITY

The National Commission on Children concluded that the fundamental key to improving the future of America's children is in strengthening the financial security of our Nation's families. In our report, we laid out the elements involved in achieving greater income security or families. We called on the country to recognize that investing first in families and making family income security a priority is the way to build a more stable society and promote the values of work, responsibility, and family.

This is a challenging agenda. It involves making decisions to direct resources to families rather than less important areas.

I am proud to note that last year when Congress enacted the deficit reduction and economic plan, called the 1993 Reconciliation Act, we made some major strides on behalf of children through elements of the package that some of us worked hard to include. Much of the national debate on this budget package focused on the tax provisions and spending cuts included to achieve the historic result of $500 billion in deficit reduction over a 5-year period.

That louder debate about the tough choices involved in deficit reduction practically drowned out the major steps we also included to meet other important goals.

In this budget package, we expanded the earned income tax credit to help parents who work but are struggling to raise their children. This provision will invest $21 billion in helping families with children over a 5-year period to lift them out of poverty. It sends all the right signals about work and personal responsibility. With President Clinton's strong commitment, I fought for this part of the agreement because it was a key recommendation of the Children's Commission strategy to enhance income security for families.

The package also strengthened child support enforcement by pushing States to be more aggressive with hospital-based paternity establishment programs. Obviously, we will need to do much more to strengthen child support enforcement as suggested by the Commission. I am continuing to press for the Commission's recommended demonstration of child support insurance to increase the income security of families broken up by divorce or in cases where a parent is absent.

The other remaining elements of the Children's Commission agenda include a refundable child tax credit and promoting work over welfare and dependency. President Clinton put forward a bold initiative with his welfare reform bill that tries to meet some of this challenge, and I am eager to work next year for passage of a balanced proposal to dramatically strengthen child support and provide jobs so parents can work and become role models for their children.

IMPROVING HEALTH CARE

The Commission laid out the importance of action to improve the chances of children being born healthy and growing up healthy. A majority of the members endorsed a detailed plan to achieve universal health coverage of children. While nine Commissioners differed from that proposal, we all expressed broad support for a series of actions to promote personal responsibility, prevention, and public health.

Since then, major progress has been made toward full funding for the Supplemental Food Program for Women, Infants and Children [WIC] with an increase of $600 million over the past 2 years. Every dollar spent on WIC yields savings in Medicaid because proper nutrition for pregnant women and infants makes a real difference in their health. Increased investments also are being made in a comprehensive program for child immunizations to ensure that every child gets vaccinated.

The Commission also agreed on the need for parents and communities to create a healthy, safe environment for children. Action in the Violent Crime Control and Law Enforcement Act of 1994 will provide funding to communities to keep our streets and schools safe. At a session with teens in Kansas City, Children's Commission members were stunned to hear teenagers candidly talk about fears of being shot or hurt. The numbing statistics that guns are the leading cause of death for both black and white teenage boys in America tell us that crime and violence is a severe health care problem.

Unfortunately, there is no single solution for the violence that plagues our Nation, but I hope that growing public awareness and investment in community-based prevention efforts in the crime package will help curb violent crime that places the lives of children and teens at such grave risk.

Having made health care reform a priority, I had hoped that this session of Congress would have done much more to provide health care to children by enacting comprehensive reform to provide universal coverage. Lack of action on this fundamental issue is a major disappointment. But we must learn from this effort, and I will continue to work for universal health care coverage with the belief that it makes sense to put children and pregnant women first.

INCREASING EDUCATION ACHIEVEMENT

The untold success story of this Congress is the magnitude of progress made to improve our schools and other aspects of education. Comprehensive changes and investments have been made over the past 2 years in areas that include education reform, Head Start improvement, and direct lending for college student loans. These legislative initiatives support the broad goals of the Children's Commission.

Our report emphasized fundamental points beginning with the need to prepare children to enter school ready to learn through the expansion of Head Start to all eligible children and greater emphasis on quality child development.

For schools, we called for rigorous academic curriculum, professional development for teachers, school-based management, greater accountability, improvements in school environments, and more equitable financing. The commissioners thoroughly debated the issue of school choice and ultimately supported school choice among public schools only.

These specific goals are reflected in both Goals 2000, Educate America Act, signed into law on March 31, 1994, and the Elementary and Secondary Education Act [ESEA] that the Senate approved by a strong vote on October 5, 1994. I was proud to support each of the bills. Special investments also have been made in promoting school safety which is a major factor in improving school environment.

Head Start continues to earn strong bipartisan support; and, despite the tight constraints of the Federal budget, this key program received an increase of more than $700 million combined in the past 2 years. Congress also

79-059 O—97 Vol. 140 (Pt. 21) 12

passed legislation reauthorizing this program which includes efforts to ensure that each Head Start Program delivers the full quality services promised to children and families. We have not achieved full funding yet, but we are on the right course; and the enactment of our national education goals which begin with school readiness should keep us on track.

Secretary of Education Dick Riley also has recently announced a major initiative to promote parental involvement in education, and I believe this is crucial. Nothing is as important for a child's education as having concerned, engaged parents who work with teachers and encourage children to read and work hard in school. As commissioners, we visited the Helene Grant Elementary School in New Haven, CT, and saw for ourselves what a difference parental involvement can make. Even though this school was old and somewhat rundown the classrooms were alive with eager students engaged in learning, thanks to the help from Dr. James Comer and his extraordinary work in school-based approaches that engage parents in school activities.

PREPARING ADOLESCENTS FOR ADULTHOOD

The Commission also called for greater emphasis and attention to helping teens make a smoother transition into adulthood. We stressed the need for education and training. Our report also urged greater efforts to link school to work, including expansion of the Job Corps Program. Our recommendations also noted the importance of promoting healthy development to urge teens to avoid high-risk behaviors.

Important progress has been made in this area with the passage of the bipartisan School-To-Work Opportunities Act which will promote a variety of innovative transitional programs like tech prep and apprenticeships so teens can get experience and acquire job skills needed to compete in the modern workforce. Many States, including my State of West Virginia, are investing in such programs. Enactment of this bill will promote a more comprehensive strategy to ensure that teens can learn the skills they need to get good jobs and become independent. I cosponsored this bill and hope recognition will grow to see the consensus on education that emerged during this Congress and allowed us to push forward on the Commission's education goals. Job Corps funding has increased, and the direct lending program should make it easier for students to borrow and then repay loans for college.

The effort to persuade teens to avoid high risk behaviors is a major challenge, but many communities are rallying to respond. At the Federal level, various prevention initiatives are underway to reduce dropping out of school, to reduce teen pregnancy, and to curb substance abuse. Trying new approaches through the demonstration projects is important, and I believe that we must provide flexibility in programs because what may work in inner cities may not necessarily be appropriate for teens in Elkins, WV. President Clinton's welfare reform proposal includes a major commitment to reduce teen pregnancy, and it deserves our attention and action next year.

As the Children's Commission noted time and time again, primary responsibility in this area rest with parents and caring adults willing to provide guidance and support for teens on a one-to-one level to avoid high risk behaviors as they grow up.

STRENGTHENING FAMILIES AND PROTECTING VULNERABLE CHILDREN

The Commission also clearly stated the simple but crucial fact that the best way to help children is to strengthen families. This basic truth will require many changes. Public policy can help reinforce fundamental values and provide crucial support for families; but the lion's share of this work must be done by caring individuals getting involved with their own families, friends, and communities.

Still, where Federal policies can make a difference, there has been positive action with the enactment of the Family Preservation and Family Support Services provisions of the 1993 Reconciliation Act. This program will invest almost $1 billion to offer intensive services to high-risk families and support innovative efforts like Parents As Teachers and Home Instruction Program for Preschool Youngsters [HIPPY] to help parents get the support and education they need to raise their children.

This initiative is a down payment on the more comprehensive approach suggested by the Commission to provide coordinated community-based family support networks with services ranging from intensive support for severely troubled families to more preventive services in parent education and child development. The idea is to give communities the resources and tools to reach out to families early with support.

MAKING POLICIES AND PROGRAMS WORK

Thanks to the leadership of Vice President GORE with the National Performance Review initiative to reinvent Government, there is a new concern about cutting redtape across-the-board on all Federal agencies which has enormous potential to help streamline programs for children and families.

While the Children's Commission never envisioned nor had the scope to suggest such a broad initiative to revamp Federal bureaucracy, the success of the National Performance Review can help meet the Commission's recommendations to bring greater cohesion and efficiency to the delivery of public health and social services to children and families. While uniform eligibility criteria and streamlined applications seems dry and unimportant, it is crucial. Complicated forms and regulations are serious barriers that prohibit children and families from getting the help they need and deserve.

CREATING A MORAL CLIMATE

The final chapter of our report challenged every American to take a leadership role in their own lives and communities in providing a clear, consistent message to children about personal conduct and responsibility. We urged every adult to renew their efforts to promote fundamental values of human dignity, character, and citizenship.

It is enormously gratifying to me to see this happening on many levels in a bipartisan manner. The bipartisan initiative, led with inspiration by Senator DOMENICI, called Character Counts, is just one example of an effort to reinforce fundamental values for our children; and I believe such initiatives are a vital piece of our comprehensive strategy for children and families.

While there is obviously much more to do on behalf of children and families, I am encouraged by these recent and significant achievements made in advancing the Children's Commission agenda. Our report provided a blueprint, and several cornerstones are now in place. We now must build on this success and keep working until we have a support structure for families that will help each child reach their potential and become a productive, caring citizen.

When asked, each one of us say that we care about our children. Words are simply not enough. The final chapter of our report focused on building the necessary commitment; and it begins with a quote from Goethe: "Knowing is not enough, we must apply. Willing is not enough, we must do."

With this statement, I have chosen to highlight the better news about children in America. We are surrounded with evidence of the failures and the problems that afflict children. We must never accept the intolerable. The progress described in this statement is the result of leadership, persistence, and cooperation.

We know how to help children and families, but we must summon the personal commitment and the political will to face the challenge and move beyond rhetoric to results.

This is a chance to thank the many individuals whose hard work and dedication have formed this record of achievement for America's children and families. With gratitude, I note the leadership of Cheri Hayes, who was the Executive Director of the National Commission on Children, and the talented team who worked with her over the years. With thanks, I commend my colleagues and administration officials for their consistent efforts to promote the values and the policies needed to hand America's children a brighter future.●

TRIBUTE TO EDWARD B. McREE

• Mr. RIEGLE. Mr. President, I would like to bring to the attention of my colleagues a renowned leader in health care in the State of Michigan. Mr. Edward B. McRee has just retired from his position as president of Ingham Medical Center Corp. in Lansing MI, after 33 years of service.

Mr. McRee is known to many as the "father of Ingham Medical Center." He has developed Ingham Medical Center from its early days as a tuberculosis sanitorium, into the highly specialized, acute-care institution that it is today. The center has become a premier heart care center in mid-Michigan, and is world renowned for implementing the use of arthroscopic surgery.

Edward McRee understands the need for comprehensive health care services, but he also believes in trying to control the rising costs. Due to his insight and creativity, Mr. McRee was the guiding force behind the merger of Ingham Medical Center and Lansing General Hospital in 1992, now referred to as Michigan Capital Medical Center. This system has allowed for the resources from each hospital to be joined, which means expanded services for clients at reasonable prices.

The leadership, public confidence, and character of Mr. McRee are demonstrated in his achievements in both his professional and private lifestyles. He is a life member of the Michigan Hospital Association, and currently holds positions as a trustee and executive committee member, and he has been a trustee for Blue Cross-Blue Shield of Michigan since 1986. Mr. McRee has been affiliated with numerous other local, State, and national professional, civic and religious organizations.

Mr. McRee demonstrates a deep personal commitment to improving the lives of others. He has dedicated his life to raising the quality of care for people in his community and across the United States. He has set a standard that all health care professionals should be proud to follow.

For his insights and leadership in the field of health care, I commend Edward McRee. He richly deserves this recognition for his important contributions to health care in Lansing, in Michigan, and in the world. On behalf of the citizens of Michigan, and on behalf of the U.S. Senate, I want to thank Mr. McRee for his outstanding efforts.•

SUE LUTHENS

• Mr. HARKIN. Mr. President, on Wednesday the Senate passed the conference report for the Improving America's Schools Act which includes a number of important provisions that impact our Nation's schools. I would like to highlight one change in this legislation and talk about the individual who brought to my attention the need to make this change.

In the 1988 reauthorization of the Elementary and Secondary Education Act, we recognized the unique circumstances facing schools with high numbers or concentrations of poverty and created the Concentration Grant Program. Under this program, certain high poverty school districts would receive additional title I funds.

The Des Moines Independent School District is the largest school district in Iowa. The district has the highest number of low-income children in Iowa as well as one of the highest concentrations of poverty. But, they do not substantially benefit from concentration grants.

Over 5 years ago, Sue Luthens, a member of the Des Moines Board of Education brought this issue to my attention. She was on a mission and talked with any one who would listen about the need to change the concentration grant formula. She provided evidence about the district's need for the additional funding to adequately meet the needs of the students. She never gave up and I am very pleased to report that the formula has now been changed. For the 1996–97 school year, Des Moines should receive about $700,000 in concentration grant funding.

This is the story of one woman's dedication to education and the students of Des Moines. So, if people say that one person can't make a difference, just tell them about Sue Luthens.

Sue served on the Des Moines Board of Education for 12 years and just retired from the board where she served as president for two terms and vice president for three. She also served on the board of directors of the Iowa School Boards Association and as chairperson of that organization's Federal relations network. She is a former high school teacher and has been involved in a number of other community activities.

Sue Luthens is a remarkable woman and as she retires from the Des Moines Board of Education I wanted to just let her know that her many contributions to education and children have been recognized and are greatly appreciated. I know that she will continue to serve her community in other ways. But maybe, she will have a little more time to do the things that she really enjoys, like spend time with and read to her grandchildren.

We thank you, Sue.•

USAF SCIENTIFIC ADVISORY BOARD 50TH ANNIVERSARY

• Mr. BINGAMAN. Mr. President, I rise today to commemorate the Air Force Scientific Advisory Board.

Fifty years ago, American technology ended a world war and saved several hundred thousand lives. General Hap Arnold formalized the role of top scientists played in advising the then Army Air Corps by creating the Scientific Advisory Group on December 1, 1944, and naming Dr. Theodore von Karman as its first chairman.

That group produced the renowned study, "Toward New Horizons," that set forth many of the early research and development goals by the early Air Force. The Scientific Advisory Group evolved into the Scientific Advisory Board that we commemorate today.

The mission of the Scientific Advisory Board is to provide the Air Force senior leadership with independent advice and counsel that will help the Air Force maintain technological superiority in air and space. Today's challenge for that group of renowned scientists is not unlike the original Scientific Advisory Group aim of assembling and evaluating facts on long-range research and development, and preparing special studies on scientific and technical matters pertaining to air power.

The growth of American air and space power since World War II has paralleled the scientific and technological development of the United States' industry. The Scientific Advisory Board established a vision for aerospace research and development and then remained active in forging lasting ties among academia, industry, and the military.

The Scientific Advisory Board epitomizes those critical ties that foster innovative concepts and applications of science and technology for a strong national defense. The people of these United States deeply appreciate the contribution Board members have made to preserving our freedoms and applaud their continued commitment to those ideals of self-sacrifice in public service.•

THE GOLDEN DOOR PROGRAM

• Mr. CAMPBELL. Mr. President, while the debate over the crime bill is finally over, the problems of crime are still with us. We must continue our search for creative and effective ways to confront these problems.

I have a unique perspective, from being on every side of the law, so to speak, as a youngster headed for trouble, as a sheriff's deputy and prison counselor, and now as a legislator. I know we have to lock up the violent criminals and keep them there.

I also know we simply can't ignore the other side of the question—prevention. Let's look at it realistically. When's the best time to go see the dentist—regularly, throughout your life, or after your teeth have all rotted out and your mouth is screaming in pain? Common sense tells us that preventative maintenance is a more efficient, cost-effective way to manage our lives and societal problems.

We must also realize that the problem is too big and too complex for government to handle alone. I want to tell

you about a private sector initiative that works by putting ex-offenders and the educationally, economically, and socially disadvantaged to work. It provides opportunity and alternatives to folks who need it most.

This program, called the Golden Door Program, is offered by Coors Brewing Co., in Colorado. For 25 years the Golden Door has given people a second chance.

The Golden Door teaches people to be more productive, reliable employees, providing participants the training and education needed to get and keep well-paying, full-time jobs. It's not a classroom training program—participants are paid an hourly wage for meaningful and responsible work at Coors' investment recovery facility. They learn how to operate fork lifts, pallet nailers and denailers, cutting torches, grinders, and other industrial equipment.

The Golden Door Program participants also receive counseling and other related services. Those without high school diplomas are required to complete GED certification through an on-site program. State and nonprofit agencies identify candidates for the program.

Golden Door graduates are eligible to compete as internal candidates for open positions at the company. Since 1977, 180 graduates, or almost 80 percent of the trainees, have taken regular production and office jobs with Coors. These folks have become loyal employees—about 75 percent are still with the company.

The Golden Door is a self-supporting program, with costs offset by the savings and income generated by the completed work. Of course, the real benefit is what it does for the individuals who return to a productive role in society.

The Coors Golden Door Program shows there is another group—business—ready, willing and able to partner with government to combat crime and its root causes. As Members of Congress, we should continue to look at ways to encourage this kind of private-sector creativity that allows us to help those who need a second chance.●

FACES OF THE HEALTH CARE CRISIS

● Mr. RIEGLE. Mr. President, I rise today to tell the story of a Michigan family that has been torn apart by the health care crisis. Although my Democratic colleagues and I have not been able to pass comprehensive health care reform legislation this year, the urgent need for such legislation has not diminished. I would like to tell you about Mark Foster, a 39-year-old divorced father of two children and a seasonal construction worker in Lansing, MI. Recently, Mark was diagnosed with testicular cancer.

Mark first realized that he might be ill this past August, when he noticed some swelling. Although his family has a history of cancer, Mark delayed consulting a doctor because, like thousands of Americans, he did not have any health insurance and was afraid that he could not afford medical care on his own. But within days the swelling had increased so dramatically, and was so extremely painful, that Mark left work and rushed to an emergency room for care.

Initially, Mark was referred to a urologist, who diagnosed a simple infection, prescribed an antibiotic, and sent him home. But the continuing pain was so excruciating that Mark returned for a second opinion. This time an ultrasound test was performed that revealed a large mass. A physician removed the mass, performed a biopsy and found the tumor to be malignant, so Mark's testicle was surgically removed to contain the cancer. Sadly, a CT Scan conducted at Mark's fourth follow-up exam showed that the cancer had already spread to several lymph nodes. So a second surgery has been scheduled for today, October 7, and will require 1 full week of inpatient hospital care. Mark's physician has warned him that chemotherapy treatments may also be necessary after the surgery to contain the malignancy.

Incredibly, Mark actually wanted to delay this second surgery until later this year because he is completely overwhelmed by the $10,000 in medical bills he already has received for his medical treatment to date. You see, because his employer is a small, non-union, seasonal business, it does not offer any health insurance coverage. Last year Mark earned $22,000 a year from both work and unemployment. He paid child support for his 9-year-old daughter Angie, who lives with her mother, and he has raised their 16-year-old son, Mark Jr., himself.

Mark's income varies widely during the year depending on the labor needs of the contracts the construction company can obtain. His hours can range from 8 hours up to 70 hours per week. Like many construction workers, he relies on unemployment benefits to support himself and his children during the winter months. With such variable income, a monthly premium payment is beyond Mark's ability to pay on his own, and his employer is unwilling to obtain group coverage for their workers.

Mark has been overwhelmed by the financial and emotional consequences of his cancer. Right now Mark is on an unpaid leave of absence because he is in constant pain, and faces further chemotherapy treatment after his second surgery. He has depleted his $1,600 in savings to pay what portion of the medical bills he can. The rest of his bills remain unpaid and the stack is growing.

Without any income, he has not been able to pay any child support since August. Because Mark is unable to care for his son, Mark Jr. has moved back in with his mother and sister, and the family depends on AFDC. Ironically enough, because their mother qualifies for AFDC, the children both now have health insurance coverage through Medicaid. Mark Jr. did not qualify for the program while he lived with his father because Mark made too much money, yet Mark could not afford to buy health insurance for himself and his children.

Mark contacted the American Red Cross for help with his medical costs through their Medical Access Program. Because Mark had no health insurance, did not qualify for any State programs and fell within low-income guidelines. The Red Cross negotiated with the hospital a 40-percent discount on the charges for his initial surgery and other treatment. Still, with the discount the nightly room charge alone was $2,800, which he will face again when he returns for a week's stay. Of the $10,000 charges he has accrued, Mark estimates that he still owes $6,000.

While Mark is debilitated by the pain and weakness caused by his cancer, he has even more obstacles facing him. His landlord has evicted him from his apartment because, after paying the medical bills, mark had no money left to pay rent. He has been staying with a friend who is herself disabled and faces eviction as well. Mark is separated from his children and unable to support them. Understandably, he feels as though the system has failed him.

Because he lacked health insurance, Mark tried to save money by not seeking medical treatment—now, with his advanced cancer, he has been wiped out financially. If health insurance coverage had been affordable, he would have purchased it. But right now in this country, millions of families like Mark's cannot find health insurance coverage that they can afford.

Mr. President, over the last 2 years I have presented the stories of 68 individuals and families from Michigan who suffer because of the breakdown of our health care system. People looked to us to help them through passage of health care reform. Sadly, we have not been able to pass such legislation this Congress. When I return to my home State of Michigan, I will continue to fight for health reforms as a private citizen, because I remain hopeful that my colleagues in the Senate and the House will continue this effort in the 104th Congress.●

HISPANIC BUSINESSES AND HISPANIC HERITAGE MONTH

● Mr. BINGAMAN. Mr. President, I rise today to recognize the role of Hispanic businesses in promoting trade and exports. As we are currently celebrating Hispanic Heritage Month, it seems a

particularly good time to recognize this important contribution to our nation's economy.

International trade between the United States and Spanish-speaking Mexico was given a tremendous boost last year when Congress approved the North American Free-Trade Agreement. This historic agreement, which removes trade barriers, tariffs, and other restrictions on the flow of goods, services, and investment among the United States, Mexico, and Canada, would likely not have been possible without the support of Hispanic Americans.

For Hispanics, NAFTA did not occur in a vacuum nor was it just another trade agreement. Although the number of Hispanic Americans has increased dramatically, Hispanic economic and political empowerment has yet to be fully realized in this Nation. Furthermore, Hispanic Americans face discrimination linked in part to antiimmigrant sentiments. Many Hispanics saw NAFTA as an opportunity to significantly participate in the development of policy that could help rebuild their communities, improve quality of life, and combat racism. In an increasingly global economic framework, many also saw an opportunity for the United States to move beyond its traditional focus of trade with Canada and along an East-West axis. For the first time since the demise of the Camino Real and other colonial trade routes, the United States had the opportunity to look south, toward Latin America, for trading partners.

Hispanics seized upon the opportunity provided by the NAFTA debate to not only discuss the economic benefits of improved trade relations with Mexico but to ensure that Hispanics and Hispanic communities would benefit from the job opportunities and economic development NAFTA would spawn. They highlighted the need for sustainable economic development, increased resources for border development, and community involvement in decisions affecting them. These efforts led to the creation of the North American Development Bank, a binational entity that will help generate billions of dollars of new resources to meet border needs. Hispanics also contributed to calling attention to the underlying consequences of immigrant bashing occurring in the United States, fueled in part by the ignorance in the United States about Mexico and Latin America.

Leading Hispanic organizations developed a Hispanic consensus on NAFTA to present to U.S. policymakers. Mexico, which had earlier reached out to develop a long-term working relationship with Hispanic Americans, opened its NAFTA process to them to forge an agreement that better addressed the vision of Hispanics through conferences and seminars, inviting Hispanic leaders to Mexico, and creating opportunities to assist Hispanics doing business in Mexico.

This month, as we celebrate Hispanic Heritage Month, we need to add to the long list of Hispanic contributions to our Nation this contribution to the expansion of trade with Mexico and Latin America and the renewed efforts that will be focused on border development. These efforts are already paying dividends. Trade with Mexico has surpassed that with Japan. Recent studies have shown that Hispanic-owned businesses are increasing dramatically. There are now 720,000 Hispanic-owned businesses in the United States, generating more than $30 billion in sales. Those involved in international trade are growing faster than nonexporting businesses. U.S. companies are also hiring record numbers of Hispanics as they expand their export-related activities. Furthermore, both Mexico and the United States are focusing on improving the infrastructure along the border.

As a result of contributions of Hispanics and their working relationship with Mexico, Americans can look forward to a cleaner environment, to more and better jobs, to increased living standards, to badly needed border infrastructure, and to improved quality of life on both sides of the United States-Mexico border.

In short, we have one more reason to reflect upon Hispanics' contributions to our country. I join in those saluting the Hispanic community and its achievements during this Hispanic Heritage Month.•

IN SUPPORT OF H.R. 5060

• Mr. DODD. Mr. President, I rise in support of H.R. 5060, a bill which must pass before we adjourn for the recess or the Securities and Exchange Commission [SEC] will have to shut down. This bill is part of a legislative package worked out to fund the SEC for the 1995 fiscal year.

Most of the SEC's funding, about $192 million, is available to the SEC only if further legislation is passed to authorize a level of fees charged to register securities that fully offsets the SEC's appropriation. Without this offsetting revenue, the SEC simply will not have most of the funding that it needs to stay in business, and will have no choice but to start shutting down.

Mr. President, H.R. 5060 has now been blocked for almost a week. The SEC is now nearly a week into its new fiscal year without sufficient funding to make it through the end of this calendar year. As of today, the U.S. Treasury has been drained of almost $20 million—$20 million that has just been wasted for no good reason.

The SEC has already had to suspend enforcement investigations and inspections of mutual funds and broker-dealers. The SEC plans to shut down its electronic filing system for companies within a few days. Tens of millions of investors trust the SEC to make sure that their mutual fund, their broker, and the securities markets themselves are honest and operating properly.

The entire American economic system ultimately depends on the confidence on investors in the fairness of the markets. That confidence is being needlessly threatened right now by the unjustified delay in passing the SEC bill.

The agency will have to lay off most of its work force within a few weeks unless the Senate acts before it adjourns. That development, if it were to come to pass, would amount to suspending the operation of the American capital markets, with economic consequences we can hardly imagine. I do not seriously believe this body would wish that to happen.

The funding delay is already taking its toll on morale at the SEC. This at an agency that competes with high-paying Wall Street firms for the talent needed to properly oversee derivatives markets or to detect and prosecute insider trading.

This bill must pass, and the delays that have already occurred are inflicting mounting damage on the SEC and on the confidence of the capital markets. I urge all of my colleagues to give their consent so that the Senate can take up and pass this essential measure at once.•

TRIBUTE TO THE SAGINAW GANG TASK FORCE

• Mr. RIEGLE. Mr. President, today I rise to pay tribute to the organizers and members of the Saginaw Gang Crime Task Force [SGCTF]. Comprised of Federal agents from the FBI, BATF, and the Secret Service, working with officers from State and local law enforcement agencies, the task force has just completed 6 months of successful operations.

While its primary mission is to save children from the ravages of gang activity by working full-time to help guarantee neighborhood safety, the task force has also dedicated itself to the improvement of the quality of life for all who live in the Saginaw area.

Saginaw Police Chief Alex Perez and Saginaw County Prosecutor Michael D. Thomas have praised the task force for its role in the recent reduction of crime in the city of Saginaw. Since its inception on April 6, 1994, the SGCTF effort has contributed to 40 arrests, a 10-percent reduction in violent crime, a 23-percent reduction in homicide, and a 12-percent reduction in assaults. The SGCTF has earned the respect and support of the entire Saginaw community through its aggressive multifaceted approach to law enforcement.

A number of individuals and groups deserve special mention for their efforts. They include: Gary L. Loster, mayor of the city of Saginaw, who, with the assistance of leaders from Milwaukee, Bridgeport, Buena Vista, Carrollton, Saginaw, and Thomas Townships, provided the leadership to inaugurate this crime fighting initiative; Senior FBI Agent Philip L. Kerby, task force supervisor, who organized the effort and designed the structure of the task force; the Michigan State Police Department, Saginaw County Sheriff's Department, Saginaw Police Department, Saginaw Township Police Department, and Bridgeport Police Department, all of which provided manpower and equipment; Larry Porte of the Secret Service, who has shared his expertise in crimes dealing with currency and food stamps; and the Federal Bureau of Investigation for funding the task force.

Finally, I would like to commend the Saginaw Gang Crime Task Force for its commitment to making the Saginaw area a better place in which to live and work. I am happy to join with the Saginaw community in wishing the task force continued success.•

THE FREEDOM AND FAIRNESS RESTORATION ACT

• Mr. CRAIG. Mr. President, I want to call the attention of my colleagues in the Senate to a bill introduced some weeks back by our colleague in the other body, Representative DICK ARMEY of Texas.

His bill, H.R. 4585, titled the Freedom and Fairness Restoration Act of 1994, outlines a far-ranging, sweeping declaration of war on big government. It displays again a vision of a government returned to the role of servant of the people, with its appetites for power and money reined in.

From reducing most Americans' tax return to the size of a postcard, to enforcing a balanced budget, and demanding that the government take responsibility for the costs that its mandates impose on other parties, the bill is a refreshing reminder that reinventing government ought to run deeper than adjusting at the margins.

A 17-percent flat tax system like that set forth in H.R. 4585 would represent the greatest paperwork reduction initiative in history. Automatic sunsetting of most government programs would remove the current presumption that, once a program is created, it is entitled to eternal life. Enforcing private property rights would recall the spirit of our Nation's founding.

I have been studying this bill over the past weeks and I urge my colleagues to do the same. When the 104th Congress convenes in January 1995, I believe many of us will realize that we return with a mandate to undertake just this kind of fundamental rethinking of the appropriate role of the Federal Government in our society.

I look forward to that endeavor. I also ask to include several editorials and columns that have appeared in recent weeks on this legislation.

The material follows:

[From the Washington Post, Sept. 11, 1994]

WE NEED THE FLAT TAX

(By George F. Will)

The first—make that the only—thing Congress should do before adjourning is pass Rep. Dick Armey's "Freedom and Fairness Restoration Act." Congress won't, any more than a crocodile will drain the swamp that is its habitat. Still, the bill is a blueprint for relimiting government and changing Washington's political culture.

Armey, a Dallas Republican, believes government grows faster than most Americans want or know because of the stealth and meretriciousness of the political class. The withholding tax siphons away money before earners see it. Everyone, says Armey, knows how much his monthly car payment costs, but who knows exactly how much the IRS is taking each month? By the fiction of the "employer contribution" to Social Security taxes, which actually is just part of the employees' compensation, government blurs the fact that government is taking a 15.3 percent bite from paychecks. Two-thirds of Americans pay more in Social Security taxes (counting the employer "contribution") than in federal income taxes, but do they know that? Under "current services baseline budgeting" a $2 billion spending "cut" is proclaimed when a program scheduled to increase $10 billion is increased by "only" $8 billion. And there is the hidden taxation of government subsidies and regulations, such as the 40 cents of the cost of an average jar of peanut butter that is the cost of subsidizing peanut farmers. The average family, says Armey, pays more in taxes than it spends on food, shelter and clothing combined.

The core of Armey's bill is a 17 percent flat tax on income. This net tax cut for the nation would be paid for by thorough simplification of the tax code and by spending restraints.

Taxpayers would add up their wages, salaries and pensions, subtract personal and dependent deductions, and pay 17 percent of the remainder. With a personal deduction of $26,200 for a married couple and $5,300 per child, a family of four earning $36,800 would pay nothing. These high allowances make Armey's flat tax progressive: The wealthy would pay a larger percentage of their incomes in taxes than middle-income people would pay. Many millions of the working poor would be removed from the tax rolls. A family of four earning $50,000 would pay 4 percent of its earnings, a similar family earning $200,000 would pay 14 percent.

But all would file their returns on a form the size of a postcard. This would radically reduce the estimated 5.4 billion hours a year—as many hours as the entire population of Indiana works—that Americans spend complying with federal income tax laws. Furthermore, a flat tax would cause wholesale and wholesome unemployment in Washington's parasite class of lawyers and lobbyists who rent themselves to the sort of people's economists call "rent-seekers"—people seeking to gain advantages, or impose disadvantages on others, by tampering with the tax code's baroque complexities.

Because savings would be untaxed under the flat tax, there would be more savings, so the pool of investment capital would grow, interest rates would fall and new businesses would proliferate. Elimination of capital gains taxation would remove the disincentive to shift money from old investments to new ones, and the stock market would boom.

Armey's bill would build into the American year a dozen incitements of popular resistance to government. By eliminating withholding, it would require taxpayers to write monthly checks to the IRS. Imagine: 12 occasions for comparing the value of government benefits received with the value of disposable income lost.

Armey knows that his bill stands no chance in Congress as it is currently controlled. However, he believes the flat tax idea is going to be carried to Washington by many new members of Congress next January. Certainly the end of the Democrats' control of Congress would churn the national agenda.

Armey, who has been tireless in taking his message on the road and onto talk radio, believes his bill could be in 1994 what the Kemp-Roth tax cut proposal was in 1978—an anticipation of a Republican president's program. Already there is occurring here an unexpected shift in the intellectual center of gravity.

The coming of the Clintons and their friends was assumed to mean the ascendancy in Washington of the Ivy League political culture. However, the tone of Congress, which today is the tone-setting institution in this town, is increasingly set by two former professors of economics from universities far from the Northeast, Sen. Phil Gramm from Texas A&M and the former chairman of the economics department at North Texas State University (now the University of North Texas), Dick Armey.

[From the Omaha World-Hearld, July 28, 1994]

"NEW" FLAT TAX IDEA STIRS UP INTEREST

(By William F. Buckley, Jr.)

Rep. Dick Armey is an economist by training, a legislator by profession, and a Republican of singular prominence. Indeed, he is the chairman of the House Republican Conference. He is not easily surprised, having been around the track for many seasons, but he professes to be astonished by the reception given to the bill he introduced last June in Congress, the "Freedom and Fairness Restoration Act." It is a call for organic revision of the tax code, and its key element is the flat tax, and according to the evidence, people are truly excited about it.

One gets proposals for a flat tax every now and again, and not always from the right. It was the principal economic plank of Jerry Brown when he ran for president in 1992, though it was thought an aberration of sorts given that liberals aren't supposed to endorse anything at all that could lower the rate at which wealthy Americans and corporations pay taxes.

There are people out there who would not vote to lower the tax rate these days, having inhaled presidential rhetoric about fairness, even if it were absolutely demonstrated that to do so would cause poor people to become richer. Their interest is minimal: to make rich people poorer.

Anyway, under the Armey tax code, you would be taxed 17 percent on what you earn. The word "earn" is used carefully. You would not be taxed anything at all on dividends or on capital gains. And corporations? Seventeen percent on their profit.

Wouldn't this gravely afflict poor people? Well, no, actually. Because under the Armey

tax code a single person would not pay any taxes at all until after he earned $13,100. If he were a household head, single—which nowadays applies to about 30 percent of gestating households—he would begin to pay only after earning $17,200. Every child would qualify the parent for a deduction of $5,300, which is about double the size of the current deduction and a great deal closer to the cost of raising a child.

What are the givebacks in the Armey proposal? No deductions. No, none for mortgage interest even.

What would be done about the deficit? Answer: For the first year you freeze all entitlements at the current level. Thereafter, entitlements rise only as much as inflation. The estimated saving here over a period of a mere two years is almost $600 billion. By pursuing such a code, which is to say preventing the government from growing any bigger in proportion to the private sector, we'd head toward a balanced budget.

Above all,. the springs of productivity would leap up with the joy of liberation. This sensation of a reduced overhead would course through the arteries and veins of America.

The proposal—the flat tax—is not novel. Indeed, the author of these lines devoted a substantial part of a book to the question, and that was 20years ago. The idea is there, but the pulsations, to judge from the response to Armey, are greater than at any time in the recent past.

The reason for this, surely, is that the whole country is aching to hear from the Republican Party something truly, daringly, engagingly new. Not, "Will we have total medical coverage by 1998 or 1997?" but something truly bracing, and this is what Armey has come up with.

Now there are two traditional launches given to tax proposals of this kind. One is empirical, the second philosophical. There is simply no doubting the bona fides of economists like Armey and Milton Friedman, who genuinely believe the proposition—and who have abundant evidence to corroborate it—that the economic effect would be like the mobile that lifts everything simultaneously.

But the other launch asks the root question, which is: Are we committed to equal treatment under the law? If so, how do we swivel-hip our way around to charging a higher rate of taxation to someone who elects to drive his taxi 70 hours per week than to someone who works 40 hours per week?

Rep. Newt Gingrich has promised that late in September he will enunciate the half-dozen steps a Republican majority would take if brought to power in November. One hopes the Armey tax code will be one of them.

[From the Philadelphia Daily News, July 26, 1994]

FINALLY, A TAX PLAN THAT MAKES SENSE

You think the battle over health-care reform has been tough? Wait until everyone learns about Congressman Dick Armey's plan for basically abolishing the Internal Revenue Service.

You probably don't know much about Armey or his flat-tax proposal. Just wait. Later this year, as health care fades or dies as an issue, his Freedom and Fairness Restoration Act will become the biggest legislative battle since the income tax itself.

By the time the 1996 presidential election gets along, Armey's Army will make every other domestic policy debate seem second rate. As the congressman puts it, the average family is mad about paying "more in taxes than it spends on food, clothing and shelter combined."

Armey says his flat tax will "make it unnecessary for the IRS to send out eight billion pages of paper or for the taxpayers to spend 5.4 billion man-hours filling out tax forms."

How will it work? Today's incomprehensive tax forms would be replaced with a simple post card. You'd be asked how much you earned in wages, salary and pensions. Then you would deduct between $13,000 and $26,200 for dependents depending on whether you are single, a single head of household or married and filing jointly.

Then add other deductions of $5,300 for all dependents; not including your spouse, and you pay your tax of 17 percent of wages, salary and pensions—minus your family deductions.

That's it. On a post card.

Thanks to those hefty deductions, the flat tax also becomes very progressive while dropping lots of people from the tax rolls altogether. Armey estimates that "a family of four earning $36,800 would pay zero percent of its income in taxes, a family earning $50,000 would pay 4.5 percent, and a family earning $200,000 would pay 14 percent."

Corporate taxes would be similarly simplified. The same 17 percent would be applied to gross revenue less purchases of goods and services, capital equipment, structures, land and wages and pension contributions paid to employees. No deductions would be permitted for fringe benefits, interest or payments to owners.

Armey realizes his plan won't please many tax lawyers or accountants, let alone Maalox salesmen. However, individual and corporate taxpayers who spend about $600 billion completing those eight billion pages of tax forms will certainly smile as they throw away the Maalox.

Some critics will dismiss Armey's plan simply because the author is a conservative Republican from Texas. That's fair, if your objective is partisan politics. However, Armey's approach is disarmingly similar to the flat tax proposals presented during the 1992 presidential election by former California Gov. Jerry Brown.

That means a conservative Republican congressman from Texas has done nothing more, but nothing less, than translate liberal Governor Moonbeam's greatest campaign idea into legislative language. The result will be Armey's Army of taxpayers who have been mad as hell for a very long time but didn't realize there was anything they could do about it.

Just think of it. No more double taxation of savings because your capital gains and interest from savings are now tax-free. Why? You already paid the tax when you earned the money. No more double-dip for Uncle.

Sure, everyone loses the cherished homeowner's deduction, just as a business loses deductions for interest costs when it borrows billions of dollars to raid other businesses. The trade-off comes as everyone, and every business, gets a clearer, simpler and lower tax payment which only taxes what you earn, this year.

Simultaneously, a massive percent of that $600 billion which Americans now spend reading, preparing, defending, and disassembling under the current IRS non-system will be saved. Much of that $600 billion, annually, can now be invested in anything you or your employer wants instead of trying to fool Uncle Sam.

What's $600 billion worth? It's twenty times the amount of money President Clinton wanted for his economic stimulus package, but it's free. It's money we won't waste traipsing down the worthless IRS paper trail nor add to the national debt.

Army's proposal is so ingenious, so populist and so timely that it will probably be stolen by multiple 1996 presidential candidates. In fact, after he loses the health-care battle, a lame duck Bill Clinton may well embrace it.

He'll be desperate for something to polish his tarnished New Democrat image, and there won't be anything Armey could do to prevent Clinton from stealing this idea. It may surprise you to discover that Armey probably wouldn't care.

He's not one of those pit-bull partisans who cares more about getting credit than getting something done.

He see his Freedom and Fairness Restoration Act as "a populist proposal in the finest sense. By taking power from the government and returning it to the people, it reflects great confidence in the integrity and know-how of free Americans. It is a proposal for those who believe in the American Dream."

He won't care if Clinton steals his dream as long as everyone can enjoy it.

[From the Washington Times, June 16, 1994]

DECLARING WAR ON BIG GOVERNMENT

Why should big-government types have all the fun offering sweeping proposals? Why not a sweeping proposal for a drastic limitation on the size of the federal government and the scope of its activities? Now we have one. Rep. Dick Armey is introducing today a bill that amounts to nothing less than a declaration of war against big government and the pieties espoused by its acolytes.

His Freedom and Fairness Restoration Act, is not content to tinker at the margins with smallish conservative reforms, an activity rather like pruning kudzu. Instead, Mr. Armey's legislation proposes to radically alter the foundation of the modern federal government by changing the way Washington gets and spends taxpayer monies and by capping both the direct and the indirect costs of government.

Taxes would be radically reduced, and more important, simplified. After a couple of years of transition, the bill calls for one tax rate of 17 percent, both for individuals on their incomes and businesses on their profits. Single people would enjoy a personal exemptions on the first $13,100 of income, with single heads of household permitted a $17,200 exemption. Married couples filing together would have $26,100 as their tax starting point. Taxpayers would have a $5,300 exemption for each dependent. So much for all the wasted energy and complicated diseconomic actions taken through tax contortionism. With such a simple and straightforward tax code, businesses and individuals could make life decisions based on their true druthers rather than on their analysis of the tax consequences.

Such a tax system, because it would reduce Washington's revenues, would put a crimp in the federal government, but is not in and of itself enough to transform the dynamics of national politics. And so Mr. Armey's package proposes an even more radical assault on the current system: the end of withholding. Taxation was not able to soar until the invention of withholding. By taking money out of the paycheck before it is ever in the worker's pocket, taxpayers are not confronted with how much money they are handing over to the government. As any investment advisor will counsel, the way to save is to have money automatically taken out of your

pay—all of a sudden, saving is easy. So too with taxation. Not only do we not feel the true bite of taxation, the system has been set up so that we think we are getting goodies from Uncle Sam in the form of tax rebates. Voters will take a different view of taxes when they receive their pay up front and have to write a monthly check to cover their tax liabilities. Once this system of taxation is in place, there will hardly be any need for the spending limits Mr. Armey's bill also includes, because lawmakers will know all too well that they won't have any luck coercing new revenues out of the electorate through deficit spending.

The Freedom and Fairness Act also calls for truth in regulating. The CBO and OMB will be required to estimate in detail the costs that will flow from federal regulation. This would be a death blow to the current regulatory regime. How compelling, for example, would be the administration's current complaints about the expense of high tech medical devices ($5 million, for example, for a new surgical imaging machine) when those costs can be compared with the hundreds of millions spent per life only hypothetically saved by EPA rules and regulations?

Rounding out the legislation is a provision that would statutorily reestablish the Constitution's neglected takings clause. If the government writes a regulation that significantly reduces the value of a private citizen's property, compensation is in order. The Constitution, of course, already mandates this, but Mr. Armey isn't holding his breath for the courts to enforce the Fifth Amendment's injunction against takings.

Republicans may be hesitant to follow Mr. Armey's lead, thinking the legislation too fundamental a change. But fundamental change is what the electorate has been clamoring for, only to be bamboozled by Bill Clinton's vision of a new and improved leviathan. It's a safe bet they did not have in mind the creation of yet another gargantuan entitlement program when Mr. Clinton promised welfare reform.

Mr. Armey is showing that Republicans can take back the rhetoric of change, and perhaps even make electoral hay out of it. He says that some of his colleagues may fear that the bill is a bigger chew than they can chew, but he thinks the proposal is quite practical. "With a Republican majority in the House, this is eminently do-able," he says. "But we aren't going to get a Republican majority if we're timid."●

TRIBUTE TO MARYLAND STATE SENATOR TROY BRAILEY

● Mr. SARBANES. Mr. President, it is with deep personal sadness that I rise today to pay tribute to my long-time friend and colleague, Maryland State Senator Troy Brailey, who died yesterday.

Troy and I first elected to the Maryland House of Delegates in 1966, and served together there for 4 years. But even before he began his distinguished career of elected public service in the Maryland legislature, which spanned 24 years, Troy Brailey was already an outstanding national leader in both the labor and civil rights movements.

Early in his life, Troy Brailey was a Pullman porter, who worked with A. Philip Randolph in the early days of the Brotherhood of Sleeping Car Porters to organize the porters. He went on to serve as national vice president of the Afro-American Labor Council and president of the Baltimore division of the Porters Union.

His work on behalf of working men and women, combined with his leadership in the civil rights movement for justice and opportunity made Senator Troy Brailey an inspiration and model for all of us.

From his early efforts helping to plan the Washington march which was called off when President Franklin D. Roosevelt issued the Executive order establishing the Fair Employment Practices Commission, to his role as state chairman and organizer of the historic 1963 March on Washington, Troy Brailey was a tireless fighter for civil rights for all of our people.

Beyond his leading role in the labor movement, civil rights, and elected public service, Senator Troy Brailey was deeply involved in countless efforts on behalf of the people he served, including many years of service on the executive board of the NAACP; the Boy Scouts; the board of directors of the YMCA; the Baltimore Street Car Museum; the Apprenticeship Advisory Board and many others.

Mr. President, I have indeed been fortunate to be among those who were influenced by Senator Troy Brailey, who benefited from his wisdom and experience and who were honored to have him as a friend. I extend my heartfelt condolences to his widow Chessie, his son Norman, daughter Alice, and other members of his family on the passing of this genuine champion for working men and women.

I ask that articles from today's Baltimore Afro-American and Baltimore Sun recounting Maryland State Senator Troy Brailey's life and accomplishments be reprinted in the RECORD at this point.

The article follows:

[From the Baltimore Sun, Oct. 7, 1994]

TROY BRAILEY, CHAMPION FOR CIVIL RIGHTS, DIES AT 78

(By Fred Rasmussen and Dewitt Bliss)

F. Troy Brailey, civil rights champion, founder of the Maryland Legislative Black Caucus and former executive of the Brotherhood of Sleeping Car Porters, died yesterday of cancer at his West Baltimore Home. He was 78.

Mr. Brailey, who represented West Baltimore in the Maryland General Assembly for 24 years, was a staunch supporter of organized labor, but best known for his efforts in the civil rights movement. He often would regale friends with stories of the movement's leaders, as well as tales of old politicians and deals from the glory days of west-side politics.

While he had not been active in politics for four years, after losing a re-election bid for his seat in the Maryland Senate, he was remembered yesterday on all levels of government—on Capitol Hill, at the State House and at City Hall.

"Troy Brailey was a magnificent individual in this business who never lost the ability to poke fun at himself and offer a smile to others," said Democratic U.S. Rep. Kweisi Mfume of Baltimore. "His work in the 40th District is virtually legendary."

Gov. William Donald Schaefer, another elected official with roots in West Baltimore, said: "I remember [him] as a tireless worker who loved his community and the city of Baltimore. He was one of the civil rights workers who respected everyone and used the law to force change. He was my good friend, I'll miss him."

Senate President Thomas V. Mike Miller Jr. echoed the governor's praise and said he considered Mr. Brailey "living history."

"I was honored to serve with him in the House of Delegates and in the Senate of Maryland," said Mr. Miller, a Democrat from Prince George's County. "I enjoyed immensely his conversations and discussions * * * particularly the role he personally played in the civil rights movements in the 1960s. He helped organize the march in Washington, D.C., and before that was instrumental in promoting and achieving minority gains in the Pullman workers union."

Mayor Kurt L. Schmoke said "Senator Brailey was a true pioneer, making achievements in the fields of labor relations and politics. He worked with some of the giants of the civil rights movement, especially A. Philip Randolph, and he was an inspiration to a generation of political activists."

Mr. Brailey, a native of Lynchburg, S.C., rose from humble beginnings.

He would tell the story that he and the late Solomon Liss, a former Baltimore City Councilman, judge and state official, got their start on the same South Baltimore street corner, across the street from the Cross Street Market. They met there as very young men, when Mr. Liss was selling newspapers and Mr. Brailey was shining shoes.

He later pressed clothing and was a waiter at Rossiter's Restaurant in South Baltimore and the old Baltimore Press Club before becoming a railroad porter.

Mr. Brailey's work for civil rights included service as state chairman for the 1963 March on Washington, organizer for the 1957 Prayer Pilgrimage to Washington and state chairman for the 1958 and 1959 youth marches to Washington. He had also been a leader in the planned 1941 march on Washington, a demonstration that was called off after President Franklin D. Roosevelt issued an Executive Order 8802 establishing the Fair Employment Practices Commission. He had also been an adviser to local civil rights demonstrators who participated in sit-ins at restaurants that refused them service.

In the early 1960s, he had stopped work as a Pullman porter, a job he head held since 1941, and had ended his service as president of the Baltimore division of the Brotherhood of Sleeping Car Porters. He had worked to organize porters in the early days of the union.

For about 20 years, he was active in the Negro American Labor Council, also started by Mr. Randolph, serving as president of the local unit and as a national vice president.

"I'm really saddened to hear this," said Edward A. Mohler, president of the Maryland-D.C. AFL–CIO. "He had a long political career and was always interested in working people. He was proud of his union affiliation and for being able to boost folks. He was a first-class guy."

In 1966, Mr. Brailey was elected to the House of Delegates, where he served until 1982, when he defeated the late Verda F. Welcome, the state's first black woman senator, for the 40th District Senate seat.

He lost his seat in 1990 to Ralph M. Hughes, a two-term delegate who was credited for authoring the state law aimed at preventing the sale of cheaply made guns. Ironically, Mr. Brailey had long been a supporter of a ban on so-called "Saturday night specials" and had offered legislation as early as 1986 to outlaw them.

Just last month, his son, Norman Brailey, lost a bid to win back the seat from Mr. Hughes.

Mr. Brailey also informally aided individual workers and small groups. He advised black firefighters in Baltimore during the early days of integration. He also headed the labor committee of the Baltimore unit of the National Association for the Advancement of Colored People.

He was a member of the Enterprise Lodge of the Prince Hall Masons and of the Leadenhall Baptist Church, 1021 Leadenhall St., where he will lie in state from 9 a.m. to 11 a.m. Monday. The family hour will begin at 11 a.m. and the service will be held at noon.

He is also survived by his wife, the former Chessie Granger; a daughter, Alice Brailey-Torriente of Baltimore; two sisters, Ophelia Brailey Singletary of Washington and Fannie Brailey Bailey of Seat Pleasant; three grandchildren and two great-grandchildren.

[From the Baltimore Afro-American, Oct. 7, 1994]

SENATOR TROY BRAILEY DIES, WAS A POLITICAL PIONEER

Always regarded as a gentle man with a determination cast in concrete, Troy Brailey, 76, passed away quietly at his home early Thursday morning, bringing an end to a career that had seen him as a close ally and friend of such greats as A. Philip Randolph, Martin Luther King Jr., and others and a member of the Maryland General Assembly for more than 20 years.

Though he had been out of the Assembly for a number of years, he was still referred to as senator, as a mark of respect and affection for him.

Funeral services have been set for Monday, October 10, at 12 noon at Leadenhall Baptist Church, 1021 Leadenhall St. The family will receive from 11 a.m. until noon.

Senator Brailey's body will lie in state on Saturday and Sunday at the Leroy Dyett Funeral Home.

He had strong ties to organized labor, and during the height of the civil rights movement of the 1950s and 60s, he was a participant in many of the campaigns.●

HEALTH CARE REFORM THAT WORKS: A TRIBUTE TO TENNCARE

● Mr. MATHEWS. Mr. President, as I look toward the end of my service in the Senate, one of my few regrets is that we were not able to pass a measure that assures high-quality and cost-effective medical care for all Americans. However, there is one fortunate side effect of our inaction, and it is that we have another chance to study state-wide health delivery programs that achieve what we are attempting to create nationally. And one of the most effective of those programs is at home in my native Tennessee.

Last year, Tennessee was in a predicament common to many families and businesses: Medical costs were soaring out of control. Cost increases associated with Medicaid had outstripped inflation, the growth of Tennessee's economy, and the growth of any revenue source that could fund the program.

At the same time, Tennesseans needed Medicaid more than ever. Besides nearly 1 million enrolled in Medicaid at some time during the year, nearly 500,000 Tennesseans were uninsured or uninsurable—most of them working poor and middle-class Tennesseans.

Constitutionally prohibited from deficit spending, Tennessee had only three choices in dealing with the Medicaid dilemma: huge tax increases, major reductions in service, or fundamental change.

Tennessee tried the approach followed by many States—taxes. Between 1987 and 1993, taxes on health care providers produced nearly $500 million in annual revenues. However, smaller, rural hospitals lacked the revenue base to pay those taxes and stay in business. This endangered care in counties already underserved by the medical community, and still there was not enough money to continue "feeding the Medicaid bear," as Governor McWherter put it.

Fortunately, the State was developing a model for reforming its own employee health insurance program. This program utilizes a statewide managed care network of hospitals, doctors, pharmacists, and other providers put together by Blue Cross and Blue Shield of Tennessee. Initial implementation problems and resistance to the system were resolved in its first 3 years. A statewide network in place served urban and rural areas, employees were happy with their coverage, and costs were being controlled. In fact, Medicaid costs rose 15.3 percent in fiscal 1993, but State employee health care costs declined more than 1 percent.

President Clinton pledged cooperation in allowing States to become "laboratories of experimentation" for health care reform and his policy has given States like Tennessee flexibility in providing health care for their citizens. Tennessee used this flexibility to create a program that works. It is called TennCare, and it is based on two chief principles.

First it assumes there is enough money in the system to provide health care for all who need it if we use resources wisely. Policymakers long observed that the amount spent on Medicaid in Tennessee could buy private insurance at corporate rates for the Medicaid population and the uninsured. Success comes from group buying, competent management, and incentives to control costs.

Second, TennCare believes market forces are more effective than government control and intervention. By letting managed care organizations negotiate rates and provisions with health care providers, Tennessee provided incentives for efficiency and innovation.

Bolstered by these beliefs, Governor McWherter requested legislative authority to replace Medicaid with TennCare. His request was approved by a bipartisan majority in the Tennessee legislature. The Governor directed staff to prepare a section 1115 waiver request from the Health Care Financing Administration.

Organized medicine and others who benefited from the Medicaid system opposed TennCare—unlike the majority of Tennessee's physicians, nurses, pharmacists, dentists, hospital personnel, and health care providers who worked to resolve problems and serve patients. Before the waiver was granted, the Tennessee Medical Association launched an unprecedented lobbying effort at HCFA to have it delayed or denied. They insisted that more and more money would have to be spent on health care to satisfy them.

Mr. President, they are wrong. TennCare serves more than 800,000 people formerly on Medicaid plus 350,000 Tennesseans who were previously uninsured or uninsurable. It has survived every political and legal challenge. It is a remarkable success story being written every day in hospitals, doctor's offices, and the lives of working taxpayers.

By the end of 1994 Tennessee will achieve 95-percent insurance coverage for its citizens, the highest rate of any State. It puts Tennessee 7 years ahead of the ambitious timetable currently discussed in Congress to reach 95-percent coverage by 2002. And the money is already appropriated in the program to cover the State's remaining 300,000 uninsured individuals.

TennCare now covers about 350,000 people who were formerly uninsured or uninsurable. Nearly half of those Tennesseans are the working poor with incomes below poverty level.

TennCare is the cornerstone of Tennessee's efforts to reform welfare. TennCare uses a sliding scale of premiums, deductibles, and copayments for those who are working their way off welfare. They can maintain coverage for their family without quitting their job when someone becomes sick.

TennCare has enabled Tennessee to enact the largest tax cut in its history—a $500 million elimination of hospital service taxes that threatened the existence of many rural hospitals—while letting policymakers redirect savings to education and other programs. The budget for TennCare this year is about $3.3 billion, about $700 million less than projections for continuing with Medicaid.

The number of paid emergency room claims among Blue Cross' TennCare patients, which make up 40 percent of total enrollees, declined 90 percent in the first 5 months of TennCare. By paying for emergency room use only in

real emergencies and charging nominal fees for nonemergency cases, TennCare creates an incentive for patients to use less expensive primary care physicians as their first point of contact with the health care system.

TennCare is meeting all Federal requirements for access to care and for maintaining quality of care. In the Blue Cross TennCare network alone, the percentage of physicians seeing TennCare patients is almost double those who formerly would see Medicaid patients. Every Tennessee hospital now participates in TennCare, as do a majority of the State's doctors.

To the greatest extent possible, TennCare has preserved an individual's right to choose his or her own doctor. About half the Medicaid population and all the uninsured took advantage of the opportunity offered by TennCare to select the managed care organization they wanted to represent them when the program first began. Every enrollee will have the opportunity again this year to redesignate his or her choice of MCO's after determining which MCO his or her doctor has joined.

Maybe the best news about TennCare is that participants like the program, believe they are getting quality medical care, and have access to care. Those were the findings of a survey conducted among 5,000 Tennesseans by the University of Tennessee.

The bottom line, Mr. President, is that TennCare is working for Tennessee, thanks to the efforts of Tennessee Governor Ned McWherter and Commissioner of Finance and Administration David Manning. TennCare can teach many lessons as the Senate continues to study national health care reform. And I add that the efforts of President Clinton and the First Lady will do much in building a base for our Nation's continuing deliberations. I believe that the example of TennCare will serve as a worthy case to consider as those deliberations go forward in the 104th Congress.●

WHITEWATER

● Mr. PRYOR. Mr. President, it has been more than 2½ years since the "Whitewater" story first appeared on the front page of the New York Times. Since then, allegations of wrongdoing by the President and the First Lady have been replayed over and over by the national media. These allegations have been investigated for months by two different special prosecutors, at considerable taxpayer expense. In fact, this investigation is still ongoing. These allegations have also been the subject of no less than 4 days of hearings by the House Banking Committee and 6 days of hearings by its Senate counterpart.

And what have these efforts produced? Legal wrongdoing has yet to be found, but the reputations of Bill and Hillary Clinton, two devoted public servants, have been tarnished. The shadow of scandal has been cast over the Clinton Presidency. The public's perception that Government officials are more interested in partisan politics and personal gain than the welfare of the people they are supposed to represent has been reinforced.

This damage has already been done. And even if the special prosecutor's investigation finds all allegations to be groundless, it cannot easily be repaired.

The question remains, however: do these allegations warrant the attention they have been given, and continue to be given? Or are they merely unfounded insinuations that have been blown up into something more?

An article in this month's edition of Harper's Magazine addresses this very issue. It was written by Gene Lyons, an Arkansas journalist who describes his past writings about Clinton as "mostly critical." Lyons asserts that the Whitewater scandal began with a series of damaging articles by Jeff Gerth of The New York Times, articles which were thoroughly researched yet not fair or balanced in their content. According to Lyons, most reporters have adopted Gerth's findings without questioning their basis in fact, raising some question as to whether his articles were an example of the facts fitting a theory rather than the facts demonstrating a case. Lyons' article seeks to correct what he asserts are factual distortions and to refute specific allegations and/or insinuations of wrongdoing by the Clintons.

I hope my colleagues will take this opportunity to read Mr. Lyons' article. It presents a persuasive case that there may be less to the Whitewater affair than the media might have us believe.

I ask that a copy of Mr. Lyons' article be printed in the RECORD immediately following my remarks.

The article follows:

[From Harper's Magazine, Oct. 1994]

FOOL FOR SCANDAL—WHAT THE TIMES DIDN'T TELL YOU ABOUT WHITEWATER

(By Gene Lyons)

The Great Whitewater Political Scandal and Multimedia Extravaganza, now on the verge of entering its second smash year, has always played very differently here in Little Rock than in, say, Washington, New York, or Los Angeles. To read the great metropolitan newspapers, observe the grave demeanor of network TV anchors, and heed the rhetoric of the politicians and radio talk-show hosts who have made the issue their own, one would gather the republic teeters on the brink of a constitutional crisis. The dread "gate" suffix of Nixonian legend has been applied. Melodramic charges of bribery, corruption, cover-up, even suicide and murder, fill the air (although at the time of this writing the focus has shifted to "improprieties" in Washington). There has even been loose talk of presidential impeachment.

All this over a failed $200,000 dirt-road real estate deal up in Marion County and a savings and loan flameout that cost taxpayers a lousy $65 million—the 196th most costly S&L failure of the 1980s, nationally speaking, and one that accounted for about 7 percent of the roughly $1 billion tab bankrupt institutions ran up right here in little old Arkansas. For the longest time, it was hard for most Arkansans to take all the bellyaching over Whitewater and Jim McDougal's Madison Guaranty very seriously.

Apart from a superficial acquaintance with both Clintons shared by thousands of Arkansans, I know none of the characters in the Whitewater saga personally. (My wife gave Clinton a little bit of money and went to Wisconsin for a week on his behalf as an "Arkansas Traveler" at her own expense. But that's her business.) What little I have written over the years has been mostly critical. Indeed, I cherish a videotape of myself in a short-lived guise as the poor man's Andy Rooney on a Little Rock TV station back in 1988 predicting that the governor had won his last election.

It angers me, though, that Whitewater has brought back all the old stereotypes, what the Arkansas Times magazine once called the image of "the Barefoot State." Barefoot, hell. To hear the national press go on about it under Clinton poor little Arkansas became a veritable American Transylvania: a dark, mysterious netherworld populated by a mob of ignorant peasants and presided over by a half dozen corrupt tycoons in collusion with the Clintons as the Count and Countess Dracula. Scarcely a Whitewater story has appeared in the national press that hasn't made references to the state's uniquely "incestuous" links between business, government, and the legal establishment—concepts utterly foreign to places like Washington, D.C., and New York City, of course.

Even Arkansans long weary of Clinton's smooba-like style of leadership—his indecisiveness, his downright genius for equivocation, his habit of launching more trial balloons than the National Weather Service—can't recognize the caricature of either the man or his milieu in the national press. And we're not just talking about such off-the-wall publications as The American Spectator or the Wall Street Journal editorial page. In The New Republic, author L. J. Davis accused Bill and Hillary Clinton of a nefarious plot to void Arkansas usury limits for the benefit of the First Lady's banker clients. Problem is, the deed was done through an amendment to the Arkansas constitution by public referendum during the term of Republican Governor Frank White—a banker.

So how did we get here? Well, at the expense of shocking you, dear reader, it all began with the New York Times—specifically with a series of much-praised articles by investigative reporter Jeff Gerth: groundbreaking, exhaustively researched, but not particularly fair or balanced stories that combine a prosecutorial bias and the art of tactical omission to insinuate all manner of sin and skullduggery. Accompanied by a series of indignant editorials, Gerth's work helped create a full-scale media clamor last December for a special prosecutor. Testimony in recent Senate hearings showed that the Resolution Trust Corporation's Whitewater investigation began in direct response to the Times coverage; the hearings themselves resulted in large part from the Clinton Administration's panicky reaction to reporters' queries about the RTC probe, Gerth's among them. Absent the near-talismanic role of the New York Times in American journalism, the whole complex of allegations and suspicions subsumed under the

word "Whitewater" might never have made it to the front page, much less come to dominate the national political dialogue for months at a time. It is all the more insinuations in Gerth's reporting are either highly implausible or demonstrably false.

Let us return briefly to those thrilling days of yesteryear—specifically the 1992 primary season. On March 8, 1992, Jeff Gerth's initial story about Whitewater appeared on the Times front page under the headline "Clintons Joined S. & L. Operator in an Ozark Real-Estate Venture."

"[In 1984], Madison started getting into trouble. Federal examiners studied its books that year, found that it was violating Arkansas regulations and determined that correcting the books to adjust improperly inflated prices would "result in an insolvent position," records of the 1984 examination show.

"Arkansas regulators received the Federal report later that year, and under state law the securities commissioner was supposed to close any involvent institution.

"As the Governor is free to do at any time, Mr. Clinton appointed a new securities commissioner in January, 1985. He chose Beverly Bassett Schaffer. . . .

"In interviews, Mrs. Schaffer, now a Fayetteville lawyer, said she did not remember the Federal examination of Madison, but added that in her view, the findings were not "definitive proof of insolvency."

"In 1985, Mrs. Clinton and her Little Rock law firm, the Rose firm, twice applied to the [Arkansas] Securities Commission on behalf of Madison, asking that the savings and loan be allowed to try two novel plans to raise money.

"Mrs. Schaffer wrote to Mrs. Clinton and another lawyer at the firm approving the ideas. "I never gave anybody special treatment," she said.

"Madison was not able to raise additional capital. And by 1986 Federal regulators, who insured Madison's deposits, took control of the institution and ousted Mr. McDougal. Mrs. Schaffer supported the action."

Gerth's original story was recently praised in the American Journalism Review as containing 80 to 90 percent of what the press knows about Whitewater today. Rival reporters complained, though, that the 1992 article lacked a "nut paragraph" summing up what the Clintons had done wrong and why it was important.

The insinuations became clearer in subsequent Gerth stories in the fall of 1993.* Following the Washington Post's October 31, 1993, revelation that the RTC had made a referral to the Justice Department naming the Clintons as (perhaps unwitting) beneficiaries of possible criminal actions, Gerth and Stephen Engelberg, another Times reporter, wrote lengthy articles that appeared on November 2 and December 15. The first dealt mainly with the still-unsubstantiated claims of former Municipal Judge David Hale that Bill Clinton urged him to commit federal bank fraud by lending $300,000 to Jim McDougal's wife, Susan. (Gerth and Engelberg neglected to point out that David Hale—no Clinton intimate but a courthouse pol first appointed by Republican Governor Frank White—had set up thirteen dummy companies with the same mailing address as his own, evidently without pressure from the Clintons.) Elsewhere, the November 2 piece was pretty much a rehash of the original 1992 article, with a few characteristically misleading tidbits added for emphasis. "By 1983, Mr. McDougal's bank was in trouble with Arkansas regulators," the Times informed readers. The state's banking commissioner, Marlin S. Jackson, ordered the bank to stop making imprudent loans.

Mr. Jackson, a Clinton appointee, said in an interview last year that he told Mr. Clinton at the time of Mr. McDougal's questionable practices. "Now, what Jackson told the Los Angeles Times (which also turned the tale inside out but did give fair context) was that the governor had urged him to ignore politics and be the "best banking commissioner you can [be]." Jackson had acted on this suggestion, with the result that the Clintons' own note was called.

The real bombshell was Gerth and Engleberg's December 15, 1993, story, which all but accused both Clintons, Jim McDougal, and Beverly Bossett Schaffer of criminal conspiracy to keep Madison Guaranty afloat regardless of the cost. But the implicator in that account that has shown the most staying power involves a supposed quid pro quo involving Hillary Rodham Clinton. It centers on an April 1985 political fund-raiser Jim McDougal held and the suspicion that he may have illegally siphoned Madison Guaranty funds into Bill Clinton's campaign coffers. "Just a few weeks after Mr. McDougal raised the money for him," the Times noted darkly, "Madison Guaranty won approval from Mrs. Schaffer, Mr. Clinton's new financial regulator, for a novel plan to sell stock."

"The search for new capital," Gerth and Engelberg continued, took Madison to the offices of Mrs. Schaffer, who had the ultimate authority to approve any such stock sale. One of the lawyers employed by Madison to argue its case before the state regulators was Mrs. Clinton.

Within weeks, Mrs. Schaffer wrote a letter to Mrs. Clinton giving preliminary approval to Madison's stock plan.

The sale never went forward. But this fall the [RTC] asked the Justice Department to examine a number of Madison's transactions, and federal officials say the state's approval of the stock plan was among the matters raised by investigators.

The Times also quoted McDougal to the effect that Bassett Schaffer was his handpicked choice as Arkansas securities commissioner.

The theory implicit in Gerth's Times stories may be summarized as follows: when his business partner and benefactor McDougal got in trouble, Bill Clinton dumped the sitting Arkansas securities commissioner and appointed a hack, Beverly Bassett Schaffer. He and Hillary then pressured Bassett Schaffer to grant McDougal special favors—until the vigilant feds cracked down on Madison Guaranty, thwarting the Clintons' plan. This is the Received Version of the Whitewater scandal as it first took shape in the pages of the New York Times—what all the fuss is ultimately about. And it bears almost no relation to reality.

The distortions begin with the headline of the original Gerth story in the Times: "Clintons Joined S&L Operator in an Ozark Real-estate Venture." This headline was misleading because when Bill and Hillary Clinton entered into the misbegotten partnership to subdivide and develop 230 forested acres along the White River as resort property in 1978, Jim McDougal wasn't involved in the banking and S&L businesses at all. He was a career political operative—a former aide to Senators J. William Fulbright and John L. McClellan. In the meantime, McDougal had done well in the inflation-fueled Ozarks land boom of the Seventies. But it wouldn't be until five years later—by which time the Whitewater investment was already moribund—that he bought a controlling interest in Madison Guaranty.

Details, details. Gerth wrote that McDougal quickly built Madison "into one of the largest state-chartered associations in Arkansas." Wrong again. Among thirty-nine S&Ls listed in the 1985 edition of Sheshunoff's Arkansas Savings and Loans, Madison ranked twenty-fifth in assets and thirtieth in amount loaned. These errors of detail might be forgiven if Gerth had in fact uncovered a conspiracy between the Clintons and the Arkansas securities commissioner to treat Jim McDougal leniently. The appearance of conspiracy, however, was created not by the actions of the alleged parties but by selective reporting.

Consider, for example, Gerth's treatment of the appointment of Beverly Bassett Schaffer as Arkansas securities commissioner in his March 8, 1992, article. "After federal regulators found that Mr. McDougal's savings institution Madison Guaranty, was insolvent meaning it faced possible closure by the state, Mr. Clinton appointed a new state securities commissioner . . ." The clear implication is that in response to a Federal Home Loan Bank report dated January 20, 1984, suggesting that Madison might be insolvent, Clinton in January 1985 installed Bassett Schaffer as Arkansas securities commissioner for the purpose of protecting McDougal.

So how come he waited an entire year. In reality, the timing of Bassett Schaffer's appointment had nothing to do with the FHLBB report, which there's no reason to think Clinton knew about. (The Clintons had no financial stake in Madison Guaranty, although that, too, has been obscured.) The fact is that Bill Clinton had to find a new commissioner in January 1985 because the incumbent, Lee Thalhiemer, had resigned to reenter private practice. Appointed by Republican Governor Frank White and kept on by Clinton. Thalhiemer says he told Gerth this in an interview, and describes the Times version as "unmitigated horseshit."

Bassett Schaffer strenuously insists that to this day she had never met McDougal, never heard Bill Clinton mention his name, and does not believe he influenced her appointment—and told Gerth so. She had actively sought the job from the moment she learned that Thalhiemer was quitting (he confirms recommending her to Clinton). She herself had volunteered in Clinton's 1974 congressional campaign and had worked for him full time on the Arkansas attorney general's staff while in law school. And her brother, Woody Bassett, also a Fayetteville attorney, was a personal friend and supporter of Bill Clinton.

The claim that Jim McDougal was behind Bassett Schaffer's appointment rests entirely on the word of McDougal himself, a victim of manic-depressive illness whose lawyer filed an insanity plea in a 1990 bank-fraud trial in U.S. District Court, in which McDougal was ultimately found not guilty. In his original 1992 article, Gerth had acknowledged McDougal's history of emotional illness but described him as "stable, careful

*By this time, recall, the stakes were incontestably higher—Bill Clinton was President of the United States; politically damaging memos by one Jean Lewis, an employee in the ostensibly neutral RTC, had been leaked to Republican Congressman Jim Leach and others; and right-wing outfits like Floyd Brown's Citizens United had begun to churn out what Trudy Lieberman in the Columbia Journalism Review called "a steady stream of tips, tidbits, documents, factoids, suspicions and story ideas for the nation's press."

and calm." By 1993 mention of those difficulties had all but vanished from the pages of the New York Times—despite the fact that the supposed recipient of Bill Clinton's largess was living in Arkadelphia in a trailer on SSI disability payments. Also unmentioned, for what it's worth, was that McDougal had long since recanted his accusations against Clinton and taken to blaming the whole mess on Republican partisans in the RTC.

But did Bassett Schaffer help McDougal anyway? Did the Arkansas Securities Department, as Gerth asserts, have proof of Madison Guaranty's insolvency in early 1985? Did Bassett Schaffer have the legal authority to shut it down?

Consider the allegation that Madison was insolvent and Bassett Schaffer failed to respond. True, the 1984 FHLBB report did argue that Madison Guaranty had overestimated its profit from contract land sales—not including Whitewater—by $564,705. "Correcting entries will adversely effect [sic] net worth and result in an insolvent position." But is this proof of legal insolvency? Hardly. In the first place (although Gerth neglected to point this out), the title page of the document from which the Times reporter took the one brief passage he cited stipulated that it had "been prepared for supervisory purposes only and should not be considered an audit report." More significantly, federal auditors later accepted Madison's position on contract land sales, and the putative adjustments were never made. Indeed, on June 26, 1984, six months after the report Gerth cited, and six months before Bassett Schaffer took office, Madison Guaranty's board of directors met in Dallas with state and federal regulators. They agreed to enter a formal "Supervisory Agreement" with the FHLBB that spelled out detailed legal and accounting procedures designed to help the S&L improve its financial position. In a letter dated September 11, 1984, the FHLBB gave Madison formal approval of a debt-restructuring plan that "negat[ed] the need for adjustment of $564,705 in improperly recognized profits" and dropped all references to insolvency. Arkansas officials also called Gerth's attention to an independent 1984 audit that also refuted Madison's insolvency. In his story the reporter neglected to mention either document.

If McDougal shoved any funny money in the Clinton's direction—either through Whitewater or an April 1985 campaign fundraiser—the Arkansas Securities Department sure found an odd way to reward him. No sooner did Bassett Schaffer receive the FHLBB's 1986 report on Madison than she recommended stringent action. On July 11, 1986, she and a member of her staff flew to Dallas to meet with FHLBB and Federal Savings and Loan Insurance Corporation regulators for a showdown with Madison's board. McDougal himself was not invited. McDougal was stripped of authority, and federal officials agreed to supervise the failed thrift until the FSLIC found money to pay depositors. When, a year later, Bassett Schaffer received an audit for 1986 (and a revised audit for 1985) officially reflecting that Madison Guaranty was insolvent, she wrote the FHLBB and FSLIC a letter, dated December 10, 1987, strenuously urging them to shut down Madison and two other Arkansas S&Ls. Fifteen months later, federal regulators (whose tardiness cannot be blamed on pressure from a state governor) finally locked Madison's doors.

There is not the slightest evidence, then, that Bassett Schaffer inappropriately delayed taking action against Madison. Nor, it seems, did she bend the law when asked by Hillary Clinton to approve a stock sale by the ailing thrift.

Remember the dark hint of misdeeds in Gerth and Enelberg's December 15, 1993, story: "Just a few weeks after Mr. McDougal raised the money for [Governor Clinton], Madison Guaranty won approval from Mrs. Schaffer, Mr. Clinton's new financial regulator, for a novel plan to sell stock." Now, what made Madison Guaranty's plan "novel" is hard to say. The vast majority of state-regulated S&Ls in 1985 issued stock. Even so, the adjective, with its implication of wrongdoing, has recurred mantra-like in virtually every Whitewater roundup article since.

For Hillary Rodham Clinton to have ventured anywhere near Madison in any capacity was a damn fool thing to do. But the fact is that her entire involvement in the "novel" stock issue consisted of the mention of her name in a letter written by a junior member of the Rose Law Firm expressing the opinion that it would be permissible under state law for Madison Guaranty to make a preferred stock offering. After studying the applicable statutes and consulting with her staff, Bassett Schaffer agreed. "Arkansas law," she wrote in a two-paragraph letter dated May 14, 1985—the now-famous "Dear Hillary" missive—"expressly gives state chartered associations all the powers given regular business corporations . . . including the power to authorize and issue preferred capital stock." Bassett Schaffer had issued the narrowest sort of regulatory opinion. Had she ruled otherwise, Madison Guaranty would have had no difficulty finding a judge to reverse her. Anyway, no application was ever filed.

The Arkansas Securities Department's power to close ailing S&Ls was mostly theoretical. Unlike the feds, Bassett Schaffer's office had no plenary authority to shut S&Ls down and seize their assets. Nor did Arkansas law make any provision for the state to pay off depositors of bankrupt S&Ls. That duty belonged to the FSLIC. "We acted in unison at all times," says Walter Faulk, then director of supervision for the FHLBB in Dallas. "I never saw [Bassett Schaffer] take any action that was out of the ordinary. Nor, to be perfectly honest, could she have gotten away with anything if she did. To my knowledge, there is nothing that she or the governor of Arkansas did or could have done that would have delayed the action on this institution."

When I asked him recently about the discrepancies and omissions in his reporting, Jeff Gerth stood his ground, alternately argumentative and defensive, and did not wish to be quoted. He argues, for example, that he never literally wrote that Jim McDougal had in fact gotten Bassett Schaffer the job, merely that he'd claimed to. Her denial struck him as beside the point. In other instances, he pleaded limitations of time and space.

The perception that Gerth most resents is the one most talked about in Arkansas: his reliance upon the hidden hand of Sheffield Nelson—Clinton's 1990 Republican gubernatorial opponent and a legendary political infighter. The Times reporter insists that Nelson did no more than give him Jim McDougal's phone number and later introduce him to former Judge David Hale, whose defense attorney is Nelson's associate. Nelson, the Republican nominee for governor again in 1994, tends to be coy about his role. But he has given other reporters a thirty-eight-page transcript of an early 1992 conversation between himself and McDougal, then embittered by what he saw as Clinton's abandonment.

Indeed, Jeff Gerth, Sheffield Nelson, and the New York Times go way back. As long ago as 1978, Gerth wrote a well-timed exposé of Nelson's mortal foes Witt and Jack Stephens—the billionaire natural-gas moguls and investment bankers who ran Arkansas like a company store during the Orval Faubus era (1955–67). The Stephens brothers owned a small gas-distribution company in Fort Smith that was paying them at a better rate than other gas-royalty owners. But what made Gerth's piece significant was its timing; it appeared shortly before a Democratic primary in which the Stephenses' nephew, U.S. Representative Ray Thornton, was eliminated in a three-man race for the U.S. Senate. Gerth had promised local reporters he'd uncovered a scandal that would knock Thornton out of the race. Some observers think the Times article about the business dealings of Thornton's uncles did swing just enough votes in Fort Smith to keep him out of a runoff election won by Senator David Pryor.

A few more highlights from Sheffield Nelson's political biography may help underline his motives for helping reporters portray the Clintons in the worst possible light. Hired out of college as Witt Stephen's personal assistant, Nelson was later installed as CEO of Arkansas-Louisiana Gas Co. (Arkla), controlled by the Stephens family and the state's principal natural-gas utility. (It was his subsequent refusal to use Arkla pipeline to carry gas from other Stephens-owned companies to buyers east of the state that eventually provoked a lifelong blood feud of Shakespearean malevolence.) Until 1989 Nelson was a Democrat, impatiently biding his time until the end of the Clinton era. But when it became apparent that Clinton would run again in 1990, Nelson became a Republican and won the 1990 gubernational primary over an opponent funded by Stephens interests. Bill Clinton then proceeded to humiliate Nelson 58 percent to 42 percent in the general election.

Clinton owed his 1990 triumph in part to the fact that his Public Service Commission conducted an inquiry into a business deal involving Nelson and a friend of Nelson's named Jerry Jones. It seems that back when Nelson was CEO of Arkla, he'd overridden the objections of company geologists and sold the drilling rights to what turned into a mammoth gas field in western Arkansas to Arkoma, a company owned by Jones, whom Nelson had brought onto Arkla's board of directors. The price was $15 million. Jones found gas almost everywhere he drilled. Two years after Nelson's departure, Arkla paid Jones and his associates a reported $175 million to buy the same leases back as well as some other properties. Jerry Jones then proceeded to buy the Dallas Cowboys and win two Super Bowls. The election-year probe of the Arkla-Arkoma deal resulted in millions of dollars of refunds to rate payers, which wasn't necessarily the point. It also earned the President's permanent spot on Sheffield Nelson's enemies list. The result, it's no exaggeration to say, has been Whitewater.

The talents of investigative reporters now poring over Whitewater documents might be better spent looking into another McDougal real estate venture. Sheffield Nelson and Jerry Jones put up a reported $225,000 each in return for a 12.5 percent share of McDougal's ill-conceived luxury retirement community on Campobello Island, New Brunswick, Canada. It was New Deal Democrat McDougal's odd conceit that wealthy vacationers and retirees would be moved by sentimental memories of FDR's summer retreat (remember

Sunrise at Campobello?) to purchase lots on a resort island that is in fact damp, cold, foggy, and remote. The Campobello project not only failed but helped pull Madison Guaranty down with it. Gerth and the Times have left that aspect of the Madison Guaranty story unexplored—even though, unlike Whitewater, the name of Campobello Properties Ventures is mentioned prominently and repeatedly in the very FHLBB examination report that Gerth quoted in his original March 8, 1992, article. Also unlike Whitewater, the Campobello's project did put a big chunk of Madison Guaranty's scant capital at risk—some $3.73 million, to be exact, at a time when the FHLBB examiner contended that the S&L was actually $70,000 in the hole.

At last report, that particular picturesque stretch of Canadian coastline belonged to the Resolution Trust Corporation. Nelson and Jones, however, actually made a profit. In 1988, the FHLBB, then supervising Madison Guaranty's assets, bought the boys out for $725,000—leaving them a profit of $275,000. No doubt there's a plausible explanation, although William Seidman, chief of the FDIC and the RTC at the height of the S&L crisis, told the Fort Worth Star-Telegram that "I can't believe it. It's an extraordinary event. It smells. It could be legit, but I doubt it." Gerth says the Campobello deal holds no interest for Times readers. But imagine the uproar had your tax dollars bailed out the Clintons rather than an embittered Republican politician feeding damaging allegations to the New York Times.

The same faults that mar Jeff Gerth's reporting on Whitewater—misleading innuendo and ignorance or suppression of exculpatory facts—also showed up in the *Times* accounts of Hillary Rodham Clinton's commodity trades with Springdale attorney Jim Blair and her husband's dealings with Tyson Foods. "During Mr. Clinton's tenure in Arkansas," Gerth wrote near the top of his March 18, 1994, front-page account, "Tyson benefited from a variety of state actions, including $9 million in government loans, the placement of company executives on important state boards and favorable decisions on environmental issues." The alleged $9 million in loans was the implied quid pro quo for old pal Blair's generous tips to Hillary in the 1970s that helped her turn $1,000 into nearly $100,000.

Following Gerth's report the incriminating $9 million figure appeared virtually everywhere. The *Times* itself weighed in with a March 31 editorial called "Arkansas Secrets," attacking the "seedy appearances" of Bill and Hillary Clinton's "extraordinary indifference to . . . the normal divisions between government and personal interests." The same editorial went on to deride what it called "the Arkansas Defense": that "you cannot apply the standards of the outside world to Arkansas, where a thousand or so insiders run things in a loosey-goosey way that may look unethical or even illegal to outsiders." Nor have *Times* editorial writers been the only ones to scold the Clintons for succumbing to the lax moral climate of the President's native state. The *Baltimore Sun*, Spiro Agnew's hometown paper, opined that the First Lady's adventures in the cow trade "certainly [don't] smell right, especially considering that [Jim Blair] represented a giant, influential agribusiness firm in Arkansas that later received what seemed to be favors from Gov. Clinton." *Newsweek's* Joe Klein wrote of the President's "multiple-personality disorder," involving a moderate Clinton, a liberal Clinton, and "the likely suspect in the Whitewater inquiry, a pragmatic power politician who did whatever necessary to get and keep office in Arkansas . . . granting low-interest loans to not-very-needy business interests, who in turn contributed generously to his political campaigns. This Clinton snuggled up close to the Arkansas oligarchs, the bond daddies and chicken pluckers—and never quite escaped the orbit of the shadowy Stephens brothers, Witt and Jackson." (Witt Stephens has been dead for three years, and Jack Stephens is a Reagan Republican who has bankrolled nearly every Clinton opponent—except Sheffield Nelson—since the early 1980s.)

There's just one problem with this chorus of self-righteous denunciation: the $9 million in loans that inspired it never existed. Especially attentive readers of the New York Times may have noticed an odd little item in the daily "Corrections" column on April 20, 1994:

"An article on March 18 about Hillary Rodham Clinton's commodity trades misstated benefits that the Tyson Foods company received from the state of Arkansas. Tyson did not receive $9 million in loans from the state; the company did benefit from at least $7 million in state tax credits, according to a Tyson spokesman."

Gerth blames a chart misread on deadline.

But was the Times embarrassed? Hardly. In the journalistic equivalent of double jeopardy, the Times editors, having convicted Hillary Clinton on a spurious charge, decided she was guilty of a new charge: helping Tyson Foods to that $7 million in tax credits. No sooner had she held her April 22 press conference on Whitewater-related issues than the Times fretted that the First Lady's performance had been smooth but cleverly evasive. Particularly suspicious, an April 24 editorial found, were her dealings with Jim Blair, "a lawyer for Tyson Foods, a large company that was heavily regulated by and received substantial tax credits from the Arkansas government." [Emphasis added] And people call the President slick!

The truth is far less lurid. The $7 million in investment tax credits Tyson Foods claimed against its Arkansas state tax bill after 1985—that is, between seven and fourteen years after Hillary's commodity trades—were written into the state's revenue code and were never Bill Clinton's to bestow or withhold. True, the Clinton Administration did sponsor the 1985 legislation that created the tax credits. It did so under strong pressure, not from Tyson but from International Paper, which threatened to take its processing plants elsewhere unless Arkansas matched tax breaks available from other states—a potentially severe economic blow to the already poor southern half of the state. Far from being unique to Arkansas, state investment tax credits are now the rule from sea to shining sea. One week after the Times made its lame correction, Tyson announced the opening of a new plant in Portland, Indiana. According to a press release by Indiana Governor Evan Bayh, the state and local governments provided some $9 million in economic incentives—approximately equal to what Tyson got from Arkansas during Bill Clinton's six terms.

Elsewhere, nearly every bit of evidence cited as proof of shady connections between the Clintons and Tyson Foods in the Times March 18, 1994, front-page story got the familiar Gerth treatment. Besides the imaginary $9 million in loans, Gerth cited several other suspicious transactions, among them a bitter court battle over polluted groundwater in the town of Green Forest in which the Clinton Administration "failed to take any significant action," and a pair of seemingly tainted appointments—including renaming a Tyson veterinarian to the state Livestock and Poultry Commission and Jim Blair to the University of Arkansas board. An objective account of the court battle would have pointed out that the city of Green Forest was itself a defendant in the same lawsuit. Bill Clinton was not. Officials of the Arkansas Department of Pollution Control and Ecology testified for the plaintiffs against Tyson Foods. So much for yet another dark Clintonian conspiracy.

Reappointing a Tyson veterinarian to the Livestock and Poultry Commission? Clinton is guilty as charged. Except that the fellow happens to be the state's ranking expert on chicken diseases, the prevention and treatment of which is the commission's principal task. As for naming Jim Blair himself to the University of Arkansas board? Well it's quite an honor, and Blair can undeniably score great Razorback tickets. Otherwise, where's the scandal? At any rate, Blair wasn't a Tyson employee back when he and Hillary did their cattle trades. He was in private practice as one of Springdale's most prominent corporate attorneys, representing banks, trucking companies, insurance firms, and poultry interests.

Gerth portrayed chicken mogul Don Tyson as a major Clinton supporter and fund-raiser, one whose close ties to the President had "been a subject of debate for years in Little Rock and (which) became an issue during the 1992 Presidential campaign." The fact is that Clinton's battles with Tyson and the poultry industry are legendary in Arkansas. After Clinton failed to support an effort by the poultry and trucking lobbies to raise the truck weight limit to 80,000 pounds, Tyson backed his Republican opponent, Frank White, in 1980 and 1982 and refused to speak to Clinton for years. When Clinton finally gave in on the 80,000-pound limit (making Arkansas the last of the states to do so), he pushed through the legislature an unusual "ton-mile" tax on eighteen wheelers—scaling the fee to the weight and distance they drove on Arkansas highways. The ton-mile tax was eventually thrown out after a bitter court battle. (In keeping with tradition, a profile of Clinton in The New York Times Magazine by Michael Kelly last July omitted the political context and cited the same fight as evidence of Clinton's spinelessness.)

Like most Arkansans, Tyson did back Clinton's 1983 educational reforms and made relatively modest campaign contributions from then on—something that was clearly prudent on the part of one of the state's largest private employers. But in the legislature the poultry and trucking industries fought virtually every Clinton initiative. Indeed it was Clinton's anger at the poultry industry and the Stephens interests, among others, after they combined to beat back a half-cent education sales tax in 1987 that provoked him to create a statewide "blue-ribbon" panel to write Arkansas's first meaningful ethics and disclosure law. After the selfsame "special interests" gutted the thing during a special session, Clinton dissolved the legislative session, led the effort to put the new standard on the ballot as an inspired act, campaigned for it hard, and won. (Times editorial writers may be interested to know that New York Governor Mario Cuomo's having earned $270,000 in 1992 giving speeches might constitute a felony here in darkest Arkansas.)

Don Tyson did throw in with the governor on one notable issue during Clinton's last go-around with the Arkansas legislature. A

charter member of the so-called Good Suit Club—a group of wealthy bankers and businessmen, like the late Sam Walton of Wal-Mart, who met informally to encourage educational reform—Tyson endorsed Clinton's plan to levy a ½ of 1 percent increase in the corporate income tax to benefit community technical colleges, helping the bill win the necessary three-fourths vote. Quick, somebody call Gerth at the *New York Times* and notify the special prosecutor. Something tells me they're fixing to load those technical colleges up with poultry-science courses.

All of this raises the really interesting question at the heart of the Whitewater scandal: why—with representatives of the vaunted national press camped out in Little Rock for weeks at a time, squinting over aged public documents and pontificating nightly at the Capital Hotel bar—has nobody blown the whistle on Gerth and the *New York Times*? There are several reasons, ambition and fear among them. It is always safest to run with the pack, and editors who invest thousands of dollars on a scandal don't normally want to hear that there's no scandal to be found. Reporters who have challenged aspects of the official version, like Greg Gordon and Tom Hamburger of the *Minneapolis Star Tribune* and John Camp of CNN, have not found their celebrity enhanced. Those who have tried to split the difference, like the reporters for *Time* magazine—which has always reported (albeit parenthetically) that Arkansas bank regulators treated Madison Guaranty sternly—have ended up producing accounts as muddled and self-referential as a John Barth novel. "The dealings in question," *Time's* George Church wrote last January 24, "are so complex that it is difficult even to summarize the suspicions they arouse, let alone cite the evidence supporting such suspicions. * * * Violations of law, if any, would be extremely difficult to prove." And people call Clinton mealy-mouthed.

Regional bias and cultural condescension play a part, too. How could the *New York Times* be wrong and the *Arkansas Times* be right? But even if Bill Clinton had been governor of Connecticut instead of Arkansas, in the post-Watergate, post-everythinggate culture no reporter wishes to appear insufficiently prosecutorial—particularly not when the suspects are the President and his wife. By definition they've got to be guilty of something; it may as well be Whitewater.●

PROPERTY RIGHTS PROPOSAL

● Mr. HATCH. Mr. President, over the last year, I have been studying the problems posed by the takings clause to the fifth amendment and have concluded that a legislative solution may be necessary. Today, I would like to place into the CONGRESSIONAL RECORD a proposal I have developed for legislation entitled the "Property Rights Litigation Relief Act" so that the public as well as Members of the Senate can examine it. I hope the Judiciary Committee will give this issue a high priority next year.

According to James Madison, the "Father of the Constitution," government is instituted "to protect property of every sort; as well that which lies in the various rights of individuals, as that which the term particularly expresses. Thus being the end of government that alone is a just government which impartially secures to every man whatever is his own."

Sadly, Mr. President, in the rush by some to resolve all social problems through the heavy hand of governmental regulation, we have all too often failed to honor Madison's philosophy. All too often in order to protect the environment or to promote the esthetics of our neighborhoods, we have placed a disproportionate burden on small landowners. All this in violation of the fifth amendment's command of just compensation and that property be taken only for public use.

We have witnessed horror stories of the worst kind of arbitrary use of governmental power, in Utah and all around America, such as where a property owner was imprisoned for cleaning up his garage and backyard because the area was declared a wetland. Acts such as these have spawned a nationwide property rights movement—a revolt of small landowners, farmers and ranchers, and owners of "mom and pop" businesses. I believe that the fight to restore property rights is one of the premier civil rights issues of the nineties.

To be sure, the need to protect our natural resources—our environemt—is of great concern. It is a legacy owed to posterity. But a balance needs to be struck between conservation and development, between the environment and the right of property.

This proposed legislation would do just that. It will allow for the protection of the environment by affording no protection to those who actively pollute our rivers, land, or air. But it provides for the protection of private property through judicial action. It also establishes concrete standards for such claims, thereby clarifying what, heretofore, has been inconsistent and incoherent case law. Finally, it resolves the jurisdictional muddle between the Federal district courts and the Court of Federal Claims over takings litigation by allowing the action to be brought in either forum.

Mr. President, I ask to place this proposed measure in the RECORD. This will allow the public to offer their counsel and advice as to the nature of the problem and the efficacy of the solution.

The proposal follows:

SECTION 1. SHORT TITLE.

This Act may be cited as "Property Rights Litigation Relief Act of 1994."

SEC. 2. FINDINGS.

The Congress finds that—

(A) the protection in the Fifth Amendment to the Constitution of the United States, against takings of private property by the federal government without just compensation, is an essential component of the liberty of individual citizens;

(B) these rights have been abrogated often by the application of laws, regulations and other actions by the federal government that adversely affect the value of private property;

(C) the "Tucker Act," which delineates the jurisdiction of courts hearing property rights claims, complicates the ability of a property owner to vindicate a property owner's right to just compensation for a governmental action that has caused a physical or regulatory taking. The law currently forces a property owner to elect between equitable relief in the district court and monetary relief (the value of the property taken) in the United States Court of Federal Claims. Further difficulty arises when the law is used to urge dismissal in the district court on the ground that the plaintiff should seek just compensation in the Court of Federal Claims, and used to urge dismissal in the Court of Federal Claims on the ground that plaintiff should seek equitable relief in district court. The Supreme Court of the United States recently described the Tucker Act as "badly drafted" and noted that the Court's decision in *Keene Corporation* v. *United States*, 1993 U.S. LEXIS 3726 (1993), "may have the salutary effect of hastening its repeal or amendment." Id. at *41.

SEC. 3. PURPOSE.

The purpose of this Act is twofold: to establish a clear, uniform, and efficient process whereby aggrieved property owners can obtain vindication of rights guaranteed by the Fifth Amendment to the Constitution of the United States, and to amend the Tucker Act to correct procedural deficiencies noted by the Supreme Court in *Keene Corporation* v. *United States*, 1993 U.S. LEXIS 3726 (1993).

SEC. 4. DEFINITIONS.

(A) "Agency" means a United States department, agency or instrumentality of the United States that engages in activity with the potential for taking private property, including any military department, government corporation, government-controlled corporation, or other establishment in the executive branch of the United States Government.

(B) "Final agency action" means any action or decision taken by an agency as defined by this law, including actions treated as final under the doctrine of futility, that affects property interests, or any other type of action or decision that is intended to bind, or actually binds the owner of the property.

(C) "Just compensation" means compensation equal to the fair market value of the private property taken, whether the taking is by physical occupation or through regulation, exaction, or other means, and shall include compounded interest calculated from the date of the taking until the date of entry of judgment.

(D) "Owner" means the owner of property or rights in property at the time the statute, regulation, rule, order, guideline, policy or action was passed or promulgated, or the time that the permit, license, authorization or governmental permission was denied or suspended.

(E) "Private property" or "property" means all property protected by the Fifth Amendment to the Constitution of the United States, the constitution or commonwealth in which the property is located, or this Act, including, but not limited to: (1) real property, whether vested or unvested, including but not limited to estates in fee, life estates, estates for years, or otherwise; inchoate interests in real property such as remainders and future interests; personality that is affixed to or appurtenant to real property; easements; leaseholds; recorded liens; contracts or other security interests in, or related to, real property; (2) any water right, including any recorded lines on such water right; (3) rents, issues, and profits of

land, including but not limited to minerals, timber, fodder, crops, oil and gas, coal or geothermal energy; (4) rights provided by, or memorialized in, a contract; (5) any interest defined as property under state law; or (6) any interest understood to be property based on custom, usage, common law, and/or mutually reinforcing understandings sufficiently well-grounded in law to back a claim of interest.

(F) "Taking of private property" means any action whereby "private property" is taken in such a way, including by physical invasion, regulation, exaction, condition, or other means, as to require compensation under the Fifth Amendment to the United States Constitution or under this Act.

(G) "State agency" means any state department, agency, political subdivision, or instrumentality that carries out or enforces a regulatory program required under federal law, has been delegated administrative or substantive responsibility under a federal regulatory program, or receives federal funds in connection with a regulatory program established by a state.

SEC. 5. COMPENSATION FOR TAKEN PROPERTY.

(A) IN GENERAL.—No department, agency, or independent agency, or instrumentality of the United States, or state agency as defined in Section Four of this Act, shall take private property except for public purpose and with just compensation to the property owner. A property owner shall receive just compensation where, as a consequence of a final decision of any department, agency, or instrumentality of the United States or state agency, "private property" (whether all or in part) has been physically invaded, diminished in value, or appropriated for use without the consent of the owner, and

(i) such final action does not substantially advance the stated governmental interest to be achieved by the legislation or regulation on which the final action is based. The government shall bear the burden of proof with regard to showing the nexus between stated governmental purpose of the governmental interest and the impact on the proposed use of private property; or

(ii) such final action exacts the owner's constitutional or otherwise lawful right to use the property or a portion of such as a condition for the granting of a permit, license, variance, or any other agency action without a rough proportionality between the stated need for the required dedication and the impact of the proposed use of the property. The government shall bear the burden of proof with regard to showing the proportionality between the exaction and the impact of the proposed use of the property; or

(iii) such final action results in the property owner being deprived, either temporarily or permanently, of all or substantially all economically beneficial or productive use of the property or that part of the property affected by the final action without a showing that such deprivation inheres in the title itself. The government shall bear the burden of proof with regard to showing that such deprivation of value inheres in the title to the property; or

(iv) such final action diminishes the fair market value of property which is the subject of the final action by 25 percent or greater immediately prior to the governmental action. The property owner shall bear the burden of proof with regard to establishing the diminution of value of property.

(B) COMPENSATION AND PUBLIC NUISANCE EXCEPTION TO PAYMENT OF JUST COMPENSATION.—No compensation shall be required by virtue of this Act if the owner's use or proposed use of the property amounts to a public nuisance as commonly understood and defined by background principles of nuisance and property law, as understood within the state within which the property is situated, and to bar an award of damages under this Act, the United States shall have the burden of proof to establish that the use or proposed use of the property is a public nuisance; otherwise where the final agency action directly takes property or a portion of property under Section 5(A), compensation to the owner of the property that is affected by the final action shall be an amount equal to the difference between—

(i) the amount of the fair market value of the property or portion of the property affected by agency action before it becomes the subject of government regulation; and

(ii) the fair market value of the property or portion of the property at the time of the final action, except for Section 5(A)(iv) in which case it will be 25 percent or greater of the fair market value of the property at the time of the final action.

(iii) Compensation due under the Act shall include compounded interest calculated from the date of the taking until the date of entry of judgment.

(C) SOURCE OF COMPENSATION.—Except as provided in Section 7 (Alternative Dispute Resolution), the compensation referred to in this subsection shall be paid out of funds made available to the federal agency or department by appropriation for the fiscal year in which the property deprivation referred to in Section 5(A) occurred, provided that if no such funds have been made to the agency, such payment shall be made from the Judgment Fund.

SEC. 6. JURISDICTION AND JUDICIAL REVIEW.

(A) A property owner may bring suit under this Act to challenge the validity of legislation, a regulation, rule, order, policy, guideline, or action that adversely affects his or her interest in private property in either the United States District Court or Court of Federal Claims. Each court shall have concurrent jurisdiction over both claims for monetary relief and claims seeking invalidation of any Act of Congress or any regulation of an agency as defined by this act affecting private property rights. The plaintiff shall have the election of which court in which to file a claim for relief.

(1) Title 28 U.S.C. §1346(a)(2) (the district court) is hereby amended, striking the clause "not exceeding $10,000 in amount" in the first sentence. The first sentence of Title 28 U.S.C. §1346(a)(2) shall now read: "Any other civil action or claim against the United States, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort, except that the district courts shall not have jurisdiction of any civil action or claim against the United States founded upon any express or implied contract with the United States or for liquidated or unliquidated damages in cases not sounding in tort which are subject to sections 8(g)(1) and 10(a)(1) of the Contract Disputes Act of 1978."

(2) Title 28 U.S.C. §1491(a)(1), (the "Tucker Act," Court of Federal Claims), is hereby amended by adding the following clause at the end of the first sentence of subsection (a)(1); "or for invalidation of any Act of Congress or any regulation of an executive department that adversely affects private property rights in violation of the Fifth Amendment." The first sentence of Title 28 U.S.C. §1491(a)(1) shall now read as follows. "The United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or liquidated damages in cases not sounding in tort, or for invalidation of any Act of Congress or any regulation of an executive department adversely affecting private property rights in violation of the Fifth Amendment."

(B) Persons adversely affected by an agency action taken pursuant to this Act shall have standing to challenge and seek judicial review of that action.

SEC. 7. ALTERNATIVE DISPUTE RESOLUTION.

(A) IN GENERAL.—Either party to a dispute over a taking of property as defined by this Act or litigation commenced under Section 6 of this Act may elect to resolve the dispute through settlement or arbitration—

(i) such alternative dispute resolution may only be effectuated by the consent of all parties;

(ii) arbitration procedures shall be in accordance with the alternative dispute resolution procedures established by the [ ]; and,

(iii) in no event shall arbitration be considered a condition precedent or an administrative procedure to be exhausted prior to the filing of a lawsuit under this Act.

(B) COMPENSATION AS A RESULT OF NEGOTIATED SETTLEMENTS OR ARBITRATION.—The funds used for compensation to the owner (as determined by the appropriate official of the federal agency or department) shall be transferred to the agency from the Judgment Fund for payment to the owner.

(C) REVIEW OF ARBITRATION.—Appeal from arbitration decisions shall be to the United States District Court or the United States Court of Federal Claims in the manner prescribed by law for the claim under this Act.

(D) PAYMENT OF CERTAIN COMPENSATION.—If a review is carried out pursuant to paragraph C, and the Court does not rule in favor of the federal agency or department, the amount of the award of compensation determined by the arbitrator shall be paid from funds made available to the federal agency or department by appropriation in lieu of being paid from the Judgment Fund, provided that if no such funds have been made available to the agency such payment shall be made from the Judgment Fund.

SEC. 8. RULES OF CONSTRUCTION.

Nothing in this Act shall be construed to—

(A) interfere with states' rights to create additional property rights; or,

(B) constitute a conclusive determination of the value of any property for purposes of an appraisal for the acquisition of property, or for the determination of damages.

SEC. 9. ATTORNEYS FEES AND COSTS.

The court, in issuing any final order in any action brought under this Act, shall award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing plaintiff.

SEC. 10. EFFECTIVE DATE.

This Act shall apply to any activity of the United States Government after the date of enactment of this Act.•

SALUTE TO NORTHERN HIGH SCHOOL

• Mr. SARBANES. Mr. President, I rise today to pay tribute to the young men

and women of Northern High School, who on October 18, 1994, plan to dedicate a new environmental center in Calvert County, MD.

Four years ago, the students of Northern High School were given 1,000 juvenile rockfish to grow until they were ready to release back into the wild as part of the Department of Natural Resources' Raise and Release Program. This was the Department's first school-based project of its kind. Because of the dedicated efforts of these students, the program received significant praise from the community and substantial media attention. As a result, the program has grown and evolved over the past few years and parents, local businesses and county, State, and Federal agencies have now become involved.

Northern High's enthusiasm, commitment, and success eventually allowed the Raise and Release Program to prosper and develop into a permanent environmental center for Calvert County and the State of Maryland.

Mr. President, I am very pleased to have this opportunity to honor the outstanding efforts of Northern's students and faculty and members of the Calvert County community who have volunteered countless hours of their time and effort in making this center a reality.●

SENATOR DORGAN'S ARTICLE ABOUT DERIVATIVES

● Ms. MIKULSKI. Mr. President, I would like to bring to the attention of our colleagues an excellent article in this month's Washington Monthly written by our colleague, Senator BYRON DORGAN. The article eloquently states that derivatives pose a danger for our Nation's financial institutions and taxpayers. Senator DORGAN outlines the huge risks that Wall Street is taking when they do high stakes gambling with derivatives, and warns of a possible market shakeup could put taxpayers on the line for another bailout.

I am a cosponsor of Senator DORGAN's derivatives legislation because I do not believe federally insured deposits should fund high risk investments. This bill would prohibit banks and other federally insured institutions from investing funds insured by taxpayers in the derivatives market.

I commend Senator DORGAN for his article, and hope my colleagues will add it to their reading lists.

The article follows:

[From the Washington Monthly, Oct. 1994]

VERY RISKY BUSINESS

(By Senator Byron Dorgan)

Last spring, when the stock market took its hair-raising ride, in one corner of Wall Street there was more than the usual anxiety. In fact, there was stockbrokers-looking-for-upper-floor-windows kind of fright. In April, clients of the giant Bankers Trust New York Inc.—including Procter & Gamble—took multimillion dollar losses on a kind of trading most Americans had never even heard of, called "derivatives." A rumor went around the Street: Maybe something truly sinister was brewing. Maybe this was a . . . derivatives collapse.

The spring market panic hit just as the March issue of Fortune—hardly a carping business critic—cast a dark pall over derivatives, which are complicated futures contracts based on mathematical formulas. Fortune called them an "enormous, pervasive, and controversial financial force." The magazine added: "Most chillingly, derivatives hold the possibility of systemic risk—the danger that these contracts might directly or indirectly cause some localized or particularized trouble in the financial markets to spread uncontrollably."

The headline on the Fortune cover was "The Risk That Just Won't Go Away," shown over a pool of alligators. With that staring back at brokers and investors from their coffee tables, the sudden dip in the Dow and the story of Bankers Trust made people think, Hey, we really need to get a grip on this. But the dip turned out to be a blip, and the crisis passed out of the news. In typical fashion, the media moved on the other matters, content that where there's no immediate crisis, there can be no fire.

Yet, this "false alarm" could turn out to be a harbinger of a real financial conflagration—one that would make us nostalgic for the days of the $500 billion savings-and-loan collapse. In August, The Wall Street Journal declared that derivatives were now a $35 trillion—that's right, trillion—worldwide market. The U.S. share is estimated at $16 trillion, which is four times the nation's economic output. And the Journal estimates that since 1993 there have been $6.4 billion lost in the derivatives game—$6.4 billion that could have opened businesses and created jobs. Derivatives are no doubt widespread: An Investment Company Institute survey found that 475 mutual funds with net assets of $350 billion recently held derivatives; about two-thirds of those assets were in short-term bond funds sold to average investors. And here's the real kicker: Because the key players are federally insured banks, every taxpayer in the country is on the line.

So what is this thing called a derivative? Bankers and speculators maintain it's just hedging, a perfectly normal practice to manage risk. Farmers hedge, so do banks and businesses. So what's the big deal? Derivatives have become much more than managing risk. They have begun, in some cases, to look like a financial casino where the decisions are wagering decisions, not business ones. Derivatives may well be the most complicated financial device ever—contracts based on mathematical formulas, involving multiple and interwoven bets on currency and interest rates in an ever-expanding galaxy of permutation. Of course, what individual investors knowingly do with their own money is their own business. But when financial institutions are setting up what amount to keno pits in their lobbies, it's something that should concern all of us.

Let me explain by example. One form of derivative—the most simple—is a futures contract, which is the traditional device for a company to lock in a price for materials at a future time. Say a company that manufactures film—Company X—needs to buy silver every year and wants to guard against rising silver prices. So in 1994 it enters into a contract with a mining company to pay the going 1994 rate in 1995. This is a risk for X if silver prices tumble, because they will be required to pay the higher price. But if prices rise, X wins because it will be able to buy the silver for less than the 1995 market price. Of course, speculators can buy and sell such commodities contracts with no intention of actually obtaining the commodity, hence gambling on the fluctuation of prices. But this kind of traditional futures trading takes place on organized exchanges that are well-regulated and well-understood.

The troubling derivative deals are much different. They take the basic futures idea a quantum leap further into a netherworld of high finance. Let's take a simple example. Say Company X is under an obligation to sell film in Japan next year. Assume further that the company's analysts believe the value of the yen will fall against the dollar. The analysts would like to protect against the risk that silver and yen prices may fluctuate over the course of the year, thus hedging their original hedge. The company can't go to an exchange in Chicago and get that precise deal, so it gets on the telephone to its bankers and suggests that the bank write a customized contract that is based on the delivery price of silver in yen, not in dollars. This is called an "over-the-counter," or OTC, transaction, since it does not take place on an organized exchange.

The new speculative twist is much, much riskier for both Company X and the bank. It doubles the stakes: now, instead of betting just on the price of silver, it is also wagering on the value of the yen. Why would X do this? Because doubling the bet may hedge their risk in both the silver and yen markets. Why the yen? Because its analysts, in consultation with the bankers, used complex mathematical models and probability charts to decide the yen bet was a good gamble.

If the analysts were right about the yen, of course, it all works out. But if they were wrong about the yen, and wrong about the silver, too, the result would be like having two lead weights slide to one end of a seesaw.

Unlike a traditional future, moreover, these exotic derivatives are almost impossible to sell if one of the two bets goes south. They are especially tailored to X's needs, and are therefore unattractive to other buyers.

And that's a simple example. Currency fluctuations are just the beginning. Interest rate gambles are common, too, and in this volatile year have led to many of the big losses, including the $700 million that Piper Jaffray, the respected Minneapolis firm, lost on behalf of clients that included small city governments and the local symphony association. Piper Jaffray had decided on the basis of obscure mathematical formulas that interest rates would not rise. Unfortunately, the formula didn't anticipate the Federal Reserve Board's rate hikes this year.

More trouble comes from exotic new derivatives called "swaps." Say Company A has borrowed money at a floating interest rate but is worried that rates might rise. It wants to lock in the rates at the lower level. So it calls a derivatives dealer—often a major bank—to find another company, call it B, which is willing to bet that the floating rates will be more favorable than the set rate. A swap results: Company A will pay a fixed rate of interest to Company B, which will pay a floating market rate to Company A. The risk to Company A is that rates will fall but A will be obligated to pay the higher, fixed rate. The risk to Company B is that B will end up paying higher rates than the fixed rate it receives from A. If you had trouble following that, then you are starting to

get the idea. And all of this can be done without anyone even knowing, since such transactions can be done "off book"—effectively concealing them from stockholders and employees. Proctor & Gamble bought a floating rate deal like this from Bankers Trust, losing a reported $157 million in the process.

There has been a steady flow of such losses in past months. The reports of recent derivatives disasters could be the first trickles of water through a rickety dam: Askin Capital Management, in New York, lost $600 million; Kidder Peabody, $350 million; CS First Boston Inc., $40 million. Such debacles have led some leading Wall Street sages—Gerald Corrigan, the former president of the New York Federal Reserve; Felix Rohatyn, the investment banker; and Henry Kaufman, the bond guru, among others—to warn that derivatives are out of control. These men are not given to impetuous overstatement where finance is concerned. Nobody would care if these were just a few Donald Trumps taking a hit at a respectable financial casino.

But the truly scary thing is how losses like these could spread through the entire banking system. Suppose X, our film company, had entered into a swap with a New York bank. That bank in turn might then enter an offsetting contract with another bank which in turn might continue to pass along that risk on and on and on, perhaps using exchange-traded futures. So now a default by X could create a domino effect: X could not pay its bank, and its bank therefore couldn't make the payments on its offsetting contract, and so on until the chain of losses enters the exchange, where the originally esoteric bet can hurt real businesses. This is not mere fantasy. According to the Brady Report on the causes of 1987's Black Monday 508-point fall, the problem was worsened by automatic computer programs that kept ordering traders to sell stock index futures—which are, in essence, derivatives.

Making matters still worse is the concentration of big derivatives dealers. The General Accounting Office found this year that much of the big OTC derivatives dealing is concentrated among 15 major U.S. dealers—including federally insured banks—that are extensively linked to one another and to exchange-traded markets. The top seven domestic bank OTC dealers accounted for more than 90 percent of total bank derivatives action, and the top five U.S. securities firms accounted for 87 percent of all such activity in securities in the country. Add in the always-more-volatile foreign markets (tied to about $4 trillion of the U.S.'s $16 trillion) and we're talking real money.

"This combination of global involvement, concentration, and linkages," warns Charles Bowsher, the head of the GAO, "means that the sudden failure or abrupt withdrawal from trading of any of these large U.S. dealers could cause liquidity problems in the markets and could also pose risks to the others, including federally insured banks and the financial system as a whole."

If this seems a remote possibility, don't forget that financial implosions nearly always seem that way—before they happen. This kind has happened before, albeit on a smaller scale. The S&Ls are the most notorious example, of course, but there are others. The failure of the Bank of New England, in 1991, cost taxpayers $1.2 billion, and the bank had a $30 billion portfolio of derivatives that had to be painstakingly unwound to avoid, in the words of the GAO, "market disruptions." And the feds have had to clean up non-banking financial messes as well. In 1990, when Drexel Burnham Lambert failed, the government had to insure payments that flowed between Drexel's sundry creditors and debtors to avoid a chain reaction. With a $35 trillion derivatives market, a crash would make these precursors look Lilliputian.

All that stands between the public and a financial disaster of this sort is the guardians of the banking system in Washington. Regrettably, they are outgunned by the derivatives dealers in several ways. For one, there are fewer examiners than dealers, and many examiners are young and inexperienced. Worse, exotic derivatives—the stuff the big boys are doing—just don't fit within the existing scheme of federal finance regulation. It's a little like asking traffic cops to stop the nation's computer crime.

Perhaps it seems that none of this concerns you directly, but in this spooky new financial world, there are basically three ways you could lose.

You have money in a money market fund or a mutual fund. This is the scariest and most immediate prospect for most Americans. It's entirely possible—in fact, it's all too likely—that you wouldn't know whether your fund had money at risk. Two-thirds of the assets held by tax-exempt U.S. money market funds, which were created to give the small investor access to high rates of return, are now covered by derivatives. BankAmerica recently had to pump $67.9 million into its Pacific Horizon money market funds to make up for derivatives losses. As for mutual fund losses, ask Mound, Minnesota. When the public officials of the Minneapolis suburb wanted to tuck $2.5 million away to pay for new water meters and sewers, it chose an eminently respectable, reputedly conservative Piper Jaffray mutual fund that invests in U.S. government securities. But as the Wall street Journal reported this summer, Mound lost $500,000 because Piper Jaffray was playing a derivatives game with the town's money, betting that interest rates would fall. Leaders of Moorhead, Minnesota, can tell you a similar story.

A private investment goes bad. If you are a stockholder in a company that's trading in derivatives, and the bets turn out badly, the stock is going to take a hit. In some of the biggest cases so far, the German firm Metallgesellschaft, a mining, metals, and industrial company, took what may be a $2 billion loss on derivatives. One of the company's U.S. subsidiaries, MG Corp., which owns an oil refinery, bet on oil prices and lost badly. Several divisions of the company have had to be sold, and 7,500 out of 46,000 employees were laid off.

Government takes a hit—either directly or indirectly—through bank losses in derivatives. Mound's local taxpayers lost money; in Orange County, California, taxpayers had to meet a $140 million collateral call when some derivatives speculations started going bad. This is not the best use of the taxpayers' money. The federal government, too, is quietly but rapidly getting into the game. The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation use exotic derivatives, as does Sallie Mae. And because these are federally chartered corporations, the possibility of the federal government getting stuck with clean-up costs is great.

BANK SHOTS

In the peculiar market of recent years, successful exotic derivatives have been a miracle drug for bank balance sheets, not to mention the dealers who are shovelling in millions. It's not surprising, then, that these banks and dealers are resisting reform. What is surprising is that the Office of the Comptroller of the Currency (OCC) and the Federal Reserve agree, too, that legislative reform is unnecessary. "As far as the Federal Reserve Board is concerned," Chairman Alan Greenspan testified in May, "we believe that we are ahead of the curve on this issue as best one can get." Why would Greenspan, in light of the mounting evidence, soft-peddle the problem? Partly, it's the old story. Because the Federal Reserve, like other banking regulators, tends to think more like the people it is supposed to be watchdogging—in this case, the banks and the larger financial community—than they think like the rest of us. And in fact, in the case of the Federal Reserve, it is the industry it is supposed to oversee: The members of the Federal Reserve are bankers.

This does not augur well. Just a few years ago, the S&L crisis began with a trickle of bad news, a few seemingly unrelated bellyflops. A chorus of operators, experts, and federal regulators assured the public and Congress that nothing was substantially amiss.

Certainly the industry understands the parallel—enough, at least to try to convince Congress that the parallel doesn't exist. The International Swamps and Derivatives Association, a trade group of the most exotic operators, recently hired one of the top Washington lobbying firms to make their case. And although some members of Congress are awake to the derivatives problem, it takes more than that to reach a critical mass.

That's where the press comes in—or should. But except for a few pieces, the nation press has been cowed by the complexity of the subject. Instead of inquisitive reporting, we get reports of assurances from Greenspan and others. Part of the reason is that, as with the S&Ls, the disasters so far seem local: Piper Jaffray is a Minnesota story, etc. Back in the mid-eighties, when thrifts were beginning to collapse, it seemed as if it were a Texas story one day, a California story the next—never a national story. With the huge exception of The Wall Street Journal (and even it is more specialized a publication than, say, The New York Times or The Washington Post), a story like the S&Ls or derivatives only makes it off the business pages after disaster strikes and it's too late to rally public attention to reform .

Another reason is that much of this story lies in the pedestrian precincts of the regulatory culture. "It's a case where the government is outgunned and outmanned," says a senior GAO official. "One or two people at the top of the agencies are really knowledgeable, but I don't know how deep the talent goes. And at the big banks, you're going to have talent all the way down." At the Fed and the OCC, there are about 3,000 examiners but hardly any of them monitor derivatives. That task falls to small teams of about 10 to 15 examiners who go into major banks like Citicorp and are expected to track deals that the banks need up to 100 different analysts and traders to put together.

DOLLARS AND SENSE

House Banking Chairman Henry Gonzalez wants to strengthen reporting requirements for derivatives trading—a sound step, but alone this keeps federal taxpayers in the line of fire. I think I have a better, cleaner idea. I have introduced S. 2123 in the U.S. Senate, which would prohibit banks and other federally insured institutions from playing roulette in the derivatives market. If an institution has deposits insured by the federal government, it should not be involved in trading risky derivatives. Of course, what investors

do with their own money is their own business. (And of course, dealers must be required to tell their customers when derivatives are involved; in the Piper Jaffray debacle, customers did not understand what was happening.) But what banks do with money insured by the taxpayers is another matter entirely.

The classic purpose of deposit insurance, one of the enduring legacies of the New Deal, is to encourage saving and create a pool of capital to build homes and businesses and jobs. Deposit insurance is not supposed to underwrite airy speculation on Wall Street, and my bill will stop that.

Banks will argue that derivatives are good since they hedge risks they take by loaning money to real people. But my proposal would not affect traditional, conservative forms of hedging. And banks, so long as they created pools of betting money outside their federally insured deposits, could gamble to their hearts' content. But not with our money.●

BANKRUPTCY REFORM ACT

● Mr. LAUTENBERG. Mr. President, let me begin by praising Chairman HEFLIN for his commitment to getting this bill passed. This has been a long and difficult process; it has taken years to get to this point and Chairman HEFLIN deserves a great deal of credit for his refusal to become discouraged and his determination to get this bill passed.

I want to comment briefly on one provision in the bill: section 209. I was the original sponsor of the amendment which became section 209 and I am pleased to see that it is contained in the current version of the bill.

The purpose of my original amendment and the current section 209 is to provide additional substantive and procedural protections for sellers of goods to reclaim their unpaid goods under section 546(c)(1) of the Bankruptcy Code. A similar amendment to section 546(c)(1) was included in the bankruptcy bill which died at the end of the last Congress.

Currently, section 546(c) incorporates the Uniform Commercial Code's [UCC] principle of reclamation. In all States, absent misrepresentation of solvency by the buyer, a seller of goods may demand return of goods sold to an insolvent buyer if the seller makes that demand within 10 days of delivery of the goods. The 10-day limit does not apply if the buyer misrepresented solvency to the seller; in that case, the seller may demand reclamation at any time.

There are, Mr. President, two problems with the current requirement. First, the 10-day rule to file reclamation notices is simply too short. Particularly in the bankruptcy context, many businesses—including small businesses—need more time to file reclamation notices. Trade creditors typically do not learn about the debtor's insolvency until an invoice goes unpaid or the debtor seeks bankruptcy relief—events that normally do not occur within 10 days of the debtor's receipt of goods. Additionally, because the definition of insolvency varies between the Bankruptcy Code and the UCC, notice effective under one law might not be effective under the other. The net result is that the 10-day rule precludes most creditors, especially small creditors, from exercising their reclamation rights.

Even if the seller meets the 10-day deadline problems remain. For example, the debtor is under no obligation to segregate and husband the goods. Again, smaller creditors are less likely to be able to preserve their rights. Additionally, again, even if the seller meets the deadline, unnecessary litigation often results. Issues related to truthfulness and fraud often make these proceedings lengthy and acrimonious. And since this litigation occurs at the outset of a bankruptcy filing, efforts by the court and the parties involved to determine the assets of the estate and settle preliminary matters are unnecessarily complicated.

The second major problem with the current reclamation rule relates to the fact that the provision only protects goods delivered within 10 days of the debtor becoming insolvent. As a result, creditors who deliver good 11 days before the purchaser files for bankruptcy have no protection. I recognize that any limit is inherently arbitrary, but 10 days is both arbitrary and unrealistic. I had originally proposed a 30-day limit; the bill before us extends the the right to reclaim goods received 20 days before the bankruptcy in those cases where a trade creditor has continued to deliver goods to a struggling company. It is less than I wanted but more than we have today.

Philosophically, reclamation should encourage sellers to provide inventory to struggling companies. Yet the current statute, with its "quick trigger," has the opposite effect; it encourages sellers to withhold vital supplies rather than run the risk of seeing them captured by the bankruptcy process. Under the bill before us, however, goods received during the prior 20 days can be reclaimed only if the supplier has delivered goods within 10 days prior to the bankruptcy. Thus, trade creditors are encouraged to continue to supply purchasers who might be teetering on the brink—a benefit to creditors and struggling companies as well.

One effect, then, of section 209 is to ease the burden of the filing on both debtor and seller by reducing the need for constant monitoring and interrogation of struggling companies and reducing the need for accelerated litigation at the outset of a bankruptcy filing. Section 209 provides sellers who continue to ship goods to a financially weak purchaser the right to reclaim goods delivered during the prior 20 days.

Operationally, Mr. President, section 209 is very simple. The first part continues current law by providing 10 days in which a seller may file a reclamation notice in most situations. But, second, section 209 will provide sellers of goods with up to 20 days in which to file notice of their intent to reclaim their goods in the event of an intervening bankruptcy. That strikes a reasonable balance between competing interests and will, I believe, solve many of the problems in the current statute.

Again, I commend Senator HEFLIN for his work on this legislation and urge its adoption.●

BUDGET ESTIMATES REGARDING S. 2266 AND S. 2253

● Mr. JOHNSTON. Mr. President, on September 26 the Committee on Energy and Natural Resources filed the reports to accompany S. 2266, a bill to amend the Recreation Management Act of 1992, and for other purposes, and S. 2253, the Mountain Park Project Act of 1994.

At the time these two reports were filed, the Congressional Budget Office had not submitted its budget estimates regarding these measures. The committee has since received these communications from the Congressional Budget Office, and I ask that they be printed in the RECORD in full at this point.

The letters follow:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 5, 1994.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 2253, the Mountain Park Project Act of 1994, as reported by the Senate Committee on Energy and Natural Resources on September 26, 1994. Enactment of S. 2253 could result in a long-run loss of offsetting receipts to the federal government, but over the 1995-1999 period, it would result in a net reduction in outlays of $8 million. Because the change in outlays would be direct spending, pay-as-you-go procedures would apply to the bill.

Under current law, the Bureau of Reclamation (BOR) is authorized to accept a prepayment of certain repayment obligations owned to the federal government for the construction of the Mountain Park water supply project in Oklahoma. The BOR has proposed prepayment terms, but the three cities required to pay a portion of the costs of constructing the project have rejected the current offer. While the cities are making annual payments totaling about $1..3 million as required under current law, the amounts due each year are growing and the cities believe that they may be unable to continue making these payments in the future.

S. 2253 would allow BOR to recalculate the prepayments, using terms and conditions that are more favorable to the cities. The bill also would authorize BOR to reallocate certain costs of the Mountain Park project to environmental quality. The recalculation and reallocation would have the effect of lowering, by an estimated $15 million, the prepayment the cities may make to the federal government. Whether this reduction would result in a long-run loss to the federal government depends on whether the cities

would be able to meet their repayment obligations under current law.

The budget reflects these transactions on a cash basis in each fiscal year. On this basis, a prepayment, even if much smaller than the current repayment obligation, has the effect of reducing the deficit in the short term. Based on information provided to us by BOR, CBO estimates that enactment of this bill by October 1994 would result in additional offseting receipts to the federal government totaling about $12 million in fiscal year 1995. The federal government would lose offsetting receipts totaling about $1 million annually once this prepayment is made.

The following table summarizes the pay-as-you-go impact of this bill.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998
Change in Outlays	−12	1	1	1
Change in Receipts	(1)	(1)	(1)	(1)

[1] Not applicable.

Enactment of S. 2253 would result in long-run savings to the three cities involved, and in no costs or savings to other state or local governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Theresa Gullo.

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer, Director).

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 3, 1994.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has review S. 2266, a bill to amend the Recreation Management Act of 1992, and for other purposes, as reported by the Senate Committee on Energy and Natural Resources on September 26, 1994. We estimate that implementing S. 2266 would cost the federal government about $1 million annually, assuming appropriation of the necessary funds. The bill would not significantly affect the budgets of state and local governments. Because enactment of S. 2266 would affect direct spending and receipts, pay-as-you-go procedures would apply to this bill. We expect the pay-as-you-go impact to be insignificant.

S. 2266 would authorize the Secretary of the Interior to designate employees of the agency as law enforcement officers and other federal employees and state and local law enforcement officials as special officers. These officials would maintain law and order and protect property and persons on land under the jurisdiction of the Bureau of Reclamation (BOR). State and local governments would not be required to take part in these activities, and the Secretary of the Interior would be authorized, under certain circumstances, to reimburse state and local governments for their expenses. CBO estimates that implementing these provisions would cost the federal government about $1 million annually.

State and local law enforcement officials, when carrying out these law enforcement activities, would be considered federal employees for purposes of tort claims and work-related injuries. If a tort claim or work-related injury were to occur, the BOR would make any necessary payments from an appropriate appropriation, if one exists. If not, tort claims would be paid out of the Claims and Judgments Fund and injury compensation would be paid out of the Employee Compensation Fund. Payments from these two funds would be direct spending. CBO cannot estimate the extent of such payments, but we expect them to be small.

Finally, the bill would establish a criminal penalty for individuals who violate regulations promulgated by the Secretary of the Interior to protect resources and the public on BOR land. Any amounts collected from such fines would be deposited in the Crime Victims Fund and spent the following year. CBO estimates that the additional receipts and the resulting direct spending would be insignificant.

The following table shows the estimated pay-as-you-go impact of this bill.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998
Change in Outlays	0	0	0	0
Change in Receipts	0	0	0	0

If you wish further details on this estimate, we will be pleased to provide them. The CBO contact is John Patterson.

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer, Director.)●

THE VERMONT AIR NATIONAL GUARD/WILLIAM TELL COMPETITION

● Mr. LEAHY. Mr. President, I rise today to give recognition to a special group of Vermonters who are members of the Vermont Air National Guard. In the next few days, these dedicated men and women will compete in the annual William Tell competition to determine the Air Force's best fighter pilots and maintenance crews.

The competition is composed of different air-to-air engagements and ground maintenance evaluations, so the winning team must demonstrate seamless teamwork. Under the leadership of Col. "Farmer John" Scott, these Vermonters have worked countless hours preparing for this competition. When their F–16 Falcon fighters roar into the Florida sky next week, the thoughts and best wishes of all Vermonters go with them.

Mr. President, I ask that the names of the entire team from the Vermont Air National Guard be printed in the RECORD.

The team follows:

Rank, name, and Hometown:
SSG, Eric D. Anderson, Jericho, VT.
SSG, Scott W.F. Aubin, Plattsburgh, NY.
TSG, Paul E. Baldwin, Jr., Birdport, VT.
TSG, Kenneth C. Berry, Fairfield, VT.
TSG, David M. Bouffard, Winooski, VT.
CMS, Timothy J. Brisson, So. Hero, VT.
TSG, Gary B. Brousseau, Essex Junction, VT.
SRA, Alton L. Curtis, III, Windsor, VT.
SGT, Bryan P. Deep, Barre, VT.
TSG, Michael R. Delphia, Vergennes, VT.
TSG, James Desranlear, Milton, VT.
MSG, Donald W. Dingman, Underhill, VT.
TSG, Brent T. Farnham, Essex Junction, VT.
MAJ, Douglas E. Fick, Essex Junction, VT.
TSG, Joseph Forgione, Bolton, VT.
MSG, Kendrick J. Forguites, So. Burlington, VT.
LTC, Mark Fredenburgh, Colchester, VT.
MSG, Glenn G. Gale, Huntington, VT.
CPT, Lloyd J. Goodrow, Essex Junction, VT.
MAJ, Stephen P. Gulick, So. Burlington, VT.
SSG, Patrick T. Haire, Monticello, ME.
CPT, Richard N. Harris, Jr., Essex Junction, VT.
TSG, Gary L. Hopper, Jeffersonville, VT.
SMS, Kenneth B. Johnson, Irasburg, VT.
SSG, Richard G. Keiser, Jr., Moretown, VT.
SSG, Dennis D. King, Colchester, VT.
SSG, Kevin L. King, Shirleyburg, PA.
SSG, Daniel A. Lamont, Danville, VT.
TSG, Charles A. Magnant, Franklin, VT.
CPT, Mark J. Matsushima, Cleveland, OH.
SSG, Michael L. McCarty, Charlotte, VT.
STC, James S.McIntyre, Hinesburg, VT.
TSG, John L. Merchant, Jericho, VT.
MAJ, Terry B. Moultroup, Huntington, VT.
SSG, Leonard A. Nalette, Hinesburg, VT.
TSG, Foster Orton, Jr., Essex Junction, VT.
MSG, Charles W. Peacock, Essex Junction, VT.
MAJ, Martha T. Rainville, St. Albans, VT.
MSG, Nicholas P. Ricci, Jr., Danby, VT.
MSG, Michael J. Robert, Colchester, VT.
TSG, Dwight D. Rolston, Essex Junction, VT.
SSG, James S. Sanford, Waterburt Ctr., VT.
SSG, Kevin R. Sendra, Colchester, VT.
MSG, Raymond P. Steiner, Eden Mills, VT.
1LT, Scott H. Summers, Santa Rosa, CA.
SSG, John L. Talcott, Jr., Burlington, VT.
SSG, Christopher J. Walker, Stowe, VT.●

ILO CONVENTION 150 CONCERNING LABOR ADMINISTRATION

● Mr. MOYNIHAN. Mr. President, early this morning the Senate took action on a rare form of legislation—we adopted an ILO convention. While this year marks the 75th anniversary of the creation of the ILO, up until 1988, the United States had only ratified 7—6 maritime and 1 technical—of the 175 ILO conventions. However, in 1988 a new era commenced. The United States ratified its first convention in 35 years. In all, the Senate has now ratified four more since 1988. Most notably in 1991 when the United States for the first time ratified an ILO human rights convention: Convention 105 on the Abolition of Forced Labor. I think it fitting that the Senate has now chosen to commemorate the 75th anniversary of the ILO by ratifying our 12th convention: ILO Convention 150 concerning labor administration.

While ILO Convention 150 is not a substantive convention, I think it is the right one for this occasion. It is unique among all other conventions the ILO has adopted because it is the first attempt to directly address the importance of having in place a labor administration to implement the obligations a state assumes under the ILO. Convention 150 establishes guidelines for national systems of labor administration as a whole. It has precise minimum obligations, but allows for maximum flexibility in recognition of differing systems of government.

I can report to my colleagues that the Foreign Relations Committee held a hearing on September 20 to examine this convention. Testimony was received from representatives of government, labor, and business; specifically from Secretary of Labor Robert B. Reich; secretary-treasurer of the AFL–CIO Thomas R. Donahue; and from the international labor counsel for the U.S. Council for International Business, Edward E. Potter. All three stated for the record that the United States is already in compliance and that they support ratification of ILO Convention 150.

ILO conventions are not sent to the Senate on an arbitrary basis. In 1980, President Carter established the President's Committee on the ILO. This committee established the Tripartite Advisory Panel on International Labor Standards [TAPILS] to examine ILO conventions with a view toward making recommendations to the President on ones that can be ratified without changes in U.S. law.

The TAPILS review does not automatically ensure that an ILO convention will be transmitted to the Senate for ratification. If the United States is not found to already be in compliance with a particular convention, then TAPILS will not recommend ratification to the President, as was the case after they reviewed Convention 138 concerning minimum age for admission to employment. As much as we may like to ratify a specific treaty to show solidarity with its aims, we will not do so until our normal legislative process brings us into compliance.

Not every country is so responsible, and thus the nations with some of the worst labor standards have ratified the largest number of ILO conventions. In general, observing labor practices in a country offers important insights into the living conditions there. Secretary Reich in his testimony before the Committee said:

> Mr. Chairman, as you know—and you have talked on this many times—the less democratic the country, the greater the grounds for suspicion or concern that labor standards are being suppressed in order to serve narrow or misguided interests.

While some countries may have ratified too many ILO conventions, the U.S. ratification efforts can only be characterized as stingy. As Tom Donahue stated in his testimony:

> The typical member of the European community has ratified 70 of the conventions. Indeed of all the countries in the world that have been ILO members as long as the United States, there is only one, El Salvador, that has ratified fewer conventions than the United States.

He went on to state that at our current rate of ratification, it would take the United States 133 years to ratify our 70th convention.

The hearing also underscored an important point about the ILO. It was the forum for the first human rights conventions the world has known. Perhaps none is more important than the right to organize the bargain collectively. It took 30 years for these rights to be incorporated in labor treaty, as they finally were with the adoption of ILO Convention 88 the Freedom of Association and Protection of the Right to Organize, and Convention 98, which established the right to bargain collectively. Thus it is natural that at the end of the hearing the discussion turned to the next ILO convention which TAPILS will consider: Convention 111 concerning employment discrimination. Edward Potter concluded his testimony by noting that "we should be able to ratify [Convention 111], simply because we have the most far-reaching employment discrimination laws in the world."

And so the Senate can look forward to the possibility of receiving the second ILO human rights convention in the next Congress. I hope that those engaged in the TAPILS review of that convention will do so with dispatch.

Finally, Mr. President, in tribute to the 75th anniversary of the ILO, I would like to take a moment to focus on its early years. The history of the ILO goes a long way back into our national life, before it finally came to fruition at the end of the Great War. One of the strong demands of the working people in France, Britain, and the United States during that war was that there be some attention paid to the fact that labor standards were often the victim of international trade.

The Western nations were shaken by the revolution which had swept Russia in 1917. Samuel Gompers of the American Federation of Labor was enthusiastically received as he traveled through Europe in the fall of 1918 to speak out against the growing bolshevik influence in the European labor movement. The idea of an international labor organization became imperative to prevent uprisings like the one in Russia from spreading across Europe. So much so that as the terms of a new international order were being drawn up at the peace conference, a commission headed by Gompers created the ILO—much more a part of the campaign for the League of Nations than we remember.

The League of Nations, which was the subject of such fierce debate on the Senate floor in the fall and winter of 1919–20, came to life somewhat furtively in the cloak room of the Quai d'Orsay in Paris in January 1920. In point of fact the league system had already begun to work here in Washington in October and November of 1919 when the first international labor conference was held as directed by article 425 of the ILO Constitution signed as part of the Treaty of Versailles on June 28, 1919. The Washington Conference, held at the Pan American Union Building on Constitution Ave., turned out to be an almost complete success, despite all the prospects of failure. Six major labor conventions, the first human rights treaties in the history of the world, were adopted, including the 8-hour day convention, and the minimum age convention.

Woodrow Wilson, on his great trip across the nation campaigning for the United States to join the League, spoke continuously of the International Labor Organization. Indeed, almost the last words he spoke before his stroke, before he collapsed in Pueblo, CO, were about the ILO. Literally the last paragraphs. He told the people in Colorado about the League covenant and the ILO. But, he collapsed, and was prostrate when the International Labor Conference was organizing here in Washington.

His Secretary of Labor, William B. Wilson, did not know what to do. The Senate was caught up in a protracted debate about whether to have anything at all to do with the League. A very distinguished British civil servant, Harold Butler—later Sir Harold Butler—arrived in New York by ship and then came down here, assigned to put in place the new international organization as article 425 of the ILO Constitution intended. He found the President prostrate and silent, and the Secretary of Labor unable to take any action without the President.

By sheer chance, Butler dined one evening with the then Assistant Secretary of the Navy, a young, rising New York political figure, Franklin Delano Roosevelt, and his wife Eleanor. Butler recounted his difficulties. "Well, we have to do something about this," said Roosevelt. "I think I can find you some offices at any rate. Look in at the Navy Building tomorrow morning and I will see about it in the meanwhile." Roosevelt was devoted to Wilson. By the next day Roosevelt had 40 rooms cleared of its admirals and captains to make room for the conference.

Harold Butler later became the second director-general of the ILO, serving from 1932 to 1938. Subsequently, he returned to Washington during the second World War and his continued friendship with President Roosevelt made him a hugely influential figure in the wartime alliance. A biography of Sir Harold is long overdue.

Just as Roosevelt helped get the ILO off the ground, when he came to the oval office, his administration soon laid the groundwork for the United States to join. In June, 1934, the House and Senate both passed a resolution clearing the way for our participation. Thus while this is the 75th anniversary of the ILO, it is also the 60th anniversary of U.S. membership. The ILO is the part of the league system the United States was least likely to join. The league system consisted of the league itself, the Permanent Court of International Justice, and the ILO. In fact, the ILO was the only one we did join

and it was the only one to survive the next war.

And so we have before us today the fruits of the labors of men like Gompers and Butler. However, one might ask, since the United States has only ratified 12 of the 175 conventions are we getting all we could from our participation in the ILO. In 1988 when the Senate, which for 35 years had not ratified a single ILO convention, ratified two, Senator HATCH was struck by this fact when on the Senate floor he observed:

The hearing [on the ILO conventions] made it quite clear that our failure to ratify a single ILO convention during the last 3 decades has undermined the effectiveness of our representatives to this important international organization. * * * Unfortunately, when we have criticized Communist violations of ILO standards, our credibility has always been somewhat suspect given our own refusal to even consider ratifying ILO conventions. To be taken seriously in this organization, Congress must break away from the policy of abstention we have practiced for the last 30 years, the policy of not ratifying a convention regardless of its content.

Those words are still instructive. With the observation that it was not just communist violations of labor standards which affect us. The premise of the ILO is that all states must act together to improve labor practices. Otherwise an imbalance occurs and an unfair advantage is created. I think it is fitting that on the 75th anniversary of the ILO that we take steps to strengthen our efforts to play a leading role there.●

THE VISIT OF NELSON MANDELA, PRESIDENT OF SOUTH AFRICA

● Ms. MOSELEY-BRAUN. Mr. President, I want to welcome President Mandela to the United States on the occasion of his first trip to America as Head of State, and to pay special tribute to him as a unique leader. His emergence from prison, and his ascent to the Presidency of the new South Africa, are a testament to his leadership, to his courage, and, at the same time, to his humility. He is successfully leading all of his people to a new South Africa.

I visited Nelson Mandela in South Africa 2 years ago, before I joined the Senate and before his election to the Presidency. I was struck at that time by his vision, by his total commitment to build a unified South Africa. And as someone who was involved through the years in the struggle against apartheid in this country, it gave me great pride to attend his inauguration as President in May.

South Africa has a long history of struggle that has been duly recognized by the international community. Mahatma Ghandi began his work preaching nonviolent civil disobedience in South Africa. Albert Luthuli was awarded the Nobel Peace Prize in 1960. It was later awarded to Bishop Desmond Tutu. And last year F.W. de Klerk and Nelson Mandela were so honored. This continuum of leadership was critical to the evolution of democracy today.

I also want to acknowledge the vision of Vice President de Klerk. He came to understand that the continuation of apartheid was untenable. Many white South Africans undoubtedly came to the same conclusion. But it takes a great leader to negotiate a peaceful transition to a new political order.

The United States and the international community recognized and supported and assisted in the struggle against apartheid. But the work is not finished. We must continue to lay the framework to ensure that President Mandela and South African democracy succeed. President Mandela and the South African people have won the war against racial injustice. But that war is only a preamble to the war against poverty, against homelessness, and against illiteracy.

Today, South Africa is on the verge of becoming one of the most influential nations in Africa. It can become an engine of economic growth for the whole continent. But it is also a shining example to the world that political revolution can be peaceful. It can be negotiated. It can occur without bloodshed and without civil war.

President Mandela has extended the hand of reconciliation to all South Africans. That country is enjoying stability because he has assured blacks as well as whites, coloreds as well as Asians, that everyone has a role to play in the new South Africa. And the people understand that everyone will benefit. We saw enormously long voting lines last April because no matter which party they supported, each person felt a vested interest in the development of the new South Africa. I believe that all of the enthusiasm and good will is in no small part due to the leadership and vision of Nelson Mandela.

We, in the U.S. Government, must now ask ourselves what we can do to help consolidate the incredible gains that have taken place. President Mandela has come to the United States not seeking aid. He has come seeking trade. His message is that South Africa is open for business.

Trade and investment are critical to the future success of President Mandela and the new South Africa, economic prosperity is the only guarantor of future stability, but expanding trade is good for the United States too. United States investment creates South African jobs. The standard of living of individual South Africans rises. More and more South Africans become consumers and able to afford United States products. As the United States sells more and more American made products to South Africa, we create jobs here at home. United States investment in South Africa today will encourage job creation and expand economic opportunities for both Americans and South Africans tomorrow, just as expanding trade and investment has expanded economic growth and improved the standard of living for people around the world throughout our history.

The U.S. Government has responded. President Clinton sent a trade mission to South Africa led by Secretary of Commerce Ron Brown. The Commerce Department has targeted South Africa as one of the 10 big emerging markets for United States exports. The United States Information Agency and some Members of Congress hosted a conference in Atlanta devoted to encouraging American trade and investment in South Africa. Some States have set up trade offices in South Africa.

U.S. multinationals have also responded. On Monday, Pepsi Cola announced a $20 million investment in a bottling venture that includes substantial investment from African-American entrepreneurs. This is but one high profile investment. Thirty United States firms have reinvested in South Africa since last year when Nelson Mandela asked for all trade restrictions to be lifted. I am very proud that Sara Lee, based in Chicago, is the largest United States employer in South Africa with over 4,700 employees.

These business people are not investing in South Africa out of altruism alone. They are investing because there is money to be made. In 1993, South Africa bought $2.2 billion worth of United States products, mostly airplanes, airplane parts, and grain. But forecasts predict that United States sales to South Africa could grow to $3.4 billion in 5 years. For this to happen, for the customer base to grow, South Africa must create jobs. It must provide for the wider distribution of wealth.

South Africa is blessed with valuable natural resources. It is a beautiful land, which tourists will find enchanting. South Africa has the best transportation infrastructure in Africa. It has modern banking and commercial laws. It has signed the GATT Agreements to reenter the international community of trading nations. And it has a hardworking labor force that is eager for new jobs and new opportunities.

Democracy means more than one person, one vote. It means more than the election of a President from the African majority. For democracy to succeed, it must meet the needs of all its people.●

THE VOLUNTARY ENVIRONMENTAL CLEANUP AND ECONOMIC REDEVELOPMENT ACT OF 1994

● Mr. RIEGLE. Mr. President, I rise to commend my friend and colleague,

Senator LAUTENBERG, for his efforts this legislative session to enact S. 773, the Voluntary Environmental Cleanup and Economic Redevelopment Act of 1994, and the compromise substitute to the bill that he and I worked together to develop.

The substitute bill—which is supported by members of both the Environment and Banking Committees—recognizes that the economic revitalization of our distressed communities depends upon the encouragement of voluntary cleanups and the availability of credit to help finance the removal of environmental contamination.

In crafting this substitute bill, Senator LAUTENBERG and I have built upon the objectives of S. 299, the Abandoned Land Reuse Act, which I introduced in February 1993 and which was referred to the Committee on Environment and Public Works.

Mr. President, the substitute bill does not incorporate some of the authorities we had proposed in S. 299. But it is very important legislation that will successfully encourage the revitalization of our Nation's abandoned industrial and commercial sites. For example, the substitute bill authorizes the Department of Housing and Urban Development to provide partial credit enhancement of site assessment and authorizes public or private lenders to provide to local governments, local community development organizations and other borrowers.

I am particularly pleased that the substitute bill contemplates a risk sharing arrangement, whereby the Federal Government shares equally with participating lenders in the credit risk of loans used to finance either environmental site assessment or site cleanup. An incentive for lenders to undertake sound loan underwriting is created by requiring participating lenders to assume 50 percent of the risk of loss. Additionally, the Federal Government's risk of realizing a loss on its guarantee of the remaining 50 percent of the loan is minimized by requiring that participating lenders fund a separate loss reserve to cover their anticipated program loan losses. Furthermore, the program requires that participating lenders have sufficient commercial lending experience and financial and managerial capacity.

Mr. President, I am also pleased that the credit program authorized by this legislation will be administered through State agencies selected by the Governors with HUD's concurrence. HUD's primary role, therefore, will be to allocate assistance among the States in response to information received annually from participating lenders and State administering agencies. This arrangement is an improvement over the credit program originally outlined in S. 773, in which HUD was given a direct lending role without lender participation. Representatives of HUD have confirmed that the substitute bill's economic redevelopment credit assistance program is preferable to a direct loan program administered by HUD. Private and public lenders have also indicated their interest in and support for the proposed credit assistance program.

Mr. President, I commend Senator LAUTENBERG for his efforts and cooperation in developing the substitute amendment for the Voluntary Environmental Cleanup and Economic Redevelopment Act of 1994. I hope that upon his return to the Senate next Congress, Senator LAUTENBERG will continue his efforts to enact this important legislation.●

THE EAST ST. LOUIS JEFFERSON NATIONAL EXPANSION MUSEUM

● Mr. SIMON. Mr. President, my colleagues and I from Illinois as well as my colleagues from Missouri have been working hard to extend the Jefferson National Expansion Memorial [JNEM] from the banks of the Mississippi River in St. Louis, MO, to the east bank of the river in Illinois. The extension of the JNEM to the Illinois riverfront completes the plans initiated in 1935 by the U.S. Congress for the construction of a memorial to Thomas Jefferson and the Nation's westward expansion, and fulfills the visions and dreams of Eero Saarinen, designer of the arch. It was his intention that the east side of the river be brought into the design of the memorial.

I think this effort will also provide hope for the troubled community of East St. Louis, IL. East St. Louis has suffered devastating economic hardships over the years. If we are successful in attracting the kind of public and private investment to the east side of the river as St. Louis, MO, did to the westbank, this effort could be a model for the renewal of other urban centers.

My bill is only one step in the long, involved process toward revival of the area. S. 1726 directs the National Park Service to conduct an architectural design competition to solicit design proposals for a museum commemorating the role of ethnic diversity in the development of the United States. A museum that celebrates the American spirit in all of its rich diversity would be a powerful statement. As a nation, we are strong because of that diversity. I believe there is no better place for such a symbol as in the heartland of Illinois, along the banks of the Mississippi River.

The bill goes further and requires that a study be done and submitted to Congress on possible funding mechanisms for the development, construction, and maintenance of such a world class museum.

The potential for redevelopment of East St. Louis has been studied for years. This project enjoys the bipartisan support of business leaders in St. Louis, mayors, Governors, and congressional delegation members of both States. The Senate should act judiciously and pass this legislation.●

HONORING DANIEL D. CANTOR

● Mr. GRAHAM. Mr. President, today I rise to honor Daniel D. Cantor of Tamarac, FL. Few Americans have a record of philanthropy and commercial accomplishment as distinguished as Daniel Cantor. He has well earned the honor of being selected by the Joint Commission on the American Promenade in Israel as a founding father for the State of Florida.

The United States and Israel have long shared special bonds—political, cultural, and economic. These bonds have led to an exceptional friendship between our two peoples. The people of Israel have initiated the American Promenade in Israel project, at the gateway to Jerusalem, as a monument to this exceptional friendship. The Promenade will consist of 50 marble, 20-feet high monuments bearing the flags and the official seals of the 50 States, as well as the United States-Israel Friendship Botanical Garden featuring Biblical and State trees, flowers and wildflowers. A stainless steel time capsule with a glass-lined interior will be buried 25 feet under each State obelisk, to be opened in the year 2048 at Israel's 100th anniversary celebrations.

A well-deserving personality from each State will be honored by the Joint Commission as a Founding Father, whose name will be permanently inscribed on the monument of their State. Daniel Cantor has been designated as the Founding Father from the State of Florida.

Daniel Cantor began his lifetime career of service in the United States Navy in 1942 immediately after his graduation from the City College of New York Law School. After his service in the Navy, Daniel went on to become a successful builder, developer, and operator of shopping centers and homes for the aged in Florida and New York. He has been a leader of the United Jewish Appeal, a member of the America-Israel Political Action Committee's Executive Committee, and has long been a key supporter of United States-Israel cooperative initiatives. Daniel has also been an honoree of numerous humanitarian awards for his contribution in the area of health and health services.

The American Promenade serves as a poignant reminder of the strength of friendship between two great democracies, the United States and Israel. It is to his credit that Daniel Cantor's name will be carved into the stone obelisk representative of the State of Florida, an eternal reminder of his generosity of spirit.●

TAIWAN IN INTERNATIONAL ORGANIZATIONS: VIEWS OF DR. TRONG CHAI

• Mr. SIMON. Mr. President, the 21 million people of Taiwan constitute the largest democratic society without an effective voice in international organizations. Despite that country's explosive growth in GDP and its progress in building a democratic political system—areas in which, I would note, Beijing comes nowhere close to Taipei—Taiwan finds itself closed out of major multilateral bodies such as the United Nations and the GATT. That is one reason why earlier this session I introduced a resolution that called for reintegration of Taiwan into international institutions, as well as a significant improvement in terms of dialog between the United States and Taiwan. I am pleased that so many colleagues joined me in cosponsoring or voting for that measure.

Of course, the question of Taiwan's representation in international institutions is also a very important one to that country's legislators. One such man is Dr. Trong Chai, a major leader in the Taiwanese parliament's principal opposition party, the Democratic Progress Party. It is a measure of Dr. Chai's commitment to Taiwan's future that, when democratic political action became possible, he gave up his American citizenship in order to run for parliament there.

The question of how best to get Taiwan into the United Nations is one to which Dr. Chai has devoted considerable thought. In his view, the country would stand a better chance applying under the name "Taiwan," rather than under the name "Republic of China." Dr. Chai recommends that the people of Taiwan be given the chance to vote in a referendum on the question of which name it should use.

I am not going to advocate or discourage the referendum proposal, which is one with domestic political repercussions in Taiwan, and one that ultimately the people of Taiwan must decide themselves. But as someone who has known and respected Dr. Chai for some years, I always listen with interest his proposals on Taiwan and the world stage.•

BANNING BONUSES FOR POLITICAL APPOINTEES DURING A PRESIDENTIAL ELECTION CYCLE AND PLACING A COMPLETE BAN ON BONUSES TO EXECUTIVE SCHEDULE OFFICERS

• Mr. LEVIN. Mr. President, I am pleased that the Senate today is passing my amendment banning bonuses to political appointees for the 6-month period at the end of an administration and placing a permanent ban on bonuses to the very top political appointees—Executive Schedule I–V and their equivalents who are Senate-confirmed, Presidential appointees.

This amendment is nearly identical to legislation I sponsored in the last session of Congress, S. 1070—a bipartisan proposal cosponsored by Senators STEVENS and DORGAN. S. 1070 passed the Senate last November by unanimous consent. It was then referred to the House Post Office and Civil Service Committee's Subcommittee on Compensation and Employee Benefits chaired by Congresswoman HOLMES NORTON where it was discovered that the legislation's provisions regarding the permanent ban on cash bonuses unintentionally covered certain career employees. The amendment we are acting on today corrects that error and tightens the bill's provisions to ensure that no career employees are affected.

The need for this legislation was amply demonstrated by the midnight bonuses award to political officials at the close of the Bush administration. While in 1991, 50 bonuses were awarded to this class of Federal employees, in 1992—the end of the Bush administration—that figure rose to 133. While this increase on its face did not prove an abuse of the system, it certainly raised questions about the purpose of these bonuses—especially given the number of top-level political officials who received them.

President Clinton directed the Office of Personnel Management [OPM] to conduct a review of these bonuses and report back to him. The review looked at monetary awards during the "Presidential transition period" which was defined as October 1992 through January 1993. OPM's initial report was released in late March. The findings of the report are quite compelling. The report states,

> In brief, we found that there was a significant increase in the number of awards granted to political appointees during the transition period, creating at least the appearance that they were granted for reasons other than recognition of benefit to the Government. While technical procedures were followed, we believe the spirit and purpose of the awards program was evaded, and that additional safeguards are needed.

Mr. President, I ask that the executive summary of the OPM report from which I quoted be included in the RECORD immediately following my remarks.

This legislation is an important step in an effort to reassess and revise the Federal Government's bonus system to ensure that bonuses are not merely rewards for political loyalty but for effective governing and a true commitment to public service. As it now stands, the waters have been muddied by the bonuses awarded during the final months of the Bush administration and the integrity of the bonus system has been weakened.

The legislation places a 6-month ban on cash awards from June 1 prior to a Presidential election to the following January 20. This would put an end to the bonuses which, at the very least, give rise to the appearance that they are rewards for political loyalties at the end of an administration rather than for effort.

The complete ban on cash awards for those top-level officials in the Executive Schedule codifies current OPM policy regarding the award of cash bonuses to those who are in positions which require Senate confirmation. Individuals in the Executive Schedule are making salaries which range from $108,200 to $148,400 and serve in very high profile positions. Cash bonuses are unnecessary and inappropriate at this level. The OPM guidance states that "(h)onorary recognition is considered appropriate in light of the honor, salaries, and perquisites associated with such positions, and advisable because of the potential for adverse publicity that could result if such officials were to receive significant cash awards." OPM indicates that at the close of the previous administration, this policy guidance was ignored in several instances. My legislation would enforce this guidance as law.

During the Federal Services, Post Office and Civil Service Subcommittee's consideration of this legislation, an amendment was added by Chairman PRYOR to include what are termed "Executive Schedule Equivalents" under the complete ban on cash awards. These are political appointees who are not in the Executive Schedule itself, but whose pay rates are equivalent to Executive Schedule employees by law.

At a time when we are all undertaking efforts to restore faith in the integrity of our Federal Government, it makes sense to make appropriate changes in our bonus system to eliminate any opportunity for abuse. Bonuses can be an effective management tool, but they become counterproductive if there is an appearance that they are being awarded for political purposes.

As I indicated before, I see this as a first step in the effort to reassess and revise our Federal employee bonus system. An additional issue that was raised by the OPM report and which I believe needs to be addressed is the award of bonuses to inspectors general [IG's]. OPM reports that nine IG's received bonuses during the final days of the previous administration. IG's play one of the most significant roles in our efforts to increase the effectiveness, efficiency, and the integrity of the Government. Their independence and integrity must be without question. Bonuses to IG's can become highly questionable when they are authorized by the head of the agency over which a particular IG holds oversight responsibility.

I am pleased that the Inspectors General in the current administration have signed pledges not to take bonuses. This is an important step to address this issue in the short term. However,

we need to devise a policy for the long term. This is an issue which concerns Senator GLENN as the chairman of the Governmental Affairs Committee, and his staff is working closely with the IG community to devise an effective and equitable pay system for IG's. My staff and I will be working with Senator GLENN and his staff to explore ways to address this matter in the long term and, therefore, I have decided to not address bonuses for IG's in this bill.

This amendment would eliminate two problems which were identified by the OPM report, and it has the support of the administration. Mr. President, I ask that a May 31, 1994, Office of Personnel Management letter in support of S. 1070 also appear in the RECORD immediately following my remarks.

I thank my Senate colleagues for their support in passing this legislation, and it is my expectation that our colleagues in the House will also act quickly to get these important reforms enacted into law.

The letter follows:

EXECUTIVE SUMMARY

In response to the President's direction, the Office of Personnel Management (OPM) conducted a review of monetary awards granted during the Presidential transition period.

The President expressed concern that the granting of large monetary awards as the former Administration departed raised disturbing questions about their timing and amounts. The review focused on awards granted for superior accomplishment (also call special acts) granted at the headquarters of major departments and agencies.

PURPOSE OF THE REVIEW

OPM's review focused on two questions: whether the awards were granted consistent with established criteria and procedures and whether new or revised safeguards are necessary.

FINDINGS OF THE REVIEW

There was a substantial increase in the number of awards given to political appointees during the transition period as compared to the same months the year before (from 49 to 133). The number and dollar value of awards granted by each agency reviewed during the relevant periods are presented in attachment 5 to the report.

Current safeguards clearly were not adequate to prevent misuse of flexibilities in the awards program. The political leadership at several agencies used these flexibilities to grant awards to political appointees that create the appearance they were given as "political favors" rather than for their intended purpose.

Six of the 23 agencies reviewed accounted for two-thirds of awards to political appointees. These were Energy, Education, Agriculture, Justice, Small Business Administration, and Labor.

Technical procedures were followed, but the evidence indicates that the purpose of the award program was evaded. For example, the justification on a large number of awards was questionable. Superior accomplishment awards should not be given for the performance of regular duties, particularly given the level of the employees involved. Also, there is an indication that some of these awards were given as a means to avoid the limitations on other award categories.

The review revealed that awards were given to Inspectors General in five agencies. While the awards were legal and in line with previous awards in non-transition periods, we believe the practice of giving awards in non-transition periods, we believe the practice of giving awards to IG's is problematic because it could call into question the integrity and independence of their work.

The Department of Justice granted several awards to Presidential appointees. These awards contravene explicit OPM guidance in Chapter 451 of the Federal Personnel Manual.*

SCOPE OF THE REVIEW

The Government gives thousands of awards to its employees each year. Of all these, two types have the greatest cash value: "superior accomplishment" and "performance" awards. This review focused on the superior accomplishment awards because, although a small percentage of the total, these are the ones most likely to be abused—agencies have broad discretion in making them and they can be given at any time.

The larger group of awards are performance awards. They are based on written standards, given on a scheduled basis, and approved only after a multiple review process. Given the volume of these awards, a manual examination would be a huge and costly undertaking and infeasible within our timeframe. However, when the automated awards data for FY 92 is compiled on a Governmentwide basis later this year, we will be able to conduct a parallel examination to see if our concerns with superior accomplishment awards also apply to performance awards.

CONCLUSION

Clearly the flexibility granted agencies under the awards program must be exercised responsibly and only for the purpose for which the awards are intended. Our review indicates that this was not the case in all agencies during the recent transition period. Since the awards program is a critical part of the Federal performance management system, used to recognize the outstanding contributions of our many fine employees, maintaining its integrity in both fact and appearance is of great importance.

The report contains a number of options for providing greater safeguards for the awards program in the future. OPM will further develop these options and take steps to monitor the program more closely. In addition, given the importance of the awards program to the Federal service and to the public's perception of it, we believe the issues surfaced in the report would also be appropriate for consideration in the context of the National Performance Review.

OFFICE OF PERSONNEL MANAGEMENT,
Washington, DC, May 31, 1994.

Hon. WILLIAM L. CLAY,
Chairman, Committee on Post Office and Civil Service, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is to offer the views of the Office of Personnel Management on S. 1070, concerning awards for political appointees under Federal employee awards programs. S. 1070 would bar awards during Presidential election periods to noncareer members of the Senior Executive Service and to lower-level political appointees, and would establish a complete prohibition on cash awards to most appointees in Executive Schedule positions or equivalent positions.

The Office of Personnel Management supports enactment of S. 1070. OPM's March 1993 study, conducted at the President's request, found that there was a significant increase in the number of awards granted to political appointees during the preceding transition period. We believe that S. 1070 will provide the additional safeguards needed to ensure that the future operation of the Government's awards programs with respect to political appointees will be free from the reality or appearance of abuse. This Office would be pleased to provide any assistance that may be helpful to your Committee on matters related to S. 1070.

The Office of Management and Budget advises that, from the standpoint of the President's program, there is no objection to the submission of this report.

Sincerely,

JAMES B. KING,
Director.●

*OPM recommends that: "Presidential appointees whose appointments require Senate confirmation receive honorary, rather than monetary awards. Honorary recognition is considered appropriate in light of the honor, salaries, and prerequisites associated with such positions, and advisable because of the potential for adverse publicity that could result if such officials were to receive significant cash awards."

THE AMERICAN PROMENADE IN ISRAEL

● Mr. RIEGLE. Mr. President, I rise today to speak about the progress that has been made on the American Promenade in Israel. The Promenade, once completed, will stand as a monument to the strong friendship between Israel and the United States. Funded entirely by private citizens, the American Promenade will be a national park at the gateway to Jerusalem consisting of 50 marble monuments bearing the flags and official seals of the 50 States, and the United States-Israel Friendship Botanical Garden featuring Biblical and State trees, flowers and wildflowers.

In 1988, the year that marked Israel's 40th anniversary, I was named to the honorary National Advisory Council of the Joint Commission on the American Promenade in Israel. I continue to take provide in having my name attached to a project which so elegantly commemorates the American-Israeli friendship. But friendships between countries really are forged by dedicated individuals. As part of its efforts to honor those who have played a particularly important role in fostering United States-Israeli relations, the Joint Commission on the American Promenade will honor one outstanding personality from each State as a founding father of the project. As a member of the National Advisory Council, I am particularly pleased to recognize Mr. Louis Berry who has been chosen as the founding father from Michigan.

Born to a working-class family in Liverpool, England, Mr. Berry came to the United States in 1922, bringing his widowed mother and five brothers and sisters to Detroit shortly thereafter. But even as he struggled to build a life of his own in America, he tirelessly supported the Zionist movement. Thanks to the deep commitment of individuals like Louis Berry, the Zionist

dream was finally realized when the state of Israel was founded in 1948. Today, he continues to raise millions of dollars for Israel and volunteer his time and talents to numerous organizations including refugee committees, committees for mental health, Jewish charities, hospitals, synagogues, schools, and other educational institutions. His tireless efforts on behalf of Israel will long be remembered.

Louis Berry is an exemplary representative of the special bond of friendship which is shared by the United States and Israel. I am proud to express my support for the American Promenade and for the Joint Commission's excellent choice of Louis Berry as the founding father from Michigan.●

THE FORMULA OF PYE

● Mr. LAUTENBERG. Mr. President, the Star Ledger is our State's largest paper. It speaks with a powerful voice on issues of concern to New Jersey. It is a big paper—especially if you pick up the Sunday edition. It is also a successful one.

Mr. President, the Star Leger's prominent standing in our State can be largely attributed to its editor, Mort Pye. The news and editorial comments of his newspaper have informed and entertained. They have opened the publics' and public officials' eyes to emerging issues and problems that need attention.

The September issue of New Jersey Monthly ran a profile of this remarkable man and the mark that he has made and continues to make on his newspaper and our State.

I ask that the full text of the article be printed in the RECORD.

The article follows:

[From the New Jersey Monthly, Sept. 1994]

THE FORMULA OF PYE

(By Stephen Barr)

In early May, Star-Ledger editor Mort Pye sat in his Newark office waiting for the arrival of Governor Christine Todd Whitman. Running New Jersey's largest newspaper had always assured him of easy access to the state's chief executives. Tom Kean promptly took his phone calls; Jim Florio occasionally stopped by the newsroom of a lunchtime sandwich, and a private chat. But this encounter would be neither casual nor amiable: Carl Golden, Whitman's press secretary, had contacted Pye to schedule a meeting so that the governor could give him an earful.

Seven weeks earlier, in her March 15 budget address, Whitman had announced that she was dismantling the state Board of Higher Education. She wanted to give New Jersey's public colleges and universities more autonomy over their affairs. There would still be state oversight, she insisted, but exactly what it would be and how it would work was uncertain.

With no press leaks before the speech, the governor's announcement hit Pye particularly hard. At the helm of the Star-Ledger since 1963, he considers the newspaper's support for the board's creation in 1967 part of his legacy. "I had the idea that higher education could be stronger in New Jersey if it had its own separate department," Pye says. "We were involved in [the board's] formation. It was one of the first big things we promoted, so you can understand out feelings about what's happening now."

Education editor Robert Braun—who at the time of the announcement had been working for a month on a multipart series about the board's achievements over the past 27 years—immediately launched a full-scale assault on the Whitman plan. Day after day, in news stories and twice-weekly opinion pieces, he attacked—often viciously—Whitman's move and anybody who supported it. "There's no way any governor can say to a newspaper, 'Get with the program,'" complains a Whitman-administration insider. "Her only request was for fairness and balance in the coverage, which was utterly and totally lacking. The way Braun goes from elucidation to advocacy and agitprop, it's disgusting."

Pye talked to the governor and then talked to Braun, but little changed and the newspaper continued to attack Whitman's proposal. Pye now disputes the assessment of Braun's work and makes no apologies for the Ledger's campaign—albeit an unsuccessful one—to save the higher-education board. Apologizing is not Mort Pye's style.

For more than three decades, Pye has refused to give in. When he joined the paper as an associate editor in 1958, the Ledger was on shaky ground. Since then, he has not only reversed its fortunes but has built it into the nation's fifteenth largest daily and eleventh largest Sunday paper. Two out of every five New Jersey newspaper readers buy the Ledger. It is the dominant paper even in counties like Middlesex and Morris, which boast their own local dailies.

Pye has done this while defying conventional wisdom. The Ledger regularly uses its news pages to launch crusades and influence policy. And while its competitors have jazzed up their offerings with vibrant color, zippy graphics, and snappy writing, this slumbering giant has prospered in spite of a heavy gray look and a flat writing style. Pye makes no apologies for that either. "What you're trying to do is get people addicted to the paper the way it is," he explains. "If you suddenly make drastic changes, then you're telling the reader, 'What you're used to is no good, and now we're going to give you something that's really good.' That's an insult."

While most contemporary editors might find such an argument ludicrous, there is no debating the fact that the Ledger has spent the last decade gobbling up readers while barely changing its news presentation.

During his dynastic reign, Mort Pye has done as much to influence state affairs and promote New Jersey's interests as any other individual. He has watched six governors come and go, and the 76-year-old editor shows no signs of coasting toward retirement.

Pye's achievement of building what appears to be an invincible temple of journalism is rather remarkable when one considers that few people—particularly in journalism—think of the Ledger as a world-class newspaper. Editors and reporters around the sate routinely slam the paper's quality, although they follow and clip the paper religiously. But even as they toss insults, Pye is having the last laugh. To him, it is the readers of the Star-Ledger who count, and in an age when fewer and fewer people are buying newspapers, it is clear they are buying Mort Pye's in droves. "It is the 800-pound gorilla of New Jersey newspapers," says Neil Upmeyer, president and editor of the public-policy journal New Jersey Reporter.

Mort Pye brown-bags his lunch, which today consists of a cheese-and-mustard sandwich on white bread and an apple. We're eating in the conference room adjacent to his humble office (which overlooks a Newark side street and lacks any trappings of power). The surfaces are neat and tidy; the only sign of clutter is on the walls, which are plastered with plaques from business and civic groups and the New Jersey Press Association. Conspicuously missing is journalism's top award—the Pulitzer prize.

Over the years, Pye has steadfastly remained offstage, ducking interviews and refusing personal publicity. He rarely ventures far from his office, except to visit the newspaper's fifteen bureaus around the state. His idea of a vacation is to drive the back roads of New Jersey with his wife in search of hideaways along the Delaware River or in the mountains. And he shies away from newspaper-industry seminars because, he says, colleagues always "try to talk me out of what I'm doing."

What he's doing—or, more accurately, what he's done—is to take a failing property and make it the most lucrative link in the privately held newspaper chain owned by billionaire brothers Si and Donald Newhouse. How he's done it is the stuff of legend in newspaper circles. By opting for sheer heft—an eleven-person Trenton bureau, a huge sports section, a cadre of specialty writers—he has fashioned the only New Jersey newspaper with truly statewide appeal. He has shrewdly pushed regional and local coverage as suburbs boomed, and added readers as the state's population migrated south and west from the Ledger's base in Essex County. By shamelessly turning his news pages into a soapbox for causes and crusades, he has made the newspaper a major player behind big development projects and countless public-policy initiatives.

Pye accomplished all of this by stubbornly and doggedly shaping the newspaper into a creature of his own making. "If there ever was a man dedicated to putting out a newspaper, it is Mort Pye. He is the Star-Ledger," says Joseph Carragher, a former Trenton bureau chief. "He built the paper section by section, as if he had an idea in his head of how he wanted to make the Ledger number one. His imprint is on every page of that paper."

Pye, a small man with a frail, reedy voice, has a manner that is both gentle and gracious. When he displays anger, which is rare, staffers say he can manage no more than a high-pitched squeal. Today at lunch he wears a maroon cardigan over a robin's-egg-blue shirt, with a striped tie of mutted browns and blues. As he speaks, he leans back and curls his fingers around his belt. In such asceric environs, his angular jaw and the remains of white hair on his bald head give him a monklike look.

But his low-key appearance belies a certain impish quality. Below the surface is an intensely competitive man who seems to revel in the brickbars that come his way: that the Ledger's advocacy of issues compromises its journalistic integrity, that the newspaper goes after impersonal bureaucracies (the Department of Motor Vehicles is a favorite) and not public officials, that the look of the paper is woefully out of date, that the writing favors the assembling of facts and statements over style and perspective.

Releasing a mirthful, almost devilish chuckle, Pye recalls the name of a television

talk show that featured media experts dissecting the paper. It was called Pye = Power. "The approach was to try and show we were up to no good, too big for our britches," he says. He had no desire to be part of that dressing-down, but jokes that the real reason he didn't participate was that "I don't like to go on TV because I don't have the right voice. And no one's interested in seeing my sexy bald head."

When Rutgers University president Francis L. Lawrence gave Pye an honorary degree in May, he cited the editor's "disarmingly modest mien" as he raised "the quality of life and caliber of politics" in the state. Pye hadn't told his staff that he would be receiving the Rutgers accolade, but it's no secret he thrives on just that sort of praise.

That is evident from a sampling of favorable letters he's saved over the years, dating from 1968 to 1993 (interestingly, he throws out all unfavorable letters). One bunch is from business and community leaders, public figures, and just plain readers. In its own way, each letter strikes the same theme—that Pye's newspaper is good for New Jersey. A 1975 note from Lawrence's predecessor, Edward J. Bloustein, is particularly apt:

"Dear Mort:

"I have only recently returned from an all too brief vacation, but I did not want to let too much time slip by before complimenting the Star-Ledger on the exceptionally fine August series on higher education written by Bob Braun.

"It was one of the most comprehensive and thoughtful series that I have seen and I believe that you and Bob and the Star-Ledger have done a great service for both higher education in New Jersey and for the people of this state."

Mort Pye got his first taste of newspapering in 1926 at the wizened age of eight. Even then, his focus was decidedly local. A cousin gave him an old typewriter, and he published several issues of the Sumner Park Gazette—a flyer with news about the street he grew up on in Rochester, New York.

At the University of Illinois, Pye wrote for the Daily Illini and sent dispatches about school activities to the New York Times, which sent back checks for $25 every once in a while. After his sophomore year, he moved to New York and began playing the trombone in swing bands while finishing his degree at City College of New York. He decided to pursue a career in journalism upon graduation in 1940, sending three articles to a newspaper called PM. Two of them—one on efforts to control the weather, the other on suicides in the military—were accepted at a rate of two cents a word.

At the same time, Pye sent 250 letters to newspapers all over the country. One response came from the Long Island Press, which, like Pye, was based in Jamaica, Queens. Managing editor Ed Gottlieb noticed the local postmark and offered a few dollars a pop for freelance work. Soon Pye was making about $35 a week, which was $10 more than staff reporters, so he was given a job. He continued playing the trombone at dances and bar mitzvahs, which paid more for a Saturday night than he earned in a week at the paper. But after Pye refused one too many weekend assignments, Gottlieb gave him an ultimatum: journalism or the jive joints. Pye chose journalism.

One day, Gottlieb asked Pye to drive a woman's-page reporter to the dentist. Florence Newhouse was a cousin of the newspaper's owner, S. I. Newhouse, and she had a toothache. "I drove her in my beat-up old Chevy," says Pye, "and that's how we got acquainted." The romance quickly blossomed, and the two were inseparable. When Pearl (as she's known) would get off from the paper at midnight, she'd go to a deli down the street and kill time by helping to make coleslaw and potato salad for the couple who ran the store. When Mort got off two hours later, they'd drive into Manhattan and chase fire engines or hang out in Greenwich Village. They wouldn't get back to Queens until after sunrise.

Professionally, things were starting to gel as well. One night in 1941, Pye was on the rewrite desk when he got a call from a reporter with a late-breaking story. A woman's body had been found in a Rockaway Beach bungalow. The 23-year-old Pye felt a surge of adrenaline as he scribbled down the details. This was hot stuff: a nude body in a cottage owned by a local politician. He wrote up the story with all the verve and sensation he could muster. "Blonde Found Dead" screamed the next day's front page.

That afternoon, Pye was near a newsstand waiting for Pearl when a well-dressed businessman stopped to look over the rack of a dozen or so newspapers. As he reached for the New York World-Telegram, the Long Island Press seemed to catch his eye. He plunked down his nickel for the Press, and Pye, excited at the ideas that his story had sold a newspaper, went up to the man and asked him what had changed his mind. "I remembered I needed to look for something in the classifieds," the man responded.

Pye relates the tale as an amusing anecdote, but in a way it poignantly reveals the source of his vision for the Star-Ledger and one of the secrets of its success. In Pye's view, the more things there are in the paper, the more readers there will be. "Not everybody is interested in everything, but hopefully everybody is interested in something," he says. "The percentage of people who read a particular story is very low. If you cut out everything with less than 15 percent readership, what would you have left? Maybe 'Ann Landers,' the horoscope, and a couple of comics."

The Star-Ledger was little more than that in 1958, when Pye was named its associate editor. S. I. Newhouse had owned the paper since 1934, and it was the wallflower of the newsstands. "It was not making a lot of money," says Newhouse's son Donald, whose office today is one floor below Pye's. "It was a marginal operation, and it might have been losing money."

The Ledger was a scandal sheet that played up crime stories, carried racing results on the front page, and saw its readership rise when circulation contests were running and then fall when the promotions ended. By the mid-fifties, city editor Arthur Heenan, a staunch supporter of Senator Joseph McCarthy, avidly pushed reporters to root out Reds in New Jersey. All along, the Ledger was Newark's second paper—a poor stepchild to the beloved Newark Evening News, which had more readers, national recognition, and a reputation as New Jersey's New York Times.

After Pye arrived, he walked into the newsroom one day carrying an edition of the Ledger from a year or two before. Noted gangster Longie Zwillinan had killed himself, and the paper ran a main story and eighteen sidebars (accompanying stories) on the suicide. "Mort said, 'This will never happen again,'" Joseph Carragher recalls. "The whole attitude of the place changed: the philosophy, the tone, what was important and what was not." Crime news was relegated to the back of the newspaper, and Pye began demanding a front-page education story every Sunday.

Pye decided to stay at the Ledger because he liked the New York metropolitan area, but progress was slow and the roadblocks substantial. The newspaper operation was run out of a converted horse barn on Halsey Street, and antiquated presses made it impossible to add more news and better features or build the circulation much beyond what at the time was about 200,000 daily readers.

The moment of truth came in 1963, when S. I. Newhouse sent Donald, then the general manager of the Jersey Journal, to see Pye. It was their first real conversation, and Donald Newhouse did all the talking. He said the Ledger was in bad shape and of poor quality; it was time to either spend a lot of money to build the paper up or shut it down. "We had great faith in Mr. Pye's ability as an editor and substantial belief that a properly edited paper could be a successful paper," Newhouse says. "Our decision [to continue] reflected our confidence in him as an individual."

Newhouse unequivocally displayed his faith. A new plant with new presses opened in February 1966, and though they would talk frequently, Newhouse never asked Pye for a formal plan to turn the Ledger around. Pye never had a budget, and spent what he wanted to increase news coverage and add staff. Newhouse never balked when his editor asked if he was overstepping his bounds, and he often encouraged him to spend more.

"The rules of the game were changing, and Mort and Donald saw that," says a Ledger insider. The growth of the suburbs had fostered the building of highways, and the new roads were free and clear before daybreak for the delivery of a morning paper like the Ledger. It was a snap to reach once distant towns and follow readers as they moved into Middlesex, Morris, and Somerset counties and beyond.

What helped matters was that Richard Scudder, the owner of the Newark Evening News, apparently wasn't seeing what Pye and Newhouse were. He had built a new plant in downtown Newark in the sixties, but delivery of his evening paper during daytime hours proved increasingly difficult: His trucks faced clogged roadways and had trouble getting out to the suburbs. "The News was never really able to break out of its urban base," says former Ledger political reporter Jim McQueeny. "It had news from around the state, but when people left Newark, they left the News."

Pye declines to offer specifics about going head-to-head with the News ("I don't want to talk about them, I want to talk about us," he says), but by the end of the sixties, the Ledger had as many readers—about 255,000 daily and 400,000 Sunday—as its once seemingly invincible competitor. An eleven-month strike at the News starting in [97] was the final blow; on August 31, 1972, the paper folded. That afternoon, Pye came as close to making a newsroom speech as anyone could remember. "We never had staff meetings, but Mort talked to employees for about fifteen minutes," says Fred Hillmann, a former reporter who was there at the time. "There was a sense of euphoria, but not so much because we bear the News. It was for the opportunity that we now had."

In Pye's cache of letters is this one he received from Scudder in 1984:

"Dear Mort:

"I am much indebted to your for your help in securing clippings about automobile insurance. The articles are excellent, and so

far as I know, are the only thoroughly competent review of the matter by any New Jersey newspaper. Indeed, The Star-Ledger under your direction is, in my opinion, the most powerful force for good in the State today. Your series on pollution by New York was excellent.

"It makes me feel less sad about there being no Newark News to see The Star-Ledger do that kind of work so competently."

Mort Pye loves New Jersey. For proof, look no farther than his desk, where he keeps a small framed drawing by Bunny Hoest, who pens "The Lockhorns" syndicated comic strip. A few years ago, Hoest poked fun at New Jersey in one of his cartoons, and Pye promptly canceled the strip. He reinstated it when Hoest personally called to apologize and promised he wouldn't knock the Garden State again. To seal the deal, the cartoonist sent a drawing of Mr. And Mrs. Lockhorn standing in front of an outline of the state and making a toast: "We love New Jersey."

But Pye's fondness for the state is a lot more complex than that. It exists because he knows that what is good for New Jersey is good for the Ledger. Construction of Giants Stadium started seven years after the Ledger floated the idea. (Pye says he wondered, "If Green Bay can have a football team, why can't New Jersey?") The newspaper was also a force behind the building of key highways to the suburbs, like Route 78 and Route 280 (Ledger insiders call the latter the Pyeway). The Liberty Science Center and Newark's new Center for the Performing Arts represent more recent projects that the newspaper has promoted.

There's probably not a bigger newspaper in the country with a focus so relentlessly local. The Ledger depends primarily on wire-service copy for national and international news; unlike other papers its size, it has no reporters in major cities and foreign capitals. Even the news from its two-person Washington bureau always carries a hometown view. "A reporter in Sussex County at the Ledger is like a New York Times reporter based in London in terms of importance in filling the news pages," says Nancy Jaffer, who runs the Morris/Sussex/Warren county bureau.

It's all part of Pye's basic formula: Build circulation by covering things that interest the largest number of readers—but don't leave anything out. Clearly, the Ledger's franchise has been that it offers a lot of stuff for a quarter (75 cents for the Sunday edition, whose telephone-book weightiness dwarfs other New Jersey newspapers). It doesn't matter what the stuff is, because there's something for everybody; and at 25 cents, you know you're getting a good deal. "I've always credited their overall growth to the fact that they've kept the circulation price extremely low," says Frank J. Savino, a former advertising executive at the Home News and the Record of Hackensack. The Ledger cost 15 cents as recently as 1990 and remains of the cheapest daily newspapers in the state. "People bought the paper," adds Savino, "and readers mean advertisers."

But many journalists are quick to point out that a large readership doesn't necessarily mean the product is top-quality. "The Star-Ledger's strength is that no other newspaper is as thorough in its coverage of the state. There's no comparable source for the news," admits Neil Upmeyer of the New Jersey Reporter. But he feels the paper's photographs are a big culprit in its tedious feel. "Whether a social event or a legislative event, they're straightforward stock shots. That, as much as the character and length of the stories, leads readers to see the Ledger as a gray, boring paper."

Trenton was one of the first beats that Pye beefed up in the midsixties, and one of his first big crusades was against inflated milk prices. "Mort came in one Monday morning," says managing editor Chick Harrison, who was the paper's assistant city editor at the time, "and he asked, 'Why are they paying less for milk on Long Island than in New Jersey?" A reporter was assigned to write a series on the issue. Soon afterward, the Legislature changed some regulations and milk prices came down.

Pye added sports coverage—an area where the News was weak—and also put reporters on the education and legal beats, because news out of the schools and the courts touched so many lives across the state. He ran a Monday party page, with pictures from a dozen or more week-end parties, and he hit on the idea of the multipart series starting on Sunday—knowing that readers would be inclined to pick up the daily paper to see what came next.

Pye also balanced his public-policy crusades with stories that catered directly to politicians and opinion makers. The front page, particularly on Sunday, is the space reserved for New Jersey's elite. Daily stories regularly feature straightforward, unexciting photographs of the state's powerful standing around in suits and ties or pearls and heels, shaking hands, cutting ribbons, or testifying before legislative committees. The dry stuff of politics is spiced with people pleasers, such as lots of sports stories, sometimes two cross-word puzzles, and both "Ann Landers" and "Dear Abby."

The voice of the Ledger is best defined by its specialty writers—Bob Braun on education, Herb Jaffe on law, and Gordon Bishop on the environment, to name a few. Over the years, these reporters have been given long leashes; they've mounted their soapboxes, and by dint of the decades spent on them, they have helped make the Ledger influential. They are loathed or revered, depending on what advocacy position they have taken up lately. The specialty reporters are often behind the Ledger's signature multiday series stories that fill page after page of the newspaper.

Responding to the charge that the Ledger's stories keep going and going longer than the Energizer bunny, assistant managing editor Leonard Fisher says: "That criticism is fair. We write too long, and part of that is the luxury of space. We're conscious of that problem, but making changes is not easy to do—It can be a battle of egos. Reporters want as much space as the next person, and they don't want their words, their pearls of wisdom, cut."

The crusades themselves have also not gone unnoticed in the media at large. Ledger reporters have become a lightning rod for criticism that they hide sometimes virulent opinion behind the guise of objective reporting. "There's unanimous opinion among journalists in the state that the newspaper often violates journalism standards by editorializing through news articles," says Upmeyer.

Not long after the demise of the Newark Evening News, Pye began to invest heavily in bureaus around the state, a strategy that has proved to be very successful. The paper today has bureaus in 15 out of 21 New Jersey counties, and by adding local coverage in areas of potential growth, the Ledger has been able to attain more circulation than the local daily newspapers.

Was all of this part of some master plan that Pye had been nurturing for years? Not exactly. The only principle at work was that he wanted to take things slowly. "In my mind I had a plan, and you had to proceed with caution so you didn't regret what you did," Pye says. Former managing editor Andy Stasiuk, who was Pye's top associate until he retired in 1992, says there was nothing formal about the way the Ledger worked. "It's a very informal place," he says. "We don't have meetings and proposals and so forth. This is a catch-as-it-flies operation."

While Pye's style was quietly cautious, he depended on Stasiuk, a hulking man whose biceps bulged out of his short-sleeved shirts, for brashness and motivation. "Andy got everybody going," says Joseph Carragher, "but Mort was back there telling Andy what he wanted. They were a great good cop-bad cop ream; if Mort wanted something, Andy carried it out, would go the extra mile to please Mort and get the staff to respond."

Chick Harrison, Stasiuk's replacement, is a more gentle spirit. Reporters observe a change in the tone of the newsroom. It's a bit quieter with a bit less nervous energy. What hasn't changed is that Mort Pye is in control.

Pye grabs the previous Sunday's front page and throws it on the table. "One of the things that pleases me is the play we give a story like that," he says, pointing to the launch of a series on biotechnology by Kitta MacPherson, his science editor. "This is not the kind of thing a tabloid would go crazy over, but it's a big story." Why? "Because [biotechnology] is important to the state," he answers. "It's a positive thing, which I like, and it could be very important to the future of the state in terms of the economy if we're in the forefront. It should get this kind of play because it's more important than another car being hijacked."

Pye relates the contents of another love letter to the Ledger, this one from Princeton scientist Joseph Cecchi effusively praising a series on biotechnology written by MacPherson in 1987. "The last line pleased me quite a bit," Pye says. "It said, 'You've made a Star-Ledger reader out of me.'"

It's just before noon on a Saturday in June. As has been his practice almost every Saturday for more than 30 years, Pye is in the composing room, taking a last look at the layout of Sunday's front page. The Sunday Ledger is his pride and joy. Saturday is a slow news day, so he has always seen Sunday as a chance to push some big idea or to launch a boffo series that would carry through the rest of the week. With 728,579 readers—over three times more than its closest competitor—the Sunday Ledger has the advantage of a front page that gets noticed.

On this Saturday, however, the end of an era is nearing. The composing room is where the copy, headlines, and pictures are pasted up together on each page, and it used to be a flurry of activity. But almost the entire operation is computerized now; millions of dollars have been spent in recent years to buy state-of-the art presses and the latest technology to go with them. The Sunday front page is one of the last pages to be done the old way, and it, too, will be done electronically in a few months.

Pye scans the page, which is mounted on a drafting table, and his attention is drawn to the headline of a D day anniversary story by Bill Gannon. It reads Memories Amid Headstones in bold type and capital letters. Wondering if it's too strong, Pye asks a composing-room worker to strip it off and put in an alternative. Memories Among the Headstones, in a lighter typeface with uppercase and lowercase characters. "That's too

weak," he says. He asks for the original back. He studies it approvingly but wants a final touch: a thin line under the headline that he feels makes it slightly less overpowering. "The key to quality is attention to details," Pye says after giving the final okay. "Folks at home aren't going to notice what we're fussing over, but fussy is a good thing. It's the fun part of the business."

Curiously, despite his obvious, obsessive interest in tinkering and his willingness to embrace technological innovations, Pye steadfastly refuses to ape his competitors by livening up his sleeping giant with loud graphics, lots of color, and snappy writing. change does occur, but the pace is as leaden as the Ledger's gray look. Since last year, the Sunday front page has had color photographs and a few more varied graphic elements, but that's it.

Even as television and other media threaten to erode newspaper circulation, Pye, unlike other newspaper editors, has decided not to try to make his paper as fast-paced as watching TV. "People who are interested in a story are interested in the details. If you cut a story down to a few paragraphs, it doesn't tell you more than you already know or whet your appetite for more. We try to get all the detail, and that's what brings people to the paper. Apparently there's something right about it."

People don't leave the Star-Ledger. Its staff of some 300 reporters and editors includes financial writer Alexander Milch, who is nearing 90 and covered the depression for the Newark Evening News, and sports editor Willie Klein, who is 80. The office that houses the newspaper's four main editorial writers—three of whom are in their seventies—is fondly called the geriatric ward by some of the younger journalists. Pye makes it clear that he, too, has no plans to retire.

I ask one editor why staffers stay at the Ledger for life; he says it's because many old-timers have no place else to go. But it's also because the Ledger is a difficult place to leave. Loyalty is based on the "golden handcuff" theory; reporters are paid better than many of their unionized counterparts at other newspapers (union is a dirty word at the Ledger), and everybody's on the honor system when it comes to expense accounts and overtime. "They don't play head games that way," one reporter says. When it's time for a raise, Pye makes the call personally, and year-end bonuses are doled out bureau by bureau, as reporters and editors are summoned to Newark for a brief chat with Pye in his office.

For business writer Iris Taylor, her loyalty to the Ledger was solidified three years ago. During the recession, ad revenues were down at all New Jersey newspapers. Some were forced out of business; others laid off workers. But at the Ledger, a rare memo was circulated. It told staffers that they would never be laid off for economic reasons—a sure sign that profitability was never in jeopardy. "We don't live with the fear that we won't have a job tomorrow," says Taylor. "This is a lean-and-mean operation. The paychecks are good and the bonuses are good and there are no fancy anythings."

"No doubt there's plenty of carping among other journalists that the Ledger's stories are long and tedious, that the look is drab and boring, that opinion is passed off as fact," adds Upmeyer, "But a lot of that may also be professional jealousy. Reporters aspire to the New York Times or the Philadelphia Inquirer for the professional prestige, but they aspire to the Star-Ledger because they will get paid more and they will write for a paper with a huge circulation. You wouldn't hear a reporter carp if Mort offered him a job."

Some of the Ledger's top editors are bucking the work-till-you-drop motif, however. The newsroom was stunned two years ago when Andy Stasiuk, who was 69 at the time, announced he was retiring to Las Vegas after 38 years with the paper. Chick Harrison, who moved up from assistant managing editor when Stasiuk left, told me that he may retire as early as next year and certainly within two years, even though he just turned 65.

Former assistant city editor Isabelle Spencer once told me that she thought Pye, Stasiuk, and Harrison would all leave at once. But that wouldn't have been Pye's style. No matter how prepared their replacements might be, that would be quite a void to fill. If anything is obvious, it is that Pye believes in gradual change, and with one top editor bowing out every few years, the organization can better absorb what is a wrenching but ultimately unavoidable transition in leadership.

Whether Mort Pye will ever be ready to step down—say on May 28, 1998, his 80th birthday—may depend on how wise Christie Whitman's decision to abolish the Board of Higher Education turns out to be. Pye assures me that even though he couldn't dissuade the governor from radically changing state oversight of higher education, the Ledger and its resident pit bull, Bob Braun, will stay on top of developments under Whitman's system.

Pye won't say it, but perhaps what's at stake is the one accolade that has eluded him: the Pulitzer prize. "Mort has done something that few in the newspaper business can claim, but he hasn't been justly rewarded," says Joseph Carragher, who believes that Braun's recent work on the board's dissolution was Pulitzer-quality.

I mention to Carragher that Braun won't even have a chance at such an award unless he can expose the flaws in Whitman's policy and force her to admit that her action was foolhardy. "It may not happen this year." he concedes, "but maybe next year or the year after. It would be the crowning touch if Mort won the Pulitzer for his education coverage."

In the interim, Mort Pye will just keep selling papers—one hefty issue at a time.●

THE HOLOCAUST MEMORIAL CENTER IN WEST BLOOMFIELD

● Mr. RIEGLE. Mr. President, I rise today to offer my congratulations to the Holocaust Memorial Center in West Bloomfield, MI, which will celebrate its 10th anniversary on October 21 of this year. The HMC is America's first free standing Holocaust center. Since opening to the public, it has worked to preserve the memory of the 6,000,000 Jews killed during the Holocaust and to disseminate the universal lessons of this tragic period in history—most importantly, the need to protect the freedom and dignity of all people. Its unique facilities and educational programs instruct thousands of young people annually, and its extensive library-archive comprises one of the most impressive collections in the world on the Holocaust, the Christian-Judaic relationship, and European Jewish history.

In 1962, Rabbi Charles Rosensveig first proposed the idea for a Holocaust Memorial Center to a group of Holocaust survivors in Metropolitan Detroit. The group, known as Shaarit Haplaytah ("the Remnant"), quickly embraced the idea. After years of planning, the Holocaust Memorial Center finally opened to the public in 1984 on the Jewish Community Campus in West Bloomfield, MI. Since that time, the center has educated the public through daily tours, periodic lectures by knowledgeable Holocaust scholars and authors, and annual seminars and symposiums for teachers. In order to reach the larger community, the HMC also frequently sponsors special events such as the "Celebration of Survival" and the children's opera "Brundibar."

The contributions that have been made to the community of Detroit and to all of Michigan by the Holocaust Memorial Center in its first 10 years are significant. In addition, the HMC has served as a catalyst and a role model for other Holocaust centers in the United States and abroad. The center honors the dead and ensures that they will not be forgotten. But most importantly, the HMC perpetually strives to promote tolerance and understanding between people of diverse cultural backgrounds.

Mr. President, centers like the HMC have significantly elevated public awareness about the lessons of the Holocaust. Today, I think most Americans understand how deeply important it is that we remember the tragedies that occurred in order that history not be allowed to repeat itself. Hatred, intolerance, fear and silence were the accomplices of the Holocaust. We are very fortunate to have dedicated individuals in our communities like Rabbi Rosensveig, and the people Shaarit Haplaytah, to show us the perils of succumbing to such debilitating weaknesses. It is a pleasure to commemorate the 10th anniversary of the Holocaust Memorial Center in West Bloomfield, and it is an honor to recognize the individuals who made it possible.●

THE DEPARTURE OF TAIWANESE REPRESENTATIVE DING AND THE ARRIVAL OF TAIWANESE REPRESENTATIVE LU

● Mr. SIMON. Mr. President, over the past few months the Senate has focused additional attention on the need to improve the quality of United States relations with the 21 million people of Taiwan. By an overwhelming margin, this body has urged the Clinton administration to reduce the increasingly outdated restraints that hinder what should be a more healthy and open political dialog between the United States and Taiwan.

The Taiwan phenomenon is remarkable in many respects. Its political evolution to a wide-open democracy with free, multiparty elections makes Taiwan the first Chinese society in history

to embrace democracy. Added to that is an amazing record of economic achievement, one that makes Taiwan's robust economy the envy of much of Asia. Yet, absurdly, the 21 million people of Taiwan have no voice in most multilateral organizations. On the level of such organization, other nations, our own included, sustain an artificial situation that treats Taiwan as if it does not exist. If "the truth will set us free," we must be open and honest about this issue so as to be fair to the very people whose political liberalization we so actively urged over the years.

For that reason, I introduced a resolution earlier in this session that called for reintegration of Taiwan into multilateral institutions, as well as a significant improvement in terms of dialog between this Government and the government of Taiwan. The administration has taken some small steps in the right direction, but, admittedly, most of us were disappointed that it did not seize the opportunity to make substantial, meaningful movement forward. The recent policy review will not, we trust, be the last word on United States relations with Taiwan.

That Taiwan has so far not been able to achieve the level of official recognition that its political and economic development warrants is no reflection on the caliber of its diplomatic representatives here. On the contrary; Taiwan's representatives have distinguished themselves by their energy, intelligence, and great friendship for the United States.

One such man, Ambassador Moo-Shih Ding, has just completed his tour of duty in Washington. I know I speak for others in this Chamber when I say his efforts were appreciated, and he will be truly missed. I likewise am sure my colleagues will join me in extending a warm welcome to his successor, Benjamin C. Lu, who has just assumed his duties. We pledge to the new Taiwan extending a warm welcome to his successor, Benjamin C. Lu, who has just assumed his duties. We pledge to the new Taiwan representative that our dialog with his country will continue to grow in quality and strength, both politically and economically, during his period of service here.●

NAFTA

● Mr. DECONCINI. Mr. President, about this time last year, Congress was engaged in a contentious debate about the North American Free-Trade Agreement. Many colorful remarks were made about the supposed effects NAFTA would have on the American economy. Many of the most memorable, were those made by Ross Perot. He claimed that with the passage of NAFTA there would be a "giant sucking sound" of jobs being lost in the United States and moved to Mexico.

Almost 1 year after NAFTA went into effect, however, the facts paint a much different picture than the alarmist concerns raised by some opponents of NAFTA. For example, in my home State of Arizona, it is estimated that our State's exports to Mexico in the first half of 1994 were up almost 25 percent. This comes on the heels of the 1993 all-time record high for exports to Mexico—$1.9 billion. Nationwide, United States exports to Mexico in the first half of this year were up 17 percent, a record level. Our exports to Canada during the same period increased 10 percent. These export figures compare to our exports to the rest of the world which increased 5 percent over the same period.

This increase in exports to Mexico and Canada will support an estimated 100,000 new American jobs in 1994. These jobs are in such areas as agriculture, semiconductors, computer equipment, electronics and other consumer items.

By reducing tariffs and other barriers to trade among the United States, Mexico, and Canada, NAFTA has made American products more available for Mexicans and Canadians. And when our exports are available they are popular with consumers because of their high quality. With the implementation of NAFTA we have created the largest free trade area in the world where American products are welcomed, not blocked.

Several examples from Arizona show that American companies are taking advantage of reduced tariffs and import restrictions to start selling their products and services to Mexican consumers. An Arizona housing company has contracted to build 1,000 housing units in Nogales, Mexicali, and Tijuana using building materials from the United States, a Phoenix-based bank has created a group to provide financing to medium-sized businesses seeking to increase their exports to Mexico and has joined with the largest Mexican commercial bank to establish a credit card service in Latin America, and a Phoenix based retailer is opening locations in Mexico. These are just a few of the many examples from Arizona of companies which are taking advantage of the tremendous opportunities created by NAFTA to increase the sale of their goods and services into Mexico.

Passage of NAFTA was a difficult political battle for the President and congressional supporters of NAFTA. But as we approach the 1 year anniversary of the implementation of NAFTA, all assessments show that voting for NAFTA was the right vote. NAFTA has been greatly beneficial for American companies and American jobs.●

TRIBUTE TO MARYLAND STATE SENATOR TROY BRAILEY

● Mr. SARBANES. Mr. President, it is with deep personal sadness that I rise today to pay tribute to my long-time friend and colleague, Maryland State Senator Troy Brailey, who died yesterday.

Troy and I were first elected to the Maryland House of Delegates in 1966, and served together there for 4 years. But even before he began his distinguished career of elected public service in the Maryland Legislature, which spanned 24 years, Troy Brailey was already an outstanding national leader in both the labor and civil rights movements.

Early in his life, Troy Brailey was a pullman porter, who worked with A. Philip Randolph in the early days of the brotherhood of Sleeping Car Porters to organize the porters. He went on to serve as national vice president of the Afro-American Labor Council and president of the Baltimore Division of the Porters Union.

His work on behalf of working men and women, combined with his leadership in the civil rights movement for justice and opportunity, made Senator Troy Brailey an inspiration and model for all of us.

From his early efforts helping to plan the Washington march which was called off when President Franklin D. Roosevelt issued the Executive order establishing the Fair Employment Practices Commission, to his role as State chairman and organizer of the historic 1963 March on Washington, Troy Brailey was a tireless fighter for civil rights for all of our people.

Beyond his leading role in the labor movement, civil rights, and elected public service, Senator Troy Brailey was deeply involved in countless efforts on behalf of the people he served, including many years of service on the executive board of the NAACP; the Boy Scouts; the board of directors of the YMCA; the Baltimore Street Car Museum; the Apprenticeship Advisory Board, and many others.

Mr. President, I have indeed been fortunate to be among those who were influenced by Senator Troy Brailey, who benefited from his wisdom and experience, and who were honored to have him as a friend. I extend my heartfelt condolences to his widow Chessie, his son Norman, daughter Alice, and other members of his family on the passing of this genuine champion for working men and women.●

RHINOCEROS AND TIGER CONSERVATION ACT

Mr. FEINGOLD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 692, H.R. 4924, the Rhinoceros and Tiger Conservation Act of 1994, that the bill be read three times, passed, and the motion to reconsider be laid upon the table, and that any statements relating to this item be placed in the RECORD at the appropriate place as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 4924) was deemed read the third time, and passed.

THOMAS PAINE MEMORIAL JOINT RESOLUTION—MESSAGE FROM THE HOUSE

Mr. FEINGOLD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a joint resolution (S.J. Res. 227) to approve the location of a Thomas Paine Memorial.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 227) entitled "Joint resolution to approve the location of a Thomas Paine Memorial", do pass with the following amendments:

Strike all after the resolving clause, and insert:

That (a) the location of a Thomas Paine Memorial, authorized by Public Law 102-407, as amended by Public Law 102-459, within either Area I or Area II as described in Public Law 99-652 (100 Stat. 3650), is approved and (b) the location of a World War II Memorial, authorized by Public Law 103-32, within either Area I or Area II as described in Public Law 99-652 (100 Stat. 3650), is hereby approved.

Strike the preamble, and insert:

Whereas section 6(a) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes," approved November 14, 1986 (Public Law 99-652; 100 Stat. 3650) provides that the location of a commemorative work in the area described as Area I shall be deemed disapproved unless the location is approved by law not later than 150 days after notification of Congress that the commemorative work may be located in Area I; and

Whereas Public Law 102-407, as amended by Public Law 102-459, authorized the Thomas Paine National Historical Association U.S.A. Memorial Foundation to establish a memorial on Federal land in the District of Columbia to Thomas Paine; and

Whereas Public Law 103-32, approved May 25, 1993 (107 Stat. 90), authorized the American Battle Monuments Commission to establish a memorial on Federal land in the District of Columbia to members of the Armed Forces who served in World War II; and

Whereas the Secretary of the Interior has notified the Congress of his determination that such memorials should be located in Area I: Now, therefore, be it

Amend the title so as to read as follows: "Joint resolution approving the location of a Thomas Paine Memorial and a World War II Memorial in the Nation's Capitol".

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the Senate concur in the House amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

WARREN B. RUDMAN UNITED STATES COURTHOUSE—MESSAGE FROM THE HOUSE

Mr. FEINGOLD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2073.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2073) entitled "An Act to designate the United States courthouse that is scheduled to be constructed in Concord, New Hampshire, as the "Warren B. Rudman United States Courthouse", and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. WARREN B. RUDMAN UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The United States courthouse to be constructed in Concord, New Hampshire, shall be known and designated as the "Warren B. Rudman United States Courthouse".

(b) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in subsection (a) shall be deemed to be a reference to the "Warren B. Rudman United States Courthouse".

SEC. 2. JAMIE L. WHITTEN FEDERAL BUILDING.

(a) DESIGNATION.—The Federal building located at the northeast corner of the intersection of 14th Street and Independence Avenue, Southwest, in Washington, District of Columbia, shall be known and designated as the "Jamie L. Whitten Federal Building".

(b) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in subsection (a) shall be deemed to be a reference to the "Jamie L. Whitten Federal Building".

SEC. 3. WILLIAM H. NATCHER FEDERAL BUILDING AND UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The Federal building and United States courthouse located at 242 East Main Street in Bowling Green, Kentucky, shall be known and designated as the "William H. Natcher Federal Building and United States Courthouse".

(b) LEAGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in subsection (a) shall be deemed to be a reference to the "William H. Natcher Federal Building and United States Courthouse".

Amend the title so as to read: "An Act to designate the Warren B. Rudman United States Courthouse, the Jamie L. Whitten Federal Building, and the William H. Natcher Federal Building and United States Courthouse.".

Mr. FEINGOLD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. FEINGOLD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURES INDEFINITELY POSTPONED—H.R. 4576 AND H.R. 4577

Mr. FEINGOLD. I now ask unanimous consent that Calendar No. 572 and 573 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL SATURDAY, OCTOBER 8, 1994 AT 9 A.M.

Mr. FEINGOLD. Mr. President, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 12:34 a.m., recessed until tomorrow, Saturday, October 8, 1994, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 7, 1994:

EXECUTIVE OFFICE OF THE PRESIDENT

G. EDWARD DESEVE, OF PENNSYLVANIA, TO BE CONTROLLER, OFFICE OF FEDERAL FINANCIAL MANAGEMENT, OFFICE OF MANAGEMENT AND BUDGET, VICE EDWARD JOSEPH MAZUR, RESIGNED.

MARTIN NEIL BAILY, OF MARYLAND, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS, VICE ALAN S. BLINDER, RESIGNED.

SECURITIES INVESTOR PROTECTION CORPORATION

CHARLES L. MARINANCCIO, OF THE DISTRICT OF COLUMBIA, TO BE A DIRECTOR OF THE SECURITIES INVESTOR PROTECTION CORPORATION FOR A TERM EXPIRING DECEMBER 31, 1996, VICE GEORGE H. PFAU, JR., TERM EXPIRED.

FEDERAL TRADE COMMISSION

ROBERT PITOFSKY, OF MARYLAND, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF 7 YEARS FROM SEPTEMBER 26, 1994, VICE DEBORAH KAYE OWEN, TERM EXPIRED.

NUCLEAR REGULATORY COMMISSION

ROBERT M. SUSSMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR A TERM OF 5 YEARS EXPIRING JUNE 30, 1998, VICE JAMES R. CURTISS, TERM EXPIRED.

COMMUNICATIONS SATELLITE CORPORATION

CHARLES T. MANATT, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMUNICATIONS SATELLITE CORPORATION UNTIL THE DATE OF THE ANNUAL MEETING OF THE CORPORATION IN 1997, VICE RUDY BOSCHWITZ.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

LT. GEN. SAMUEL E. EBBESEN, 096-30-1327

CONFIRMATIONS

Executive Nominations Confirmed by the Senate October 7, 1994:

DEPARTMENT OF THE TREASURY

VALERIE LAU, OF CALIFORNIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF THE TREASURY.

DEPARTMENT OF STATE

THOMAS E. MCNAMARA, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AN ASSISTANT SECRETARY OF STATE.

THE JUDICIARY

VANESSA RUIZ, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE DISTRICT OF COLUMBIA COURT OF APPEALS FOR THE TERM OF 15 YEARS.

DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

ALAN J. DIXON, OF ILLINOIS, TO BE A MEMBER OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION FOR A TERM EXPIRING AT THE END OF THE FIRST SESSION OF THE 104TH CONGRESS.

ALAN J. DIXON, OF ILLINOIS, TO BE CHAIRMAN OF THE DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION.

ENVIRONMENTAL PROTECTION AGENCY

FREDERIC JAMES HANSEN, OF OREGON, TO BE DEPUTY ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF EDUCATION

G. MARIO MORENO, OF TEXAS, TO BE ASSISTANT SECRETARY FOR INTERGOVERNMENTAL AND INTERAGENCY AFFAIRS, DEPARTMENT OF EDUCATION.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

JOEL DAVID VALDEZ, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 1998.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JORGE M. PEREZ, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1998.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

CHARLES R. WILSON, OF FLORIDA, TO BE U.S. ATTORNEY FOR THE MIDDLE DISTRICT OF FLORIDA FOR THE TERM OF 4 YEARS.

STEVEN SCOTT ALM OF HAWAII, TO BE U.S. ATTORNEY FOR THE DISTRICT OF HAWAII FOR THE TERM OF 4 YEARS.

EISENHOWER DURR, OF MISSISSIPPI, TO BE U.S. MARSHAL FOR THE SOUTHERN DISTRICT OF MISSISSIPPI FOR THE TERM OF 4 YEARS.

MICHAEL R. RAMON, OF CALIFORNIA, TO BE U.S. MARSHAL FOR THE CENTRAL DISTRICT OF CALIFORNIA.

MICHAEL D. CARRINGTON, OF INDIANA, TO BE U.S. MARSHAL FOR THE NORTHERN DISTRICT OF INDIANA FOR THE TERM OF 4 YEARS.

ROBERT BRADFORD ENGLISH, OF MISSOURI, TO BE U.S. MARSHAL FOR THE WESTERN DISTRICT OF MISSOURI FOR THE TERM OF 4 YEARS.

JOHN R. MURPHY, OF ALASKA, TO BE U.S. MARSHAL FOR THE DISTRICT OF ALASKA FOR THE TERM OF 4 YEARS.

HERBERT M. RUTHERFORD III, TO THE DISTRICT OF COLUMBIA, TO THE U.S. MARSHAL FOR THE DISTRICT OF COLUMBIA FOR THE TERM OF 4 YEARS.

ROBERT MOORE, OF ILLINOIS, TO BE U.S. MARSHAL FOR THE CENTRAL DISTRICT OF ILLINOIS FOR THE TERM OF 4 YEARS.

SHELDON C. BILCHIK, OF MARYLAND, TO BE ADMINISTRATOR OF THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

STATE JUSTICE INSTITUTE

JOSEPH FRANCIS BACA, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1995.

ROBERT NELSON BALDWIN, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1995.

FLORENCE K. MURRAY, OF RHODE ISLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE STATE JUSTICE INSTITUTE FOR A TERM EXPIRING SEPTEMBER 17, 1995.

THE JUDICIARY

JAMES A. BEATY, JR., OF NORTH CAROLINA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF NORTH CAROLINA.

DAVID BRIONES, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TEXAS.

OKLA JONES II, OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA.

G. THOMAS PORTEOUS, JR., OF LOUISIANA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF LOUISIANA.

JAMES ROBERTSON, OF MARYLAND, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA.

THOMAS B. RUSSELL, OF KENTUCKY, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF KENTUCKY.

KATHLEEN M. O'MALLEY, OF OHIO, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO.

DAVID F. HAMILTON, OF INDIANA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF INDIANA.

DIANE E. MURPHY, OF MINNESOTA, TO BE U.S. CIRCUIT JUDGE FOR THE EIGHTH CIRCUIT.

FRED I. PARKER, OF VERMONT, TO BE U.S. CIRCUIT JUDGE FOR THE SECOND CIRCUIT.

WILLIAM T. MOORE, JR., OF GEORGIA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF GEORGIA.

DAVID A. KATZ, OF OHIO, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO.

SEAN J. MCLAUGHLIN, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA.

ELAINE F. BUCKLO, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS.

ROBERT W. GETTLEMAN, OF ILLINOIS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF ILLINOIS.

HELEN W. GILLMOR, OF HAWAII, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF HAWAII.

ROSLYN MOORE-SILVER, OF ARIZONA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF ARIZONA.

ALVIN W. THOMPSON, OF CONNECTICUT, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF CONNECTICUT.

WILLIAM H. WALLS, OF NEW JERSEY, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY.

SVEN E. HOLMES, OF OKLAHOMA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OKLAHOMA.

VICKI MILES-LAGRANGE, OF OKLAHOMA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF OKLAHOMA.

HOUSE OF REPRESENTATIVES—*Friday, October 7, 1994*

The House met at 12 noon.

The Reverend Gabriel O'Reilly, pastor, St. David's Church, Davie, FL, offered the following prayer:

Almighty God, You spoke to man a message of peace. Your message took form in the vision of our forefathers as they fashioned a nation where people might live as one. This message lives on in our midst as a task for men and women today and a promise for tomorrow.

We thank You for Your blessings in the past and for all that with Your help we must yet achieve. Hear our prayer for this House of Representatives. By their wisdom and integrity may there be lasting prosperity and peace. As they decide, debate, divide, and appropriate, teach them the wisdom of the old Indian proverb "we did not inherit this land from our forefathers; we are merely borrowing it from our children." Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from Virginia [Mr. MORAN] to come forward and lead the House in the Pledge of Allegiance.

Mr. MORAN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 3050. An act to expand the boundaries of the Red Rock Canyon National Conservation Area;

H.R. 3678. An act to authorize the Secretary of the Interior to negotiate agreements for the use of Outer Continental Shelf sand, gravel, and shell resources;

H.R. 4196. An act to ensure that timber-dependent communities adversely affected by the Forest Plan for a Sustainable Economy and a Sustainable Environment qualify for loans and grants from the Rural Development Administration;

H.R. 4535. An act to amend the Securities Exchange Act of 1934 with respect to the extension of unlisted trading privileges for corporate securities, and for other purposes;

H.R. 4777. An act to make technical improvements in the United States Code by amending provisions to reflect the current names of congressional committees;

H.R. 5084. An act to amend title 13, United States Code, to improve the accuracy of census address lists, and for other purposes;

H.R. 5116. An act to amend title 11 of the United States Code;

H.J. Res. 271. Joint resolution designating the month of November in each of calendar years 1993 and 1994 as "National American Indian Heritage Month."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4278) "An Act to make improvements in the old-age, survivors, and disability insurance program under title I of the Social Security Act."

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 783) "An Act to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization" with amendments.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 2440) "An Act to Amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1994, 1995, and 1996, and for other purposes."

The message also announced that the Senate had passed bills, a joint resolution, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 560. An act to further the goals of the Paperwork Reduction Act to have Federal agencies become more responsible and publicly accountable for reducing the burden of Federal paperwork on the public, and for other purposes;

S. 1413. An act to amend the Ethics in Government Act of 1978, as amended, to extend the authorization of appropriations for the Office of Government Ethics for eight years, and for other purposes;

S. 2433. An act to amend title VIII of the Public Health Service Act to consolidate and reauthorize nursing education programs under such title, and for other purposes;

S.J. Res. 188. Joint resolution to designate 1995 the "Year of the Girl Child"; and

S. Con. Res. 66. Concurrent resolution to recognize and encourage the convening of a National Silver Haired Congress.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1614) "An Act to Amend the Children Nutrition Act of 1966 and the National School Lunch Act to promote healthy eating habits for children and to extend certain authorities contained in such Acts through fiscal year 1998, and for other purposes."

A WELCOME TO FATHER O'REILLY

(Mr. DEUTSCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEUTSCH. Mr. Speaker, it is my honor today to introduce Father O'Reilly, who is the pastor at St. David's Catholic Church in Davie, FL, West Briar County, in my district.

He is up here today for a ceremony at the White House. St. David's School is one of the few schools in the country that has won the national blue ribbon award for excellence. The school has over 800 students. The church started over 20 years ago in a restaurant in Davie, and it has now grown to over 17,000 parishioners.

I welcome him with us today.

PRIVATE CALENDAR

Mr. BOUCHER. Mr. Speaker, I ask unanimous consent that today there be a special call of the Private Calendar.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

POSTPONING CONSIDERATION OF CERTAIN ELIGIBLE BILLS ON THE PRIVATE CALENDAR

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that H.R. 3718, Calendar No. 6, for the relief of Mark A. Potts; H.R. 1184, Calendar No. 9, for the relief of Jung JaGolden; and H.R. 2084, Calendar No. 10, for the relief of Fanie Phily Mateo Angeles, each be passed over without prejudice en bloc.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER. The Clerk will call the next eligible bill on the Private Calendar.

LLOYD B. GAMBLE

The Clerk called the bill (H.R. 3344) for the relief of Lloyd B. Gamble.

There being no objection, the Clerk read the bill, as follows:

H.R. 3344

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPROPRIATION OF FUNDS.

(a) PAYMENT.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Lloyd B. Gamble of Fairfax, Virginia, the sum of $253,488.

(b) BASIS.—The payment required by subsection (a) shall be to compensate Lloyd B. Gamble for the injuries sustained by him as a result of the administration to him, without his knowledge, of lysergic acid diethylamide by United States Army personnel in 1957.

SEC. 2. SATISFACTION OF CLAIMS.

The payment made pursuant to section 1 shall be in full satisfaction of all claims Lloyd B. Gamble may have against the United States for any injury described in such section.

SEC. 3. INELIGIBILITY FOR ADDITIONAL BENEFITS.

Upon payment of the sum referred to in section 1, Lloyd B. Gamble shall not be eligible or any compensation or benefits from the Department of Veterans Affairs or the Department of Defense for any injury described in such section.

SEC. 4. LIMITATION OF AGENTS AND ATTORNEYS FEES.

It shall be unlawful for an amount of more than 10 percent of the amount paid pursuant to section 1 to be paid to or received by any agent or attorney for any service rendered to Lloyd B. Gamble in connection with the benefits provided by this Act. Any person who violates this section shall be guilty of an infraction and shall be subject to a fine in the amount provided in title 18, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ARTHUR A. CARRON, JR.

The Clerk called the bill (H.R. 3917) for the relief of Arthur A. Carron, Jr.

There being no objection, the Clerk read the bill, as follows:

H.R. 3917

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF TIME LIMITATIONS.

The time limitations set forth in section 3702(b) of title 31, United States Code, shall not apply with respect to a claim by Arthur A. Carron, Jr., of Bark River, Michigan, for amounts due to him by the Department of the Navy. The amounts due are represented by the following checks that were received but not negotiated by Arthur A. Carron, Jr.:

(1) Treasury check number 2,831,843, dated October 18, 1966, in the amount of $10,850.74 for salary and expenses.

(2) Treasury check number 10,445,856, dated January 29, 1971, in the amount of $1,361.00 for salary and expenses.

(3) Treasury check number 71,681,041, dated April 1, 1971, in the amount of $562.25 for retirement pay.

SEC. 2. DEADLINE.

Section 1 shall apply only if Arthur A. Carron, Jr., or his authorized representative, submits a claim pursuant to such section before the expiration of the 3-month period beginning on the date of the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This completes the call of the Private Calendar.

CHILDREN AND HEALTH CARE

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, while my colleagues and I will go home to our respective districts next week to campaign and to talk about what happened to health care reform, 9.6 million uninsured children, and 1 million uninsured pregnant women, primarily poor, will continue to go without access to badly needed preventive, primary, and acute health care. In addition, millions of children live in medically unserved areas of the country, whereby access to health insurance would not ensure access to timely health care.

These children do not have a primary care doctor whom they see on a regular basis. Instead, they get their medical care in local emergency departments and free clinics when their situation has become acute. There is no case management, no followup, no parental counseling, and no preventive measures instituted to avoid recurring episodes of unnecessary illness or injury.

For those of us covered under the Federal Employee Health Benefit Program, when our children are ill, we do not think twice about seeking medical advice from our regular pediatrician or pediatric specialist. When an uninsured child becomes ill, the parent has no alternative. Even under Medicaid, a program originally intended to overcome financial barriers to preventive and primary health care for the poor children and pregnant women, the low level of physician reimbursement precludes significant participation by pediatricians.

In those States with particularly low Medicaid reimbursement rates, children are seen in emergency departments, not in doctors' offices. These children, who are at high risk for a number of acute and chronic conditions, never get the opportunity to receive the legislated benefit package of preventive screening and diagnostic services, and thus do not reap the intended long-term benefits of improved health status.

Children that live in medically underserved areas or are uninsured, including many who are Medicaid eligible, are more likely to have chronic health problems from birth complications; they have higher blood lead levels; they are three times more likely to have severely impaired vision, two times more likely to have severe iron deficiency; they suffer from more severe cases of asthma; and they have poorer survival rates from life-threatening conditions such as leukemia. Uninsured children are 75 percent more likely to be admitted to a hospital in a given year and for four times as long as other children. They miss 40 percent more school days than the nonpoor due to acute illness, and 30 percent more due to chronic health problems which go uncontrolled.

Pregnant women who are uninsured or live in medically underserved areas do not receive timely or adequate prenatal care and counseling, and are at high risk for delivering low-birthweight babies. In fact, 86 percent of all infant deaths and 86 percent of all low-birth-weight babies are born to these women. Low-birth-weight babies are at risk for a multitude of acute and chronic health problems that follow them throughout their lives. For every $1 spent on prenatal care, an average of $15 is saved on the care of each low-birth-weight baby and complications of delivery.

Providing preventive and primary health care to pregnant women and children is one of the most effective and least costly investments our Nation can make to lower its total health bill and improve health status. Without exception, European countries take the health and welfare of their children much more seriously than we do, through federally funded, comprehensive preventive health programs aimed at the young and, as a direct result, face lower total medical bills. For example, the average age of detecting impaired hearing in the United States is 2½ years of age, compared to 7 months in countries like the United Kingdom and Israel. The mortality rate of American children 1–4 years of age is 35 to 250 percent greater than in Europe, primarily due to preventable injuries. While European countries are experiencing a decline in death rates among teenagers, U.S. teens are dying in greater proportions: They are 31–66 percent more likely to die than their European counterparts.

Our children are the future of this country. Yet, over one-fourth of all U.S. children live in poverty, and less than half of these families participate in any assistance program. Fewer than one-third of all eligible children participate in Medicaid, in large part due to the gross underfunding of the program.

Children have replaced the elderly as the predominant group living in poverty in this country. We explicitly require all employers and employees to pay for the health needs of their parents and grandparents through the Medicare hospital insurance tax, yet we leave the fate of our children to legislators faced with increasingly tight State budgets. Real per capita spending of Medicaid, AFDC, and Social Security for surviving children continues to

79-059 O—97 Vol. 140 (Pt. 21) 13

decrease by several percentage points a year, in contrast to real per capita spending on Medicare and Social Security, which continue to increase.

The problem of inadequate health coverage is not limited just to poor children. Fewer than half of all private insurance policies cover the range of preventive and primary care services recommended for children, resulting in financial deterrents to seeking prenatal care, immunizations, screening, and early detection of illness. I have been working on a plan to extend health insurance and appropriate medical services to uninsured children and pregnant women of working families. I have called this bill KidsCare, as it is intended to improve the health and medical care that is available to all children.

The bill would establish a federally funded program for States to expand coverage to pregnant women and children up to 200 percent of the Federal poverty level; expand the capacity of the Public Health System to better meet the needs of underserved populations across the country; increase funding to the National Institutes of Health for biomedical and behavioral research on diseases that disproportionately affect children and pregnant women; institute insurance reforms to ensure that no one could be denied health insurance as a result of a preexisting condition; and establish a 100 percent tax deduction for the self-employed.

The bill is financed by revenues derive from a $2 excise tax on tobacco products. Tobacco products are the leading cause of morbidity and mortality in the United States and cost taxpayers in excess of $65 billion each year, in medical costs and lost productivity.

As the 103d Congress comes to a close, we must rededicate ourselves to protecting the health and welfare of our children. KidsCare is meant to serve as a staring point for comment and discussion. I hope that Members of Congress can work together over the next few months to craft legislation that achieves the goals articulated in this bill. We have a responsibility, as trustees of the national interest, to protect and nurture our most important national resource, our children.

PARTISAN POLITICS

(Mr. DICKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKEY. Mr. Speaker, the lobby reform bill presently in the Senate is being destroyed by partisanship. The partisanship was first evident when the so-called gag rule was attached to it after it passed the House; in other words there is little doubt that this was inserted by the liberal Democrats to risk the passage of the bill. This gag rule was aimed at severely threatening grassroots or spontaneous lobbying by individuals of the Members of Congress.

I voted against the bill after the gag rule was attached to it; having voted for it without the gag rule.

The liberal Democrats at this late date now say that they will remove the gag rule provisions if the Senate Republicans would allow this bill to come to a vote; the Senate Republicans incredibly are now saying that they will block this legislation anyway. This is partisanship obstructionism, meaning that the reason for the resistance is based more on which party will get the credit as opposed to the merits of the bill.

It is this that is destroying our country. I respectfully ask the Senate Republicans to release this bill so that we can vote on it. And I plead with the small number of people who control this Congress to please quit using partisanship as a reason to strangle the attempts of Americans to reform this body.

IN TRIBUTE TO THE HONORABLE TIM VALENTINE, THE HONORABLE STEPHEN L. NEAL, AND THE HONORABLE J. ALEX McMILLAN

(Mr. LANCASTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANCASTER. Mr. Speaker, when this House adjourns sine die in November, three very special friends and colleagues from North Carolina will return home for a well-deserved retirement: Congressman TIM VALENTINE, Congressman STEPHEN NEAL, and Congressman ALEX MCMILLAN.

Each of these very special Members has brought extraordinary talents and made unique contributions to this body.

TIM VALENTINE is a man of great humor and common sense and his expertise in transportation and scientific research issues has served his district well, since he represents one of the fastest growing areas of North Carolina and the very valuable Research Triangle Park area where much of the research in our state is conducted.

STEVE NEAL has been a steady and competent member of the Committee on Banking, Finance and Urban Affairs and has developed recognized expertise in those very complex banking issues which have been so important and which have experienced so much progress in this session of the Congress.

ALEX MCMILLAN has brought to the Congress great knowledge and experience in business to our deliberations and has been a leader as we have addressed subjects of economic prosperity and fiscal responsibility, the latter being a particular interest of his in his capacity as a senior member of the Committee on the Budget.

I commend these three gentlemen on their very fine service to this institution and wish them God's speed and His blessing as they begin their retirement.

□ 1210

IT'S TIME FOR A CHANGE

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, this November the voters are going to be offered a real choice—vote to maintain the status quo, or vote to change the way Congress does its business. After 40 years of Democrat control of the House, the Democrats have continuously strangled issues that are important to the American people. It's time to make a change.

Republicans have signed a contract with the American people. We have pledged to bring to the floor issues like term limits, congressional reform, tax cuts for families, welfare reform. If Republicans take control, we promise to take action in the first 100 days. And, unlike Bill Clinton's empty promises of middle class tax cuts and health care reform, we will keep our promise.

It is time to make a change, Mr. Speaker—it is time to make a change for the better. It is what the American people want, and it is what the American people deserve.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3392

Mr. YATES. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor from the bill, H.R. 3392.

The SPEAKER pro tempore (Mr. MONTGOMERY). Is there objection to the request of the gentleman from Illinois?

There was no objection.

ROZA ROBOTA

(Mr. Yates asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YATES. Mr. Speaker, this year and next we mark the 50th anniversaries of a series of military achievements leading across Europe and the Pacific toward the end of World War II. As we remember and celebrate the heroic progress of the Allied Forces, let us also remember and celebrate other heroes of whom we know less—those who struggled against the Nazis and their collaborators even while in their very grasp. Few survived to tell their stories; it is for us to speak on their behalf.

Fifty years ago this week on October 7, 1944, prisoners assigned to work the crematoria at Auschwitz-Birkenau revolted, blowing up one of the four crematoria and killing several SS. Virtually all the resisters where killed as they tried to flee. Their bravery was made possible by the bravery of others—women who over a period of weeks smuggled explosives from their forced labor in a nearby factory. Today I want to tell you the story of those women and the woman who led them.

Already politically active, 18-year-old Roza Robota became involved with the resistance when the Germans occupied her hometown of Ciechanow, Poland, in 1939. In 1942, her family was departed from the ghetto to Auschwitz-Birkenau, where her parents were immediately sent to their deaths. Roza was selected for the slower death of slave labor. Unlike most of the women, who were assigned to a factory that produced detonators for grenades, she was assigned to a clothing warehouse.

Knowing of her work in the ghetto, the camp underground soon contacted Roza. An uprising was being planned, and she was assigned to procure the explosives for bombs to be used during the revolt. Roza recruited other women from Ciechanow who worked in the factory's powder pavilion. Despite the scrutiny of guards, despite their own fears, they agreed to steal explosives while working, smuggling them out to Roza during the night shift.

For weeks, 20 Jewish women carried small quantities of explosives out of the factory, concealing the powder in their head scarves and mess tins. Each night, Roza collected their offerings and turned them over to her underground contact. The powder eventually made its way to a man we know only as Filatov, a Russian prisoner of war who served as the underground's bombmaker.

The bombs were made, but the planned uprising never came—time and again, circumstances forced postponement. But for the Sonderkommando, the prisoners forced to spend their days loading piles of corpses into the crematoria, postponement had become intolerable. They saw first-hand the cost of delay. They had waited in vain for an uprising to save the 400,000 Hungarian Jews who comprised one of the last mass transports to Birkenau. They could wait for the underground uprising no longer. On October 7 they acted.

The enraged SS soon traced the explosives used by the Sonderkommando back to the factory. Three weeks after the revolt, they arrested Esther Wajsblum, Ella Gertner, and Regina Saphirstein, powder pavilion workers. They also arrested Roza Robota.

Three months of torture followed. All four suffered terribly, with Roza Robota, as the chief suspect of the SS, subjected to singular cruelty. SS suspicions were correct—only Roza, as the direct link between the smugglers and the underground, knew the names of all involved. Knowing the brutality Roza faced, her underground comrades expected the worst. But their fears, although understandable, were misplaced. Torture destroyed Roza's body, but not her spirit. She named no names. She betrayed no one. She asked only that others continue her struggle. "It is easier to die," she told one of the last to see her, "when you know that the others will go on."

All four women were hanged on January 6, 1945—6 days before the Red Army liberated Auschwitz. Roza was 23 years old when she died.

URGING MEMBERS TO SUPPORT THE PILT BILL

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, I come to the well to talk about an issue that will be on the floor shortly. It is called PILT, payment in lieu of taxes. This is a bill that has to do with fairness and equity.

Traditionally local units of government have been reimbursed by the Federal Government when there is a great deal of federally owned land or property there that does not produce the typical taxes that support local units of government. Since 1976, Mr. Speaker, this PILT payment has not been adjusted, and it affects primarily, of course, the States in the West.

My State of Wyoming is 50 percent owned by the Federal Government. Nevada is as much as 85 percent federally owned. However, there are still, of course, services to be provided: hospital services, sheriff services, all kinds of services to people who come to these Federal facilities.

Today we are going to talk about being able to update that 1976 payment to States so local governments can continue to provide services, can continue to have an economic future in the West. It affects 49 States, but particularly those States in the West. I urge my associates in the House to vote yes on this PILT bill today.

TRIBUTE TO JOHN N. McMAHON

(Ms. ESHOO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ESHOO. Mr. Speaker, today I have the pleasure of paying tribute to one of my constituents, John McMahon, on the occasion of his retirement as president of the Lockheed Missiles & Space Systems Group.

John McMahon has been with Lockheed since 1986. He has steered Lockheed Missiles & Space Co. through economic shoals that have snagged other corporations. During this time he has been an outstanding community leader. Just as importantly, he has ensured that Lockheed was always a good corporate citizen.

John McMahon is one of the most respected and trusted authorities on our Nation's national security. His integrity is well-chronicled, his expertise acknowledged by our leaders. The decorations a grateful country bestowed on him speak of his courage and public service.

Mr. Speaker, when John McMahon retired from the Central Intelligence Agency in 1986, Congress passed a concurrent resolution commending his service. Today, Mr. Speaker, I know my colleagues join with me in acknowledging his retirement from Lockheed and the success and service he has performed during his tenure there.

REFLEX SYMPATHETIC DYSTROPHY

(Mr. GOODLATTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLATTE. Mr. Speaker, today I rise to discuss a difficult illness that afflicts millions of Americans, but which is often overlooked—reflex sympathetic dystrophy or RSD.

RSD is a chronic neurological condition of severe, burning pain, extreme sensitivity to touch, excessive swelling, and changes in bone and skin tissue. Its attacks can last from 1 hour to days on end. It often completely debilitates the victim.

This illness was brought to my attention by a brave lady in my district who deals with it every day. Her name is Esther Miller, and she has organized support groups and lobbied our general assembly in Virginia to pass RSD awareness week.

As a nation, we need to focus on finding a cure, preserving the rights of RSD sufferers to seek doctors who understand this illness, and holding open access to experimental treatments that offer real hope. I urge my colleagues to learn more about RSD and to join me in bringing greater awareness to this condition.

HAPPY 21ST BIRTHDAY TO BRIAN FRANK

(Ms. HARMAN asked and was given permission to address the house for 1 minute and to revise and extend her remarks.)

Ms. HARMAN. Mr. Speaker, for this new Member, the last day of the 103d Congress is symbolic. It marks the end of the chapter in a long journey, a journey full of challenges, many successes, some disappointments, and lots of hard work.

It is a journey most of us could not have made without the love and support of our families. Certainly I could not have made it.

So it is fitting that as I observe a milestone today, I also observe a milestone in the life of the oldest of my four children, whose 21st birthday is today.

I am now blessed with an adult son who, very early in his life, displayed kindness and gentleness as well as rigorous intellect and good judgment. I have watched these qualities develop—and benefited from his extraordinary skills and loyalty as he worked in my campaign this summer.

Brian, I am very proud to be your mother. Happy 21st birthday.

APPARENT GRIDLOCK OFTEN REFLECTS THE WILL OF THE AMERICAN PEOPLE

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, as we come on what I hope, and I think most of my colleagues hope, will be the last day of this part of our session before we go home for the election, I could not help but reflect a moment on what so often is written in the paper as gridlock.

Mr. Speaker, I hope that the American people will look at that and not just accept that this Congress is controlled by gridlock. One person's gridlock is another person's checks and balances. I believe very firmly that when a bill does not make it through this process, more often than not, it is a piece of legislation that the American people do not want. Not something that this body cannot pass, because we do reflect, to a great degree, what the American people want.

If we want to get rid of gridlock, then we need to come to the middle on issues and address legislation in a way that is acceptable to the American people.

CAMINO REAL CORRIDOR AND COMMISSION

(Mr. COLEMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLEMAN. Mr. Speaker, I rise to announce that I am introducing legislation to create the Camino Real Corridor and Commission.

While the passage of NAFTA will no doubt affect the entire Nation, perhaps no area will witness greater changes than the Southwestern region along the Mexican border. Along this border, El Paso is the busiest point of entry for commercial trucks. Eighteen percent of United States imports from and 25 percent of United States exports to Mexico pass through the El Paso-Ciudad Juarez region each year.

To ensure the smooth flow of this traffic, I am introducing legislation to create the Camino Real Corridor, which would be achieved through the enhancement of the trade route that today connects El Paso to Albuquerque to Denver, and of the border arterials that feed into this route.

I am also proposing the creation of the Camino Real Corridor Commission. This board would be responsible for making recommendations to maximize effective utilization of the highways and border crossings of the corridor.

We should not wait until our borders and our trade routes are overwhelmed before taking decisive action. Our infrastructure and our border enforcement agencies should keep pace with growing trade levels, and with the realities of increasing international interdependence. For this reason, the creation of the Camino Real Corridor and its accompanying commission deserves the support of my colleagues.

□ 1220

TOO LIBERAL FOR TOO LONG

(Mr. LINDER asked and was given permission to address the House for 1 minute.)

Mr. LINDER. Mr. Speaker, President Clinton seeks to change his colors just like the fall leaves. And he only does it during autumns with an election.

This chameleon candidacy of the Democrat party has become a see-through strategy to the American people.

So in addition to trying to hide themselves, Democrats are trying to disguise and distort the Republican record. That is why President Clinton has begun attacking our contract with America.

Our contract was signed, sealed, and delivered to the American people, not in backroom deals, but in broad daylight on the Capitol steps.

It is what America wants from Washington. A positive statement that we will cut the spending, balance the budget, rebuild our defense, and secure this country.

Without good ideas of his own, President Clinton has decided to attack the good ideas of others.

President Clinton and his party have been too liberal for too long. They know it, the Nation knows it, and their only hope is that voters forget it in time for the election.

ESTONIAN FERRY VICTIMS RELIEF FUND

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, I rise today to pay tribute to compassion and generosity in the face of tragedy. Many of us were greatly saddened by the recent sinking of the passenger ferry *Estonia* last month. Now, a group of Americans of Baltic descent is spearheading a response.

Nearly 1,000 people were lost when the *Estonia* sank, many of them from Lithuania, Latvia, Estonia, and Sweden. Hundreds of families have been devastated by these tragedies.

Now the Estonian American National Council and the United States-Baltic Foundation are working to provide much-needed help. They have established the Estonian Ferry Victims Relief Fund to provide financial assistance to the grieving families.

The group plans a short campaign of fund-raising so that help may be given as quickly as possible. In addition, all funds raised through this campaign will be directed to the families.

I commend those involved in this important effort, and hope they will be able to assist many.

SENIOR CITIZENS' EQUITY ACT AND OUR CONTRACT

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, the American people are no longer willing to endure the ceaseless torrent that has poured out of the House of Representatives for the last 40 years.

But no single group has been hit harder by this reign of taxation than our senior citizens, who were forced to watch 85 percent of their Social Security checks become taxable under President Clinton's 1993 Budget Act.

The Senior Citizens' Equity Act, included in our contract with America, will reverse this alarming trend of increased taxation on our seniors. We must ensure that our senior citizens will be able to keep more of their money without losing their hard-earned benefits.

Mr. Speaker, unlike candidate Clinton's empty promises to "lift the Social Security earnings test limitation," the more than 300 Republican Members and challengers who signed the contract with America will guarantee that this tax relief for our senior citizens is debated right here in this very Chamber.

I urge all my colleagues, Democrats who did not sign the contract and Republicans who did, to endorse this proposal, and help secure the golden years of our Nation's elderly.

FAREWELL FROM HON. ROMANO L. MAZZOLI

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, this is not technically the last day of the 103d Congress; we will meet in November for the lame duck session on GATT, but I

think this might be a propitious time for me to tell all my colleagues what a great privilege and honor it has been for me to serve as a Member of Congress. I will, as you know, not be returning in the 104th Congress having decided last year to return to Kentucky and to take up a new life of one sort or another after this congressional life.

But, I wanted all my friends to know, and you are all my friends, that your love and your support and your friendship over these years has been absolutely magnificent. I have appreciated it, my wife and my family have, and we will take away as we return to Kentucky the wonderful and warm feelings of this place and all of its people.

Mr. Speaker, I have no idea exactly what the Lord has in mind for me for the future, but I hope it is something that will allow our paths to cross very often.

I thank you, I love you, and may God shower His blessings on each and every one of you.

HOUSE REPUBLICAN CONFERENCE RESOLUTION CONFERRING TITLE OF HOUSE REPUBLICAN LEADER EMERITUS TO THE HONORABLE ROBERT H. MICHEL

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, I have asked for this 1-minute to read into the RECORD of the United States House of Representatives the following resolution:

Whereas Republican Leader Bob Michel is retiring from the Congress after 19 terms of service to his country and his constituents as a Representative from the 18th District of Illinois;

Whereas Bob Michel has led House Republicans for 14 years with high honor, dignity and integrity beyond reproach;

Whereas his stalwart leadership has left an indelible mark on the course of our country's history and made lasting contributions that will benefit not only the Republican Party but generations of Americans yet to come;

Whereas that leadership skill and resolve has brought House Republicans to the brink of taking control of the House for the first time in 40 years;

Whereas his constancy of character, legacy of leadership and dedication to family sets a high standard to which all of us can aspire as we confront new challenges in the years ahead;

Whereas his unending store of patience, common sense advice and cheerful demeanor will remain much in need after he officially steps down: Now, therefore, be it

Resolved, That, in appreciation of those years of service, in recognition of his unparalleled institutional knowledge, expertise in world affairs and wisdom born of experience, and in fond hope that he will remain active in our ranks, the House Republican Conference hereby proudly confers upon Republican Leader Robert H. Michel the title House Republican Leader Emeritus, with all the rights and privileges that the title entails, including, but not limited to, regular attendance at any and all House Republican Leadership meetings, caucuses and other gatherings, official and social; Be it further

Resolved, That the House Republican Conference extends to him and his family a sincere wish for many good years of health and happiness in a retirement well and honorably earned;

And that the House Republican Conference officially extends to his wife, Corrinne, and their children, spouses and grandchildren genuine appreciation for the sacrifices that they have endured so that her husband, their father and grandfather could so honorably serve his country;

With heartfelt gratitude and profound respect, on this day, October 7, 1994.

INTERIM RESULTS OF CLINTON ECONOMIC PLAN

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, the Clinton economic plan promised change. Here is the change. The Clinton Congress has increased poverty. Yes, the number of Americans living in poverty increased to 39.3 million last year. That is 15.1 percent of the population, up from 14.8 percent of the population in 1992, the last year under President Bush. In fact, poverty has not been this high since the early 1980's, before the Reagan economic recovery took hold and brought us better times.

But wait. The news gets worse. Income is down. In 1989 under George Bush, median household income was over $33,000. Today it is a whopping $2,300 less.

The Clinton Congress was going to help women in the workplace. Well, for female workers median wages dropped from $22,000 in 1992 to $21,700 in 1993. The U.S. worker, man or woman, and the American family, cannot take too much more of the Clinton Congress and the Clinton administration. America is getting poorer and the American middle class is going broke.

REPUBLICANS' PRETZEL POLITICS

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, the two things that you do not want to watch, as the old saying goes, is making sausage and making law.

Well, the Republicans have come up with a new one—making pretzels.

The Republicans are practicing what some are starting to call pretzel politics. They bemoan gridlock on the one hand and they tie the legislature in knots on the other.

And they have succeeded. They have scuttled GATT, the housing bill, campaign finance reform, Superfund, and legislation banning free meals, trips, and golf games to Congressmen.

They complain about unfair rules in the House and Senate when what they really want is inaction.

They gripe about a Congress that does not respond to the American people and then they filibuster every bill, even bills like lobbying reform that have support in every corner of America.

Mr. Speaker, as Congress winds down, the Republican pretzel politics is certainly tying Congress and the American people in a knot. But on November 8, the Republicans are going to find they have tied someone else in a knot—themselves.

TRIBUTE TO HON. HELEN DELICH BENTLEY

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, when I was running for Congress in Maryland 2 years ago, I came upon a force that was unusually strong, profoundly outspoken, and one of the warmest, most honest entities I had ever encountered. I am, of course, talking about Congresswoman HELEN DELICH BENTLEY.

HELEN told me I had a tough row ahead of me. She let me know in no uncertain terms that I had to be better, smarter, and tougher than I was when I was first out of the gate. Suffice it to say, she did not sugarcoat her advice to me. And I am eternally grateful to her for this.

As countless Marylanders and others nationwide have learned—when HELEN BENTLEY is on your side, she is 100 percent on your side. There is nothing superficial about this woman. And that is a lesson many in Washington can learn from her.

I have learned a great deal from this unique woman, and I look forward to learning a lot more from her in her next endeavor. HELEN BENTLEY has been a grand success at literally everything she has attempted. There will be many more successes.

□ 1230

AGENTS OF CHANGE CONVERTED TO AGENTS OF THE STATUS QUO

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, 2 years ago in the 1992 campaign Members of Congress all started as agents of change in terms of making change and President Clinton in his State of the Union address in the proposals put before Congress sought to accomplish that change to challenge the order of priorities that existed. But as many have all evolved during this Congress and through our work in Washington, those agents of change turned into the agents of the status quo, too often doing the bidding

of the special interests and too often not doing the bidding of the people back home.

The fact is that today what we are facing is a question for the voters of whether we want business as usual, what has happened, or business as unusual, what has happened in the other body where they have gone to unusual extent to try and stop many of the reforms, including health care. And now we hear in the national media people boasting about the fact that they were able to stop health care, and now they are asking for the endorsement and support of the American people on an agenda to take apart the Federal Government, not to put the Federal Government to work and sound policies for the 40 million or so Americans who have no health insurance in this country every year, not to put the Federal Government to work to deal with the problems of people, but to pursue a pledge which reneges and to withdraw from helping the people back home.

Mr. Speaker, I hope the voters will speak loud on November 8. And send a message of hope of renewal for the Federal Government to address the problems our Nation and people face.

TRIBUTE TO MIKE SYNAR, AN EXAMPLE FOR ALL

Mr. MEEHAN. Mr. Speaker, early last year, a C–SPAN interviewer asked what Member of Congress I most admired. I had only been here a few months, but one person had already made a deep impression: MIKE SYNAR.

If legislators can be judged by their enemies, MIKE rates at the top of this body. The causes he took up—and the special interests he took on—speak to his remarkable political courage. He worked to reduce Government handouts for grazing on public lands, so ranchers did not like him. He wanted to regulate cigarettes under the same rules that govern other products, so the tobacco industry wanted him gone. He favored sensible restrictions on firearms, so the gun lobby targeted him.

After fighting so many hard battles, MIKE learned a thing or two about the influence of special interest groups. He worked relentlessly to pass a campaign finance reform bill that would reduce the influence of special interests and increase access to the political process for ordinary people. He was serious about campaign finance reform, and he will be missed for that reason alone.

MIKE knew there was a price to be paid for crossing so many well-organized and well-financed special interests. He did what he thought was right for the country even if it was not right for his political career. That is an example we all ought to follow.

SUPPORTING OUR ARMED FORCES

(Mr. DE LUGO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LUGO. Mr. Speaker, I would say to my friends on both sides of the aisle I hope that all of them have the opportunity I had to see the President visiting our young men and women yesterday. It was shown on television, the President, this young President visiting men and women on board the aircraft carrier, the U.S.S. *Dwight D. Eisenhower*, and to see the response of our servicemen and women to our President as he thanked them and was thanking the battle group for the splendid performance of our military in Haiti. I had to feel proud both of our military and our President.

There has been so much said on this floor, I wish we could step back and look at what really is going on there. The mission is being carried out by the military in a manner such as we have never seen before with great restraint. We can be very, very proud of our country.

Let us all hope that all goes well, and let us back our President and our service personnel.

BINDING CONGRESS TO THE LAWS IT PASSES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, common sense goes a long way in government. Ohio has passed a law that requires that new or renovated buildings have double the number of restrooms for women that they have for men because, says the logic, it takes women much longer to use the restroom, and therefore there should be more. It is called the potty parity law. Common sense.

Now, today, Congress considers voting on a bill that would apply the laws that we pass, that are binding on mom and dad to be binding on Members of Congress. I think today it is time to squeeze the Charmin, folks. If the law is binding on mom and dad and Congress passes these types of laws, Congress should pass the same laws to be binding on themselves.

We have been flush with deception for too many years.

SEC BUDGET HELD HOSTAGE IN SENATE

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, last week I came to the floor to congratulate the SEC on its 60th anniversary. Today I take the well to inform the American people that the SEC is being forced to shut down because its budget is being held hostage by rolling Senate Republican holds.

A Senate aide was quoted in today's Washington Post: "It has nothing to do with the SEC, it's just a kind of game Congress plays in the final days of every session." Well, this is not a game to me. It is not a game to the House, which passed SEC funding twice, only to have the other body drop the ball. It is not a game to the American people who should be outraged.

The antics in the other body are adding to the Federal budget deficit to the tune of $1 million per day due to lost filing fees. The tab at the close of business yesterday was $10 million and counting. Corporations are shrewdly and fairly exploiting a loophole created by the other body, making filings before the SEC at 50 percent off.

Without an operating budget, the SEC has had to curtail all enforcement activities, and all examinations of broker-dealers, investment advisers, and mutual funds. The crooks will have a field day, rascality will reign and the financial wellbeing of millions of small investors put at risk.

Next week, the SEC will have to shut down its electronic filing system, thus crippling our capital-raising process and costing millions of dollars to the industry. The SEC will also be without the ability to respond to market emergencies, greatly exacerbating both risk and size of any serious downturn. This outrageous situation poses a serious threat to the world's leading capital market and to the dedicated agency and its excellent staff that has served as the cop on Wall Street.

This is a situation which threatens the welfare of millions of investors, large and small, exposes them and our financial system to unnecessary and large risk, costs the taxpayers millions and imperils our financial system.

I urge the other body to move swiftly to curtail this egregious behavior and to restore full protection to the American people.

RAILTEX TAKEOVER OF CENTRAL VERMONT RAILROAD

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, my understanding is that the Railtex Corp. intends to file a petition today before the ICC in order to purchase the Central Vermont Railway.

First, Senator LEAHY and I will be requesting the ICC to hold a hearing in St. Albans, VT, so that the workers, community, and local and State officials will be able to comment on that transaction. Second, we will be exploring the possibility of formally intervening in the process.

Mr. Speaker, Railtex has made its plans every clear. It intends to lay off all 175 employees, hire 78 of them back at lowered wages and, in the process,

break the unions that currently represent the Central Vermont workers. It intends to avoid the labor protection currently guaranteed by law to railroad workers by requesting a 10901 exemption—claiming that this company, Railtex, which owns 23 railroads, is not really a railroad and should not have to obey existing law.

This country is becoming poorer and poorer every day, and one of the reasons is that corporations like Railtex treat their workers like disposable garbage. People who have worked for the Central Vermont for 10, 20, or 30 years are now being tossed out on the street, despite the service they have rendered to the company.

Mr. Speaker, if Railtex cannot provide the labor protection that current law guarantees, this transaction should be denied by the ICC. I intend to do all that I can to make that happen.

□ 1240

BIPARTISAN HEALTH CARE REFORM

(Mr. ROWLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND. Mr. Speaker, yesterday, I introduced, along with nine of my colleagues from both sides of the aisle, the Bipartisan Health Care Reform Act of 1994. In doing this, we hope that this legislation will serve as a benchmark for the consideration of health care reform in the next Congress. It is truly consensus. It was put together by taking from those pieces of legislation that had already been introduced, areas where there is general agreement: Insurance reform, malpractice reform, antitrust reform, administrative simplification, fraud and abuse reform, and subsidization of the purchase or insurance for the low income, without more taxes, burdensome mandates or increased Government bureaucracy.

But just as important as the product, is the process. Five Republicans and five Democrats, working together produced this bill, proving that both sides of the aisle can work together, and indeed must work together, to address an issue of this magnitude.

PAKISTAN'S INVOLVEMENT IN NARCO-TERRORISM

(Mr. FINGERHUT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FINGERHUT. Mr. Speaker, I rise to bring to the attention of my colleagues a report carried by the Washington Post of September 12, 1994, reminding us once again of the real and present danger posed by the nexus between narcotics and terrorism. The Karachi datelined report headlined "Heroin Plan by Top Pakistanis Alleged" quoting Pakistan's former Prime Minister Nawaz Sharif saying that "drug deals were to pay for covert operations" brings to mind other reports not so long ago of Pakistani involvement in using the Bank of Credit and Commerce Internationale [BCCI] to launder drug money that was eventually believed to have been used in financing terrorist groups involved in the New York World Trade Center bombing.

It is shocking that the report cites Pakistan's army chief and head of intelligence agency proposing to then Prime Minister Sharif "a detailed blueprint for selling heroin to pay for the country's covert military operations in early 1991". The role played by Pakistan's Inter Services Intelligence Agency in exporting terror to Kashmir and Punjab in neighboring India was sufficiently well-documented for the previous administration to place the country on the watch list of states sponsoring terrorism. Its removal from that list is justified neither by its past track record nor by its present performance. The State Department's most recent report on Global Patterns of Terrorism talks of credible reports in 1993 of official Pakistani support to Kashmiri militants who undertook attacks of terrorism in Indian-controlled Kashmir.

The administration cannot afford to ignore the Washington Post report. Mr. Speaker, a country that produces 70 tons of heroin annually and accounts for a significant part of the heroin consumed in the U.S. market is a matter of concern under any circumstances. That a part of the same country's intelligence establishment can conceive blueprints to use profits from smuggling these drugs for supporting insurgency in Kashmir and export of terror elsewhere is a fact that we ignore at our own peril.

FAREWELL TO THE 103D CONGRESS

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, this great item in today's Washington Times to kind of close out this last day of the 103D Congress.

Tim Russet, one of the better journalists on the electronic media, better because he is fairer, met alone in a room with Pope John Paul II recently. True story. And he said he was going to try to talk the Pope into coming on the "Today Show," but then when the Pope walked into the room, "all thoughts," and this is a quote, "of Bryant Gumbel and NBC ratings" went out of his head.

He said the Pope put his arm around his shoulder and whispered. "'You are the one called Timothy, the man from NBC?' I said, 'Yes; yes, that's me.' 'They tell me you are a very important man.' Somewhat taken aback, I said, 'Your Holiness, with all due respect, there are only two of us in this room, and I am certainly a distant second.'"

The Pope looked at him and said, "That's right."

Folks, have you seen the ads in last week's Washington Post and this Tuesday's Washington Times of two prominent women in the world, Joycelyn Elders and Mother Teresa? Look at their eyes. Look at the angelic countenance of Mother Teresa, and look at the face of Joycelyn Elders who calls most of this country un-Christian.

Mr. Speaker, saving our immortal souls is what a lot of us will be thinking about on November 9 whether we win or not, and that is as it should be.

God bless you and God bless the 103d Congress.

Onward.

WE MUST REINVEST IN OUR PEOPLE

(Ms. NORTON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. NORTON. Mr. Speaker, the Republicans are already laying blame rather than taking credit for the reduction in Americans' income reported for 1993. Try again. And don't forget the good news: We have the best economy in decades.

The report in today's papers showing a reduction in the incomes of Americans also shows that this is a 15-year trend, and we know who was in power for most of that time. The figures are for 1993 when the President's initiatives were only just being enacted. The first year of the 103rd Congress, 1993, saw a historic reduction in the deficit begin and investment in our people for the first time in a very long time: earned income tax credit, immunizations for children, empowerment zones, and much more. The figures we now have for 1993 would have been worse, and they will get worse, if we do not follow up on what was begun during the 103rd Congress and continue to reinvest in our people, and especially our children.

Those who take credit for the gridlock Congress, the second year of the 103rd, ought to also take credit for gridlocking the country. The rising poor and the frightened middle class deserve a lot better.

SUPPORT EXTENSION OF HEALTH-CARE DEDUCTION FOR SMALL BUSINESS

(Mrs. MEYERS of Kansas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEYERS of Kansas. Mr. Speaker, I am extremely disappointed that Congress has not found the opportunity to reenact the 25 percent deduction for health care for small business. This is not an issue that would take explaining.

It has been in the law since 1986. Everyone understands. Ways and Means could meet, and we could bring this issue to the floor under suspension, and it could be done in a matter of hours.

My bill to extend has over 200 signatures, and if you are not a cosponsor, please call. This is the most important issue to small business, the farmers, the self-employed.

If we do not do this until February, it will mean expense and hassle and confusion for a great many small business people who have already done their income tax and will have to file an amended return.

Please, cosponsor H.R. 5062. Please, help me get this to the floor sometime today.

THE WONDERFUL RECORD OF THE 103D CONGRESS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I am sure all the news reporters will tune out now, because I am here to say there is some terrific good news about this Congress, and obviously that is what no one wants to hear.

But this Congress has been so historic on women's issues, it gives me goose bumps.

In these 2 years with this wonderful freshman class that came in, we have passed more legislation that will benefit women and their families than we almost have in the prior 200, and I think that is news. I guess there is a disagreement between myself and some of the news media.

But what have we passed? We passed such things as family leave, we passed all the women's health initiatives, increasing research, doing all sorts of other such things, getting better health initiatives for women in defense and job opportunities in defense and veterans. We have also passed the whole Violence Against Women Act, $1.6 billion to start attacking domestic violence. We have done a much better job tracking child-care workers to make sure they have not been molesters. We have done a great job of making sure that interstate protection orders are followed through. I could go on and on and on. The list is almost endless.

We have also gotten all sorts of educational issues through for gender equity and also allowing women to bid better in Government contracts.

I think this is a wonderful record. I just hope somebody will cover it.

CONTRACT WITH AMERICA

(Mr. PORTMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTMAN. Mr. Speaker, 2 weeks ago I joined colleagues on this side of the aisle in signing a contract. A signed agreement with our constituents that we would do certain things.

Perhaps one of the most important provisions of the contract was one which stated my commitment to ensure that the contract, as a whole, will result in a reduction, I repeat, a reduction, in the Federal budget deficit.

I am proud of the fact that the contract provides for selected tax cuts to stimulate the economy. Because of the way the congressional budget office insists on analyzing the impact of these cuts using a so-called static rather than dynamic model, it appears on paper that they will result in a $140 billion decrease in Federal receipts over 5 years. No economist would believe that.

Taking the capital gains tax cut and indexing proposal as an example. I am convinced from looking at the actual record of what happened to tax revenues when the capital gains cut was repealed in 1986, that restoring this incentive will increase revenue to the Federal Government. It is as simple as it is empirically true: this tax cut will provide a far stronger incentive for Americans to invest in our country's future, thereby growing the economy, creating jobs, and generating Federal revenue.

But for those who insist on using the so-called static model to determine the impact on the national debt—let me provide some comfort. Along with my support for this and other tax cuts in the contract, I am also supporting, and have voted for, cuts in Federal spending that far exceed any potential revenue decrease. Indeed, this year I joined most of my Republican colleagues in supporting a budget proposal that included specific spending cuts that are roughly triple the size of the expected revenue decrease.

The misstatements about the fiscal impact of this contract bring to light, more than ever, the need for us to restore the bonds of trust between Americans and their elected officials. There can be an honest debate over the merits of our proposals but let us stick to the facts as we go home.

□ 1250

THE AMERICAN PEOPLE ARE READY TO TAKE BACK THIS HOUSE

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, Thomas Jefferson once suggested that every country should have a revolution every 25 years or so. Well, by that standard, this House is long overdue for a change after 40 years of one-party domination.

Republicans have signed a contract with America that is based upon one fundamental principle—we will represent the American people, not lord over them.

We have made a commitment to bring the issues that enjoy the overwhelming support of the American people—such as term limits, a balanced budget amendment, tax fairness for families and welfare reform—out into the open, and to the floor for free and open debate.

No longer will Congress think of itself as the stern parent who treats the people of this country like little children who have to be told what can and can't be said at the dinner table.

The American people know that as Democrats return to their districts they will be using negative ads and every political trick in the book to maintain their control of Congress. But they also know that the time has come to take back their government, and especially this House.

PRIVILEGES OF THE HOUSE—RETURNING TO SENATE S. 1216, CROW BOUNDARY SETTLEMENT ACT OF 1994

Mr. GIBBONS. Mr. Speaker, I rise to a question of the privileges of the House, to offer a privileged resolution (H. Res. 577) returning to the Senate the bill S. 1216, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 577

Resolved, That the bill of the Senate (S. 1216) entitled the "Crow Boundary Settlement Act of 1994", in the opinion of this House, contravenes the first clause of the seventh section of the first article of the Constitution of the United States and is an infringement of the privileges of this House and that such bill be respectfully returned to the Senate with a message communicating this resolution.

The SPEAKER pro tempore (Mr. MAZZOLI). In the opinion of the Chair, the resolution constitutes a question of the privileges of the House.

The gentleman from Florida [Mr. GIBBONS] will be recognized for 30 minutes, and the gentleman from California [Mr. HERGER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 577 returns to the Senate the bill, S. 1216, because it contravenes the constitutional requirements that revenue measures originate in the House of Representatives.

S. 1216 contains a provision which would exempt from Federal taxation

certain payments made, and certain benefits conferred, pursuant to the Crow Boundary Settlement Act.

This provision constitutes a revenue measure in the constitutional sense because it would have an immediate effect on revenues. Under the provision, Federal tax would not be collected on certain payments and benefits that otherwise would be taxable.

Therefore, I am asking the House insist on its constitutional prerogatives.

By adopting this resolution, the House will preserve the prerogative to originate revenue matters. Our action does not constitute a rejection of the Senate bill on its merits. In fact, last night the House adopted and sent to the Senate a new bill, H.R. 3200, that contains substantially the same provisions but omits the language regarding the Federal tax treatment of payments and benefits.

Our action today is merely procedural in nature. It makes it clear to the Senate that the appropriate procedure for dealing with revenue measures is for the House to act first on revenue bills and the Senate to add its amendments and seek a conference.

There are numerous precedents on this, Mr. Speaker, I will not bore the House with taking them up at this time. But I submit the following statement for the RECORD: For example, on July 21, 1994, the House passed House Resolution 487, returning to the Senate S. 1030, which contained a provision exempting from taxation certain payments made on behalf of participants in the Education Debt Reduction Program. On June 15, 1989, the House passed House Resolution 177, returning to the Senate S. 774, which would have conferred tax-exempt status to two newly created corporations that otherwise would have been taxable entities. On October 22, 1991, the House passed House Resolution 251, returning to the Senate S. 1241, which would have made various changes to tax laws and would have had an immediate impact on revenues anticipated by the Internal Revenue Service.

Mr. Speaker, I move the previous question on the resolution.

Mr. WILLIAMS. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Montana.

Mr. WILLIAMS. I appreciate the gentleman yielding, and as the Member of Congress who has the effect of this legislation within his district, that is, the 107th meridian change to benefit both the Crow Indian people as well as the Northern Cheyenne Indian people, I recognize, support, and find the chairman's action to be appropriate.

We did, as the chairman notes, by unanimous consent pass the boundary adjustment last night without the tax implications in it, and we are very hopeful that the Senate can handle that legislation today.

Mr. GIBBONS. I thank the gentleman for his statement.

Mr. Speaker, we are not opposed to the legislation on its merits; we are merely attempting to protect the House prerogatives under the Constitution.

The gentleman pointed out that corrective legislation has already passed the House, and I assume it will pass the Senate.

Mr. Speaker, I reserve the balance of my time.

Mr. HERGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the privileged resolution offered by the chairman of the Ways and Means Committee.

I agree with the gentleman's comment that the procedure we are following is important. It reminds the other body once again that the Constitution requires that all revenue measures originate in the House of Representatives.

We have just passed a bill which contains the substance of the legislation contained in S. 1216—with the revenue provision in question removed. The purpose of the resolution before us is simply to send the earlier bill which inappropriately contained a revenue measure back to the Senate as a reminder of our constitutional responsibilities and prerogatives.

I urge the adoption of the resolution offered by Mr. GIBBONS.

Mr. Speaker, I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REQUEST TO CONCUR IN SENATE AMENDMENTS TO H.R. 3313, VETERANS HEALTH IMPROVEMENTS ACT OF 1993, WITH AMENDMENTS

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3313) to amend title 38, United States Code, to improve health care services of the Department of Veterans Affairs relating to women veterans, to extend and expand authority for the Secretary of Veterans Affairs to provide priority health care to veterans who were exposed to ionizing radiation or to Agent Orange, to expand the scope of services that may be provided to veterans through Vet Centers, and for other purposes, with Senate amendments thereto and concur in the Senate amendments with amendments that are at the desk.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will report the proposed amendments.

The Clerk read the House amendments to the Senate amendments, as follows:

House Amendments to the Senate Amendments: In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Health Improvements Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—WOMEN VETERANS HEALTH IMPROVEMENTS

Sec. 101. Short title.
Sec. 102. Health care services for women.
Sec. 103. Women's health services.
Sec. 104. Mammography quality standards.
Sec. 105. Research relating to women veterans.
Sec. 106. Sexual trauma counseling and services.
Sec. 107. Coordinators of women's services.
Sec. 108. Patient privacy for women patients.

TITLE II—CARE FOR VETERANS EXPOSED TO TOXIC SUBSTANCES

Sec. 201. Authority to provide priority health care.
Sec. 202. Savings provision.

TITLE III—READJUSTMENT SERVICES

Sec. 301. Scope of services provided in vet centers.
Sec. 302. Advisory committee on the readjustment of veterans.
Sec. 303. Plan for expansion of Vietnam veteran resource centers pilot program.
Sec. 304. Organizational autonomy of the Readjustment Counseling Service.
Sec. 305. Report on collocation of vet centers and Department of Veterans Affairs outpatient clinics.
Sec. 306. Bereavement counseling for deaths on active duty.

TITLE IV—SERVICES FOR MENTALLY ILL VETERANS

Sec. 401. Authority to establish nonprofit corporations.
Sec. 402. Extension of demonstration program.
Sec. 403. Department committee on care of severely chronically mentally ill veterans.
Sec. 404. Centers for mental illness research, education, and clinical activities.
Sec. 405. Codification and extension of authority for community-based residential care for homeless chronically mentally ill veterans and other veterans.

TITLE V—CONSTRUCTION PLANNING AND AUTHORIZATION

Sec. 501. Authorization of major medical facility projects and major medical facility leases.
Sec. 502. Authorization of appropriations.
Sec. 503. Revision to prospectus requirements.
Sec. 504. Annual compilation of construction priorities.

TITLE VI—GENERAL MEDICAL AUTHORITIES AND MEDICAL ADMINISTRATION

Sec. 601. Assistance in the payment of education debts incurred by certain Veterans Health Administration employees.

Sec. 602. Pilot program for noninstitutional alternatives to nursing home care.
Sec. 603. Per diem for adult day health care.
Sec. 604. State home construction assistance program.
Sec. 605. Department of Veterans Affairs research advisory committees.
Sec. 606. Child care services.
Sec. 607. Contracts for utilities, Audie L. Murphy Memorial Hospital.
Sec. 608. Facilities in Republic of the Philippines.
Sec. 609. Technical amendments.
Sec. 610. Center for Minority Veterans and Center for Women Veterans.
Sec. 611. Advisory Committee for Minority Veterans.
Sec. 612. Authority to enter into agreement for use of property at Edward Hines, Jr., Department of Veterans Affairs Hospital.
Sec. 613. Counseling services for POW/MIA family members.
Sec. 614. Revision of authority on use of tobacco products in Department facilities.
Sec. 615. Extension of certain expiring authorities.
Sec. 616. Protection against certain prohibited personnel practices.
Sec. 617. Permanent authority for waiver of reduction of retirement pay for registered-nurse positions.
Sec. 618. Submittal date for report on annual analysis of department-wide admissions policies.
Sec. 619. Health care resources.

TITLE VII—HEALTH CARE DELIVERY PILOT PROGRAM

Sec. 701. Pilot program authority.
Sec. 702. Conditions of participation.
Sec. 703. Operation of pilot programs.
Sec. 704. Provision of benefits.
Sec. 705. Funding.
Sec. 706. Annual reports to congress.
Sec. 707. Expiration of authority.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—WOMEN VETERANS HEALTH IMPROVEMENTS

SEC. 101. SHORT TITLE.

This title may be cited as the "Women Veterans Health Improvements Act of 1994".

SEC. 102. HEALTH CARE SERVICES FOR WOMEN.

(a) ENSURED PROVISION OF SERVICES.—The Secretary of Veterans Affairs shall ensure that each health-care facility under the direct jurisdiction of the Secretary is able, through services made available either by individuals appointed to positions in the Veterans Health Administration or under contracts or other agreements made under section 7409, 8111, or 8153 of title 38, United States Code, or title II of Public Law 102-585, to provide in a timely and appropriate manner women's health services (as defined in section 1701(10) of title 38, United States Code (as added by section 103)) to any veteran described in section 1710(a)(1) of title 38, United States Code, who is eligible for such services.

(b) HEALTH CARE SERVICES TO BE PROVIDED DIRECTLY WHEN COST EFFECTIVE.—(1) The Secretary shall ensure that each health-care facility under the direct jurisdiction of the Secretary shall provide women's health services directly (rather than by contract or other agreement) when it is cost effective to do so.

(2) The Secretary shall ensure that each such facility is provided appropriate equipment, treatment facilities, and staff to carry out paragraph (1) and to ensure that the quality of care provided under that paragraph is in accordance with professional standards.

(c) CONFORMING REPEAL.—Section 302 of the Veterans' Health Care Amendments of 1983 (Public Law 98-160; 97 Stat. 1004; 38 U.S.C. 1701 note) is repealed.

SEC. 103. WOMEN'S HEALTH SERVICES.

(a) WOMEN'S HEALTH SERVICES.—Section 1701 is amended—

(1) in paragraph (6)(A)(i), by inserting "women's health services," after "preventive health services,"; and

(2) by adding at the end the following:

"(10) The term 'women's health services' means—

"(A) health care services to prevent diseases specific to women and to treat disabilities specific to women, including—

"(i) papanicolaou tests (pap smears);

"(ii) breast examinations and mammography;

"(iii) management of menopause; and

"(iv) management and treatment of osteoporosis; and

"(B) prenatal care, delivery, and postpartum care.".

(b) EXTENSION OF ANNUAL REPORT REQUIREMENT.—Section 107(a) of the Veterans Health Care Act of 1992 (Public Law 102-585; 38 U.S.C. 1710 note) is amended by striking out "Not later than January 1, 1993, January 1, 1994, and January 1, 1995" and inserting in lieu thereof "Not later than January 1 of 1993 and each year thereafter through 1998".

(c) REPORT ON HEALTH CARE AND RESEARCH.—Section 107(b) of such Act is amended—

(1) in paragraph (1), by striking out "services described in section 106 of this Act" and inserting in lieu thereof "women's health services (as such term is defined in section 1701(10) of title 38, United States Code)";

(2) in paragraph (2)(A), by inserting "(including information on the number of inpatient stays and the number of outpatient visits through which such services were provided)" after "facility"; and

(3) by adding at the end the following new paragraph:

"(5) A description of the actions taken by the Secretary to foster and encourage the expansion of such research.".

SEC. 104. MAMMOGRAPHY QUALITY STANDARDS.

(a) IN GENERAL.—(1) Subchapter II of chapter 73 is amended by adding at the end the following new section:

"§ 7319. Mammography quality standards

"(a) A mammogram may not be performed at a Department facility unless that facility is accredited for that purpose by a private nonprofit organization designated by the Secretary. An organization designated by the Secretary under this subsection shall meet the standards for accrediting bodies established under section 354(e) of the Public Health Service Act (42 U.S.C. 263b(e)).

"(b) The Secretary, in consultation with the Secretary of Health and Human Services, shall prescribe quality assurance and quality control standards relating to the performance and interpretation of mammograms and use of mammogram equipment and facilities of the Department of Veterans Affairs consistent with the requirements of section 354(f)(1) of the Public Health Service Act. Such standards shall be no less stringent than the standards prescribed by the Secretary of Health and Human Services under section 354(f) of the Public Health Service Act.

"(c)(1) The Secretary, to ensure compliance with the standards prescribed under subsection (b), shall provide for an annual inspection of the equipment and facilities used by and in Department health care facilities for the performance of mammograms. Such inspections shall be carried out in a manner consistent with the inspection of certified facilities by the Secretary of Health and Human Services under section 354(g) of the Public Health Service Act.

"(2) The Secretary may not provide for an inspection under paragraph (1) to be performed by a State agency.

"(d) The Secretary shall ensure that mammograms performed for the Department under contract with any non-Department facility or provider conform to the quality standards prescribed by the Secretary of Health and Human Services under section 354 of the Public Health Service Act.

"(e) For the purposes of this section, the term 'mammogram' has the meaning given such term in paragraph (5) of section 354(a) of the Public Health Service Act (42 U.S.C. 263b(a)).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7318 the following new item:

"7319. Mammography quality standards.".

(b) DEADLINE FOR PRESCRIBING STANDARDS.—The Secretary of Veterans Affairs shall prescribe standards under subsection (b) of section 7319 of title 38, United States Code, as added by subsection (a), not later than the end of the 120-day period beginning on the later of—

(1) the date on which the Secretary of Health and Human Services prescribes quality standards under section 354(f) of the Public Health Service Act (42 U.S.C. 263b(f)); or

(2) the date of the enactment of this Act.

(c) TRANSITION.—(1) Subsection (a) of section 7319 of title 38, United States Code, as added by subsection (a), shall take effect on the date on which standards are prescribed by the Secretary of Veterans Affairs under subsection (b) of that section.

(2) During the transition period, the Secretary of Veterans Affairs may waive the requirement of subsection (a) of section 7319 of title 38, United States Code, as added by subsection (a), to any facility of the Department. The Secretary may provide such a waiver in the case of any facility only if the Secretary determines, based upon the recommendation of the Under Secretary for Health of the Department of Veterans Affairs, that during the period such a waiver is in effect for such facility (including any extension of the waiver under paragraph (3)) the facility will be operated in accordance with standards prescribed by the Secretary under subsection (b) of such section to assure the safety and accuracy of mammography services provided.

(3) The transition period for purposes of this section is the six-month period beginning on the date specified in paragraph (1). The Secretary may extend such period for a period not to exceed 90 days in the case of any Department facility. Any such extension may be made only if the Under Secretary for Health determines that—

(A) without the extension access of veterans to mammography services in the geographic area served by the facility would be significantly reduced; and

(B) appropriate steps will be taken before the end of the transition period (as extended) to obtain accreditation of the facility as required by subsection (a) of section 7319 of title 38, United States Code, as added by subsection (a).

(d) IMPLEMENTATION REPORT.—The Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's implementation of section 7319 of title 38, United States Code, as added by subsection (a). The report shall be submitted not later than 120 days after the date on which the Secretary prescribes the quality standards required under subsection (b) of that section.

SEC. 105. RESEARCH RELATING TO WOMEN VETERANS.

(a) INCLUSION OF WOMEN AND MINORITIES IN CLINICAL RESEARCH PROJECTS.—Section 7303 is amended—

(1) by transferring the text of subsection (c) to the end of subsection (a); and

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection (c):

"(c)(1) In conducting or supporting clinical research, the Secretary shall ensure that, whenever possible and appropriate—

"(A) women who are veterans are included as subjects in each project of such research; and

"(B) members of minority groups who are veterans are included as subjects of such research.

"(2) In the case of a project of clinical research in which women or members of minority groups will under paragraph (1) be included as subjects of the research, the Secretary shall ensure that the project is designed and carried out so as to provide for a valid analysis of whether the variables being tested in the research affect women or members of minority groups, as the case may be, differently than other persons who are subjects of the research.".

(b) HEALTH RESEARCH.—(1) Such section is further amended by adding after subsection (c), as added by subsection (a), the following new subsection:

"(d)(1) The Secretary, in carrying out the Secretary's responsibilities under this section, shall foster and encourage the initiation and expansion of research relating to the health of veterans who are women.

"(2) In carrying out this subsection, the Secretary shall consult with the following to assist the Secretary in setting research priorities:

"(A) Officials of the Department assigned responsibility for women's health programs and sexual trauma services.

"(B) The members of the Advisory Committee on Women Veterans.

"(C) Members of appropriate task forces and working groups within the Department (including the Women Veterans Working Group and the Task Force on Treatment of Women Who Suffer Sexual Abuse).".

(2) Section 109 of the Veterans Health Care Act of 1992 (Public Law 102–585; 38 U.S.C. 7303 note) is repealed.

(c) POPULATION STUDY.—Section 110(a) of the Veterans Health Care Act of 1992 (Public Law 102–585; 106 Stat. 4948) is amended by adding at the end of paragraph (3) the following: "If it is feasible to do so within the amounts available for the conduct of the study, the Secretary shall ensure that the sample referred to in paragraph (1) constitutes a representative sampling (as determined by the Secretary) of the ages, the ethnic, social and economic backgrounds, the enlisted and officer grades, and the branches of service of all veterans who are women.".

SEC. 106. SEXUAL TRAUMA COUNSELING AND SERVICES.

(a) AUTHORITY TO PROVIDE TREATMENT SERVICES FOR SEXUAL TRAUMA; REPEAL OF LIMITATION ON TIME TO SEEK SERVICES.—Subsection (a) of section 1720D is amended—

(1) by striking out paragraph (2); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) During the period referred to in paragraph (1), the Secretary may provide appropriate care and services to a veteran for an injury, illness, or other psychological condition that the Secretary determines to be the result of a physical assault, battery, or harassment referred to in that paragraph.".

(b) EXTENSION OF PERIOD OF AUTHORITY TO PROVIDE SEXUAL TRAUMA SERVICES.—Such subsection is further amended—

(1) in paragraph (1), by striking out "December 31, 1995," and inserting in lieu thereof "December 31, 1998,"; and

(2) in paragraph (3), by striking out "December 31, 1994," and inserting in lieu thereof "December 31, 1998,".

(c) REPEAL OF LIMITATION ON PERIOD OF RECEIPT OF SERVICES.—Such section is further amended—

(1) by striking out subsection (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(d) COORDINATION OF CARE.—Paragraph (1) of subsection (b) of such section, as redesignated by subsection (c)(2), is amended to read as follows:

"(1) The Secretary shall give priority to the establishment and operation of the program to provide counseling and care and services under subsection (a). In the case of a veteran eligible for counseling and care and services under subsection (a)(1), the Secretary shall ensure that the veteran is furnished counseling and care and services under this section in a way that is coordinated with the furnishing of such care and services under this chapter.".

(e) INCREASED PRIORITY OF CARE.—Section 1712(i) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "To a veteran"; and

(B) by inserting ", or (B) who is eligible for counseling and care and services under section 1720D of this title, for the purposes of such counseling and care and services" before the period at the end; and

(2) in paragraph (2)—

(A) by striking out ", (B)" and inserting in lieu thereof "or (B)"; and

(B) by striking out ", or (C)" and all that follows through "such counseling".

(f) PROGRAM REVISION.—(1) Section 1720D is further amended—

(A) by striking out "woman" in subsection (a)(1);

(B) by striking out "women" in subsection (b)(2)(C) and in the first sentence of subsection (c), as redesignated by subsection (c); and

(C) by striking out "women" in subsection (c)(2), as so redesignated, and inserting in lieu thereof "individuals".

(2)(A) The heading of such section is amended to read as follows:

"§ 1720D. Counseling and treatment for sexual trauma".

(B) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"1720D. Counseling and treatment for sexual trauma.".

(g) INFORMATION BY TELEPHONE.—(1) Paragraph (1) of section 1720D(c), as redesignated by subsection (c) of this section, is amended to read as follows:

"(1) shall include availability of a toll-free telephone number (commonly referred to as an 800 number); and".

(2) In providing information on counseling available to veterans as required under section 1720D(c)(1) of title 38, United States Code (as amended by paragraph (1)), the Secretary of Veterans Affairs shall ensure that the Department of Veterans Affairs personnel who provide assistance under such section are trained in the provision to persons who have experienced sexual trauma of information about the care and services relating to sexual trauma that are available to veterans in the communities in which such veterans reside, including care and services available under programs of the Department (including the care and services available under section 1720D of such title) and from non-Department agencies or organizations.

(3) The telephone assistance service shall be operated in a manner that protects the confidentiality of persons who place calls to the system.

(4) The Secretary shall ensure that information about the availability of the telephone assistance service is visibly posted in Department medical facilities and is advertised through public service announcements, pamphlets, and other means.

(5) Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the operation of the telephone assistance service required under section 1720D(c)(1) of title 38, United States Code (as amended by paragraph (1)). The report shall set forth the following:

(A) The number of persons who sought information during the period covered by the report through a toll free telephone number regarding services available to veterans relating to sexual trauma, with a separate display of the number of such persons arrayed by State (as such term is defined in section 101(20) of title 38, United States Code).

(B) A description of the training provided to the personnel who provide such assistance.

(C) The recommendations and plans of the Secretary for the improvement of the service.

(h) CONFORMING REPEAL.—Section 102(b) of the Veterans Health Care Act of 1992 (Public Law 102–585; 106 Stat. 4946; 38 U.S.C. 1720D note) is repealed.

SEC. 107. COORDINATORS OF WOMEN'S SERVICES.

(a) FULL-TIME STATUS.—Section 108 of the Veterans Health Care Act of 1992 (Public Law 102–585; 106 Stat. 4948; 38 U.S.C. 1710 note) is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end the following:

"(b) Each official who serves in the position of coordinator of women's services under subsection (a) shall serve in such position on a full-time basis.".

(b) SUPPORT FOR WOMEN'S SERVICES COORDINATORS.—The Secretary of Veterans Affairs shall take appropriate actions to ensure—

(1) that sufficient funding is provided to each Department of Veterans Affairs facility in order to permit the coordinator of women's services assigned to that facility to carry out the responsibilities of the coordinator at the facility; and

(2) that each such coordinator has direct access to the Director or Chief of Staff of the facility to which the coordinator is assigned.

SEC. 108. PATIENT PRIVACY FOR WOMEN PATIENTS.

(a) IDENTIFICATION OF DEFICIENCIES.—The Secretary of Veterans Affairs shall conduct a survey of each medical center under the jurisdiction of the Secretary to identify deficiencies relating to patient privacy afforded to women patients in the clinical areas at each such center which may interfere with appropriate treatment of such patients.

(b) CORRECTION OF DEFICIENCIES.—The Secretary shall ensure that plans and, where appropriate, interim steps, to correct the deficiencies identified in the survey conducted under subsection (a) are developed and are incorporated into the Department's construction planning processes and given a high priority.

(c) REPORTS TO CONGRESS.—The Secretary shall compile an annual inventory, by medical center, of deficiencies identified under subsection (a) and of plans and, where appropriate, interim steps, to correct such deficiencies. The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives, not later than October 1, 1995, and not later than October 1 each year thereafter through 1997 a report on such deficiencies. The Secretary shall include in such report the inventory compiled by the Secretary, the proposed corrective plans, and the status of such plans.

TITLE II—CARE FOR VETERANS EXPOSED TO TOXIC SUBSTANCES

SEC. 201. AUTHORITY TO PROVIDE PRIORITY HEALTH CARE.

(a) AUTHORIZED INPATIENT CARE.—Section 1710(e) is amended to read as follows:

"(e)(1)(A) A herbicide-exposed veteran is eligible for hospital care and nursing home care under subsection (a)(1)(G)—

"(i) during the period before January 1, 1996, for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure, except in the case of a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than an exposure to a herbicide agent; and

"(ii) during the period beginning on January 1, 1996, and ending on the date specified in paragraph (3), for any disease specified in paragraph (2).

"(B) A radiation-exposed veteran is eligible for hospital care and nursing home care under subsection (a)(1)(G) for any disease—

"(i) which is listed in section 1112(c)(2) of this title; and

"(ii) for which the Secretary, based on the advice of the Advisory Committee on Environmental Hazards or other relevant scientific research, determines that a significant statistical association exists between the disease and exposure to ionizing radiation.

"(C) Subject to paragraph (3), a veteran who the Secretary finds may have been exposed while serving on active duty in the Southwest Asia theater of operations during the Persian Gulf War to a toxic substance or environmental hazard is eligible for hospital care and nursing home care under subsection (a)(1)(G) of this section for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.

"(2) The diseases referred to in paragraph (1)(A) are those for which the National Academy of Sciences, in the most recent report issued in accordance with section 3(g) of the Agent Orange Act of 1991 (Public Law 102-4), has determined—

"(A) that there is sufficient evidence to conclude that there is a positive association between occurrence of the disease in humans and exposure to a herbicide agent;

"(B) that there is evidence which is suggestive of an association between occurrence of the disease in humans and exposure to a herbicide agent, but such evidence is limited in nature; or

"(C) that available studies are insufficient to permit a conclusion about the presence or absence of an association between occurrence of the disease in humans and exposure to a herbicide agent.

"(3) Hospital and nursing home care may not be provided under or by virtue of paragraph (1)(A) after September 30, 2003, and may not be provided under or by virtue of paragraph (1)(C) after September 30, 1998.

"(4) For purposes of this subsection and section 1712 of this title—

"(A) the term 'herbicide-exposed veteran' means a veteran (i) who served on active duty in the Republic of Vietnam during the Vietnam era, and (ii) who the Secretary finds may have been exposed during such service to a herbicide agent;

"(B) the term 'herbicide agent' has the meaning given that term in section 1116(a)(4) of this title; and

"(C) the term 'radiation-exposed veteran' has the meaning given that term in section 1112(c)(3) of this title.".

(b) AUTHORIZED OUTPATIENT CARE.—(1) Subsection (a)(1) of section 1712 is amended—

(A) by striking out "and" at the end of subparagraph (C);

(B) in subparagraph (D)—

(i) by striking out "December 31, 1994" and inserting in lieu thereof "September 30, 1998"; and

(ii) by striking out the period at the end and inserting in lieu thereof a semicolon; and

(C) by adding at the end the following:

"(E) during the period beginning on January 1, 1996, and ending on the date specified in section 1710(e)(3) of this title, to any herbicide-exposed veteran for any disease specified in section 1710(e)(2) of this title; and

"(F) to any radiation-exposed veteran for any disease covered under section 1710(e)(1)(B) of this title.".

(2) Subsection (i)(3) of such section is amended—

(A) by striking out "(A)"; and

(B) by striking out ", or (B)" and all that follows through "title".

SEC. 202. SAVINGS PROVISION.

(a) PRESERVATION OF EARLIER ELIGIBILITY.—The provisions of sections 1710(e) and 1712(a) of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, shall continue to apply on and after such date with respect to the furnishing of hospital care, nursing home care, and medical services for any veteran who was furnished such care or services before such date of enactment on the basis of presumed exposure to a substance or radiation under the authority of those provisions, but only for treatment for a disability for which such care or services were furnished before such date.

(b) RATIFICATION OF ACTIONS DURING PERIOD OF LAPSED AUTHORITY.—Any action of the Secretary of Veterans Affairs under section 1710(e) of title 38, United States Code, during the period beginning on July 1, 1994, and ending on the date of the enactment of this Act is hereby ratified.

TITLE III—READJUSTMENT SERVICES

SEC. 301. SCOPE OF SERVICES PROVIDED IN VET CENTERS.

(a) EXPANSION OF SERVICES.—Section 1712A is amended—

(1) in subsection (a)(1) by inserting "and, to the extent otherwise authorized by law, may furnish such additional needed services as described in subsection (i)" in the first sentence after "life";

(2) by redesignating subsection (i) as subsection (j); and

(3) by inserting after subsection (g) the following new subsections:

"(h) The Secretary may, to the extent resources and facilities are available, furnish to any veteran who served in combat during World War II or the Korean conflict counseling in a center to assist such veteran in overcoming the effects of the veteran's combat experience.

"(i) In operating centers under this section, the Secretary may provide (1) preventive health care services, (2) medical services reasonably necessary in preparation for hospital admission or to complete treatment furnished under section 1710 or 1712(a) of this title, and (3) referral services to assist in obtaining specialized care. The Secretary shall provide such services through such health care personnel as the Secretary determines appropriate.".

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report relating to the implementation of the amendments made by subsection (a). The report shall include the following:

(1) The number of veterans provided services described in section 1712A(i) of title 38, United States Code, as added by subsection (a).

(2) The number of centers which provided services described in that section.

(3) An assessment of the effect providing such services has had on access to and timeliness of service delivery, both for veterans to whom services described in that section were provided and for other veterans.

SEC. 302. ADVISORY COMMITTEE ON THE READJUSTMENT OF VETERANS.

(a) IN GENERAL.—(1) Subchapter III of chapter 5 is amended by adding at the end the following new section:

"§ 544. Advisory Committee on Veterans Readjustment Counseling

"(a)(1) There is in the Department the Advisory Committee on Veterans Readjustment Counseling (hereinafter in this section referred to as the 'Committee').

"(2) The Committee shall consist of 18 members. The members of the Committee shall be appointed by the Secretary and shall include individuals who are recognized authorities in fields pertinent to the social, psychological, economic, or educational readjustment of veterans. An officer or employee of the United States may not be appointed as a member of the Committee. At least 12 members of the Committee shall be veterans of the Vietnam era or other period of war. Appointments of members of the Committee shall be made from among individuals who have experience with the provision of veterans benefits and services by the Department or who are otherwise familiar with programs of the Department.

"(3) The Secretary shall seek to ensure that members appointed to the Committee include persons from a wide variety of geographic areas and ethnic backgrounds, persons from veterans service organizations, minorities, and women.

"(4) The Secretary shall determine the terms of service and pay and allowances of the members of the Committee, except that a term of service may not exceed two years. The Secretary may reappoint any member for additional terms of service.

"(b)(1) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the provision by the Department of benefits and services to veterans in order to assist veterans in the readjustment to civilian life.

"(2) In providing advice to the Secretary under this subsection, the Committee shall—

"(A) assemble and review information relating to the needs of veterans in readjusting to civilian life;

"(B) provide information relating to the nature and character of psychological problems arising from military service;

"(C) provide an on-going assessment of the effectiveness of the policies, organizational structures, and services of the Department in assisting veterans in readjusting to civilian life; and

"(D) provide on-going advice on the most appropriate means of responding to the readjustment needs of future veterans.

"(3) In carrying out its duties under paragraph (2), the Committee shall take into special account veterans of the Vietnam era and the readjustment needs of those veterans.

"(c)(1) Not later than March 31 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that relate to the readjustment of veterans to civilian life. Each such report shall include—

"(A) an assessment of the needs of veterans with respect to readjustment to civilian life;

"(B) a review of the programs and activities of the Department designed to meet such needs; and

"(C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

"(2) Not later than 90 days after the receipt of each report under paragraph (1), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a copy of the report, together with any comments and recommendations concerning the report that the Secretary considers appropriate.

"(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

"(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to that section.".

(2) The table of sections at the beginning of chapter 5 is amended by adding at the end the following new item:

"544. Advisory Committee on Veterans Readjustment Counseling.".

(b) ORIGINAL MEMBERS.—(1) Notwithstanding subsection (a)(2) of section 544 of title 38, United States Code (as added by subsection (a)), the members of the Advisory Committee on the Readjustment of Vietnam and Other War Veterans on the date of the enactment of this Act shall be the original members of the advisory committee established under that section.

(2) The original members shall so serve until the Secretary of Veterans Affairs carries out appointments under such subsection (a)(2). The Secretary shall carry out such appointments as soon as is practicable. The Secretary may make such appointments from among such original members.

SEC. 303. PLAN FOR EXPANSION OF VIETNAM VETERAN RESOURCE CENTERS PILOT PROGRAM.

(a) PLAN.—The Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a plan for expansion of the Vietnam Veteran Resource Centers program established by section 105 of Public Law 99–166. The plan submitted shall be a plan which the Secretary would implement if resources for such implementation were available.

(b) SUBMISSION OF PLAN.—The plan, together with an analysis setting forth in detail the resources required for the implementation of the plan, shall be submitted under subsection (a) not later than four months after the date of the enactment of this Act.

SEC. 304. ORGANIZATIONAL AUTONOMY OF THE READJUSTMENT COUNSELING SERVICE.

(a) ESTABLISHMENT OF RCS BY LAW.—Section 7305 is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7) A Readjustment Counseling Service.".

(b) DIRECTOR OF RCS.—Section 7306(a) is amended by inserting after paragraph (5) the following:

"(6) A Director of Readjustment Counseling Service.".

(c) ADMINISTRATION OF RCS.—(1) Subchapter II of chapter 73 is amended by adding after section 7319, as added by section 104(a), the following new section:

"§ 7320. Readjustment Counseling Service: administration

"(a) Except as provided in subsection (b), the Secretary shall administer the Readjustment Counseling Service through an organization which involves a direct line of authority from centers described in section 1712A of this title through an official charged with administration and oversight of the provision of readjustment counseling services within a geographic region, to the Director of the Readjustment Counseling Service.

"(b)(1) The Secretary may not alter or revise the organizational structure of the readjustment counseling service from one which involves a direct line of authority as described in subsection (a) until—

"(A) the Secretary submits to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing a full and complete statement of the proposed alteration or revision; and

"(B) a period of 45 days has elapsed after the date on which the report is received by the committees.

"(2) In the computation of the 45-day period under paragraph (1)(B), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain.

"(c) BUDGET AUTONOMY.—Each budget submitted to Congress by the President under section 1105 of title 31 shall set forth the amount requested in the budget for the operation of the Readjustment Counseling Service in the fiscal year covered by the budget.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7319, as added by section 104(a), the following new item:

"7320. Readjustment Counseling Service: administration.".

SEC. 305. REPORT ON COLLOCATION OF VET CENTERS AND DEPARTMENT OF VETERANS AFFAIRS OUTPATIENT CLINICS.

(a) REQUIREMENT.—The Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the feasibility and desirability of the collocation of Vet Centers and outpatient clinics of the Department of Veterans Affairs as current leases for such centers and clinics expire. The report shall be submitted not later than one year after the date of the enactment of this Act.

(b) COVERED MATTERS.—The report under this section shall include an assessment of the following:

(1) The results of any collocation of Vet Centers and outpatient clinics carried out by the Secretary before the date of the enactment of this Act, including the effects of such collocation on the quality of care provided at such centers and clinics.

(2) The effect of such collocation on the capacity of such centers to carry out their primary missions.

(3) The extent to which such collocation might impair the operational independence or administrative integrity of such centers.

(4) The feasibility of combining the services provided by such centers and clinics in the course of the collocation of such centers and clinics.

(5) The advisability of the collocation of centers and clinics of significantly different size.

(6) The effect of the locations (including urban and rural locations) of the centers and clinics on the feasibility and desirability of such collocation.

(7) The amount of any costs savings to be achieved by Department as a result of such collocation.

(8) The desirability of such collocation in light of plans for the provision of health care services by the Department under national health care reform.

(9) Any other matter that the Secretary determines appropriate.

(c) DEFINITION.—For purposes of this section, the term "Vet Centers" means centers which are operated by the Secretary of Veterans Affairs for the provision of services under section 1712A of title 38, United States Code.

SEC. 306. BEREAVEMENT COUNSELING FOR DEATHS ON ACTIVE DUTY.

(a) STATUTORY REORGANIZATION.—Subchapter I of chapter 17 is amended—

(1) in section 1701(6) (as amended by section 103(a)(1))—

(A) by striking out subparagraph (B) and the sentence following that subparagraph; and

(B) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) surgical services;

"(B) dental services and appliances as described in sections 1710 and 1712 of this title;

"(C) optometric and podiatric services;

"(D) preventive health services (in the case of a person otherwise receiving care or services under this chapter);

"(E) women's health services;

"(F) except under the conditions described in section 1712(a)(5)(A) of this title, wheelchairs, artificial limbs, trusses, and similar appliances;

"(G) special clothing made necessary by the wearing of prosthetic appliances;

"(H) such other supplies or services as the Secretary determines to be reasonable and necessary; and

"(I) travel and incidental expenses pursuant to the provisions of section 111 of this title."; and

(2) by adding at the end of such subchapter the following new section:

"§ 1705. Counseling, training, and mental health services for immediate family members; bereavement counseling

"(a)(1) In the case of a veteran who is receiving treatment for a service-connected disability pursuant to section 1712(a) of this title, the Secretary shall provide to individuals described in paragraph (3) such consultation, professional counseling, training, and mental health services as are necessary in connection with that treatment.

"(2) In the case of a veteran who is eligible to receive treatment for a non-service-connected disability under the conditions described in section 1712(a)(5)(B) of this title, the Secretary may, in the discretion of the Secretary, provide to individuals described in paragraph (3) such consultation, professional counseling, training, and mental health services as are necessary in connection with that treatment if—

"(A) those services were initiated during the veteran's hospitalization; and

"(B) the continued provision of those services on an outpatient basis is essential to permit the discharge of the veteran from the hospital.

"(3) Individuals who may be provided services under this subsection are—

"(A) the members of the immediate family or the legal guardian of a veteran; or

"(B) the individual in whose household such veteran certifies an intention to live.

"(b)(1) In the case of an individual who was a recipient of services under subsection (a) at the time of the death of the veteran, the Secretary may provide bereavement counseling to that individual in the case of a death—

"(A) that was unexpected; or

"(B) that occurred while the veteran was participating in a hospice program (or a similar program) conducted by the Secretary.

"(2) The Secretary may provide bereavement counseling to an individual who is a member of the immediate family of a member of the Armed Forces who dies in the active military, naval, or air service in the line of duty and under circumstances not due to the person's own misconduct.

"(3) For purposes of this subsection, the term 'bereavement counseling' means such counseling services, for a limited period, as the Secretary determines to be reasonable and necessary to assist an individual with the emotional and psychological stress accompanying the death of another individual.

"(c) Services provided under subsection (a) may include, under the terms and conditions set forth in section 111 of this title, travel and incidental expenses of individuals described in subsection (a)(3) in the case of—

"(1) a veteran who is receiving care for a service-connected disability; and

"(2) a dependent or survivor receiving care under the last sentence of section 1713(b) of this title.".

(b) CONFORMING AMENDMENT.—Section 1713(b) is amended by adding at the end the following new sentence: "A dependent or survivor receiving care under the preceding sentence shall be eligible for the same medical services as a veteran.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1704 the following new item:

"1705. Counseling, training, and mental health services for immediate family members; bereavement counseling.".

TITLE IV—SERVICES FOR MENTALLY ILL VETERANS

SEC. 401. AUTHORITY TO ESTABLISH NONPROFIT CORPORATIONS.

(a) IN GENERAL.—Chapter 17 is amended by inserting after section 1718 the following new section:

"§ 1718A. Nonprofit corporations

"(a) The Secretary may authorize the establishment at any Veterans Health Administration facility of a nonprofit corporation (1) to arrange for therapeutic work for patients of such facility or patients of other such Department facilities pursuant to section 1718(b) of this title, and (2) to provide a flexible funding mechanism to achieve the purposes of section 1718 of this title.

"(b) The Secretary shall provide for the appointment of a board of directors for any corporation established under this section and shall determine the number of directors and the composition of the board of directors. The board of directors shall include—

"(1) the director of the facility and other officials or employees of the facility; and

"(2) members appointed from among individuals who are not officers or employees of the Department.

"(c) Each such corporation shall have an executive director who shall be appointed by the board of directors with concurrence of the Under Secretary for Health. The executive director of a corporation shall be responsible for the operations of the corporation and shall have such specific duties and responsibilities as the board may prescribe.

"(d)(1) A corporation established under this section shall arrange with the Department under section 1718(b)(2) of this title to provide for therapeutic work for patients.

"(2) Such a corporation may—

"(A) accept gifts and grants from, and enter into contracts with, individuals and public and private entities solely to carry out the purposes of this section; and

"(B) employ such employees as it considers necessary for such purposes and fix the compensation of such employees.

"(e)(1) Except as provided in paragraph (2), any funds received by a corporation established under this section through arrangements authorized under subsection (d)(1) in excess of amounts reasonably required to carry out this section (including expenditures under subsection (d)(3)) shall be deposited in or credited to the fund established under section 1718(c) of this title.

"(2) The Secretary, in accordance with guidelines which the Secretary shall prescribe, may authorize a corporation established under this section to retain funds derived from arrangements authorized under subsection (d)(1).

"(3) Any funds received by a corporation established under this section through arrangements authorized under subsection (d)(2) may be transferred to the fund established under section 1718(c) of this title.

"(f) A corporation established under this section shall be established in accordance with the nonprofit corporation laws of the State in which the applicable medical facility is located and shall, to the extent not inconsistent with Federal law, be subject to the laws of such State.

"(g)(1)(A) The records of a corporation established under this section shall be available to the Secretary.

"(B) For the purposes of sections 4(a)(1) and 6(a)(1) of the Inspector General Act of 1978, the programs and operations of such a corporation shall be considered to be programs and operations of the Department with respect to which the Inspector General of the Department has responsibilities under such Act.

"(2) Such a corporation shall be considered an agency for the purposes of section 716 of title 31 (relating to availability of information and inspection of records by the Comptroller General).

"(3) Each such corporation shall submit to the Secretary an annual report providing a detailed statement of its operations, activities, and accomplishments during that year. The corporation shall obtain a report of independent auditors concerning the receipts and expenditures of funds by the corporation during that year and shall include that report in the corporation's report to the Secretary for that year.

"(4) Each member of the board of directors of a corporation established under this section, each employee of such corporation, and each employee of the Department who is involved in the functions of the corporation during any year shall—

"(A) be subject to Federal laws and regulations applicable to Federal employees with respect to conflicts of interest in the performance of official functions; and

"(B) submit to the Secretary an annual statement signed by the director or employee certifying that the director or employee is aware of, and has complied with, such laws and regulations in the same manner as Federal employees are required to.

"(h) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the number and location of corporations established and the amount of the contributions made to each such corporation.

"(i) No corporation may be established under this section after September 30, 1999.

"(j) If by the end of the four-year period beginning on the date of the establishment of a corporation under this section the corporation is not recognized as an entity the income of which is exempt from taxation under the Internal Revenue Code of 1986, the Secretary shall dissolve the corporation.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1718 the following new item:

"1718A. Nonprofit corporations.".

SEC. 402. EXTENSION OF DEMONSTRATION PROGRAM.

Section 7(a) of Public Law 102-54 (105 Stat. 269; 38 U.S.C. 1718 note) is amended by striking out "1994" and inserting in lieu thereof "1998".

SEC. 403. DEPARTMENT COMMITTEE ON CARE OF SEVERELY CHRONICALLY MENTALLY ILL VETERANS.

(a) ESTABLISHMENT.—Subchapter II of chapter 73 is amended by adding after section 7320, as added by section 304(c), the following new section:

"§ 7321. Committee on Care of Severely Chronically Mentally Ill Veterans

"(a) ESTABLISHMENT.—The Secretary, acting through the Under Secretary for Health, shall establish in the Veterans Health Administration a Committee on Care of Severely Chronically Mentally Ill Veterans. The Under Secretary shall appoint employees of the Department with expertise in the care of the chronically mentally ill to serve on the committee.

"(b) DUTIES.—The committee shall assess, and carry out a continuing assessment of,

the capability of the Veterans Health Administration to meet effectively the treatment and rehabilitation needs of mentally ill veterans whose mental illness is severe and chronic and who are eligible for health care furnished by the Department. In carrying out that responsibility, the committee shall—

"(1) evaluate the care provided to such veterans through the Veterans Health Administration;

"(2) identify systemwide problems in caring for such veterans in facilities of the Veterans Health Administration;

"(3) identify specific facilities within the Veterans Health Administration at which program enrichment is needed to improve treatment and rehabilitation of such veterans; and

"(4) identify model programs which the committee considers to have been successful in the treatment and rehabilitation of such veterans and which should be implemented more widely in or through facilities of the Veterans Health Administration.

"(c) ADVICE AND RECOMMENDATIONS.—The committee shall—

"(1) advise the Under Secretary regarding the development of policies for the care and rehabilitation of severely chronically mentally ill veterans; and

"(2) make recommendations to the Under Secretary—

"(A) for improving programs of care of such veterans at specific facilities and throughout the Veterans Health Administration;

"(B) for establishing special programs of education and training relevant to the care of such veterans for employees of the Veterans Health Administration;

"(C) regarding research needs and priorities relevant to the care of such veterans; and

"(D) regarding the appropriate allocation of resources for all such activities.

"(d) ANNUAL REPORT.—(1) Not later than April 1, 1996, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of this section. The report shall include the following:

"(A) A list of the members of the committee.

"(B) The assessment of the Under Secretary for Health, after review of the initial findings of the committee, regarding the capability of the Veterans Health Administration, on a systemwide and facility-by-facility basis, to meet effectively the treatment and rehabilitation needs of severely chronically mentally ill veterans who are eligible for Department care.

"(C) The plans of the committee for further assessments.

"(D) The findings and recommendations made by the committee to the Under Secretary for Health and the views of the Under Secretary on such findings and recommendations.

"(E) A description of the steps taken, plans made (and a timetable for their execution), and resources to be applied toward improving the capability of the Veterans Health Administration to meet effectively the treatment and rehabilitation needs of severely chronically mentally ill veterans who are eligible for Department care.

"(2) Not later than February 1, 1997, and February 1 of each of the three following years, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing information updating the reports submitted under this subsection before the submission of such report.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 7320, as added by section 304(b), the following new item:

"7321. Committee on Care of Severely Chronically Mentally Ill Veterans.".

SEC. 404. CENTERS FOR MENTAL ILLNESS RESEARCH, EDUCATION, AND CLINICAL ACTIVITIES.

(a) IN GENERAL.—(1) Subchapter II of chapter 73 is amended by adding after section 7321, as added by section 403(a), the following new section:

"§ 7322. Centers for mental illness research, education, and clinical activities

"(a) The purpose of this section is to provide for the improvement of the provision of health-care services and related counseling services to eligible veterans suffering from serious mental illness (especially mental illness related to service-related conditions) through—

"(1) the conduct of research (including research on improving mental health service facilities of the Department and on improving the delivery of mental health services by the Department);

"(2) the education and training of health care personnel of the Department; and

"(3) the development of improved models and systems for the furnishing of mental health services by the Department.

"(b)(1) The Secretary shall establish and operate centers for mental illness research, education, and clinical activities. Such centers shall be established and operated by collaborating Department facilities as provided in subsection (c)(1). Each such center shall function as a center for—

"(A) research on mental health services;

"(B) the use by the Department of specific models for furnishing services to treat serious mental illness;

"(C) education and training of health-care professionals of the Department; and

"(D) the development and implementation of innovative clinical activities and systems of care with respect to the delivery of such services by the Department.

"(2) The Secretary shall, upon the recommendation of the Under Secretary for Health, designate the centers under this section. In making such designations, the Secretary shall ensure that the centers designated are located in various geographic regions of the United States. The Secretary may designate a center under this section only if—

"(A) the proposal submitted for the designation of the center meets the requirements of subsection (c);

"(B) the Secretary makes the finding described in subsection (d); and

"(C) the peer review panel established under subsection (e) makes the determination specified in subsection (e)(3) with respect to that proposal.

"(3) Not more than five centers may be designated under this section.

"(4) The authority of the Secretary to establish and operate centers under this section is subject to the appropriation of funds for that purpose.

"(c) A proposal submitted for the designation of a center under this section shall—

"(1) provide for close collaboration in the establishment and operation of the center, and for the provision of care and the conduct of research and education at the center, by a Department facility or facilities in the same geographic area which have a mission centered on care of the mentally ill and a Department facility in that area which has a mission of providing tertiary medical care;

"(2) provide that no less than 50 percent of the funds appropriated for the center for support of clinical care, research, and education will be provided to the collaborating facility or facilities that have a mission centered on care of the mentally ill; and

"(3) provide for a governance arrangement between the collaborating Department facilities which ensures that the center will be established and operated in a manner aimed at improving the quality of mental health care at the collaborating facility or facilities which have a mission centered on care of the mentally ill.

"(d) The finding referred to in subsection (b)(2)(B) with respect to a proposal for designation of a site as a location of a center under this section is a finding by the Secretary, upon the recommendation of the Under Secretary for Health, that the facilities submitting the proposal have developed (or may reasonably be anticipated to develop) each of the following:

"(1) An arrangement with an accredited medical school that provides education and training in psychiatry and with which one or more of the participating Department facilities is affiliated under which medical residents receive education and training in psychiatry through regular rotation through the participating Department facilities so as to provide such residents with training in the diagnosis and treatment of mental illness.

"(2) An arrangement with an accredited graduate school of psychology under which students receive education and training in clinical, counseling, or professional psychology through regular rotation through the participating Department facilities so as to provide such students with training in the diagnosis and treatment of mental illness.

"(3) An arrangement under which nursing, social work, or allied health personnel receive training and education in mental health care through regular rotation through the participating Department facilities.

"(4) The ability to attract scientists who have demonstrated creativity and achievement in research—

"(A) into the evaluation of innovative approaches to the design of mental health services; or

"(B) into the causes, prevention, and treatment of mental illness.

"(5) The capability to evaluate effectively the activities of the center, including activities relating to the evaluation of specific efforts to improve the quality and effectiveness of mental health services provided by the Department at or through individual facilities.

"(e)(1) In order to provide advice to assist the Secretary and the Under Secretary for Health to carry out their responsibilities under this section, the official within the central office of the Veterans Health Administration responsible for mental health and behavioral sciences matters shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the designation of centers under this section.

"(2) The panel shall consist of experts in the fields of mental health research, education and training, and clinical care. Members of the panel shall serve as consultants to the Department.

"(3) The panel shall review each proposal submitted to by the official referred to in paragraph (1) and shall submit to that official its views on the relative scientific and

clinical merit of each such proposal. The panel shall specifically determine with respect to each such proposal whether that proposal is among those proposals which have met the highest competitive standards of scientific and clinical merit.

"(4) The panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

"(f) Clinical and scientific investigation activities at each center established under this section—

"(1) may compete for the award of funding from amounts appropriated for the Department of Veterans Affairs medical and prosthetics research account; and

"(2) shall receive priority in the award of funding from such account insofar as funds are awarded to projects and activities relating to serious mental illness.

"(g) The Under Secretary for Health shall ensure that at least three centers designated under this section emphasize research into means of improving the quality of care for veterans suffering from serious and persistent mental illness through the development of community-based alternatives to institutional treatment for such illness.

"(h) The Under Secretary for Health shall ensure that information produced by the research, education and training, and clinical activities of centers established under this section that may be useful for other activities of the Veterans Health Administration is disseminated throughout the Veterans Health Administration. Such dissemination shall be made through publications, through programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title, and through other means. Such programs of continuing medical education shall receive priority in the award of funding.

"(i) The official within the central office of the Veterans Health Administration responsible for mental health and behavioral sciences matters shall be responsible for supervising the operation of the centers established pursuant to this section and shall provide for ongoing evaluation of the centers and their compliance with the requirements of this section.

"(j)(1) There are authorized to be appropriated to the Department of Veterans Affairs for the basic support of the research and education and training activities of centers established pursuant to this section amounts as follows:

"(A) $3,125,000 for fiscal year 1996.

"(B) $6,250,000 for each of fiscal years 1997 through 1999.

"(2) In addition to funds appropriated for a fiscal year pursuant to the authorization of appropriations in paragraph (1), the Under Secretary for Health shall allocate to such centers from other funds appropriated for that fiscal year generally for the Department of Veterans Affairs medical care account and the Department of Veterans Affairs medical and prosthetics research account such amounts as the Under Secretary for Health determines appropriate to carry out the purposes of this section.".

(2) The table of sections at the beginning of chapter 73 is amended by inserting after the item relating to section 7321, as added by section 403(b), the following new item:

"7322. Centers for mental illness research, education, and clinical activities.".

(b) ANNUAL REPORTS.—Not later than February 1 of each of 1996, 1997, and 1998, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the status and activities during the previous fiscal year of the centers for mental illness, research, education, and clinical activities established pursuant to section 7322 of title 38, United States Code (as added by subsection (a)). Each such report shall include the following:

(1) A description of the activities carried out at each center and the funding provided for such activities.

(2) A description of the advances made at each of the participating facilities of the center in research, education and training, and clinical activities relating to serious mental illness in veterans.

(3) A description of the actions taken by the Under Secretary for Health pursuant to subsection (h) of that section (as so added) to disseminate information derived from such activities throughout the Veterans Health Administration.

(4) The Secretary's evaluations of the effectiveness of the centers in fulfilling the purposes of the centers.

(c) IMPLEMENTATION.—The Secretary of Veterans Affairs shall designate at least one center under section 7322 of title 38, United States Code, not later than January 1, 1996.

SEC. 405. CODIFICATION AND EXTENSION OF AUTHORITY FOR COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS CHRONICALLY MENTALLY ILL VETERANS AND OTHER VETERANS.

(a) IN GENERAL.—Subchapter II of chapter 17 is amended by adding at the end the following:

"§ 1720E. Community-based residential care: homeless chronically mentally ill veterans and other veterans

"(a)(1) The Secretary may provide to homeless veterans suffering from chronic mental illness disabilities who are eligible for care under section 1710(a)(1) of this title care and treatment and rehabilitative services (directly or by contract) in—

"(A) halfway houses;

"(B) therapeutic communities;

"(C) psychiatric residential treatment centers; and

"(D) other community-based treatment facilities.

"(2) In providing care and treatment and rehabilitative services under paragraph (1), the Secretary may also provide such care and treatment and rehabilitative services—

"(A) to veterans being furnished hospital or nursing home care by the Secretary for a chronic mental illness disability; and

"(B) to veterans with service-connected chronic mental illness disabilities.

"(b)(1) Before furnishing care and treatment and rehabilitative services by contract under subsection (a) to a veteran through a facility described in subsection (a), the Secretary shall approve the quality and effectiveness of the program operated by such facility for the purpose for which the veteran is to be furnished such care and services.

"(2) The Secretary shall prescribe criteria for the approval under paragraph (1) of the quality and effectiveness of programs.

"(c)(1) The Secretary may provide in-kind assistance (through the services of Department employees and the sharing of other Department resources) to a facility described in subsection (a) under this section. The Secretary shall provide such assistance to a facility under a contract between the Secretary and the facility.

"(2) The Secretary may provide assistance under paragraph (1)—

"(A) only for use solely in the furnishing of appropriate care and services under this section; and

"(B) only if, under such contract, the Secretary receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment.

"(3) Reimbursement under paragraph (2)(B) may be made by reduction in the charges to the United States or by payment to the United States.

"(4) Any funds received through reimbursement under paragraph (3) shall be credited to funds allotted to the Department facility that provided the assistance.

"(d) The Secretary may not provide care and treatment and rehabilitative services under this section after September 30, 1999.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1720D the following new item:

"1720E. Community-based residential care: homeless chronically mentally ill veterans and other veterans.".

(c) REPEAL OF SUPERSEDED AUTHORITY.—Section 115 of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is repealed.

TITLE V—CONSTRUCTION PLANNING AND AUTHORIZATION

SEC. 501. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS AND MAJOR MEDICAL FACILITY LEASES.

(a) PROJECTS AUTHORIZED.—The Secretary of Veterans Affairs may carry out the major medical facility projects for the Department of Veterans Affairs, and may carry out the major medical facility leases for that Department, for which funds are requested in the budget of the President for fiscal year 1995. The authorization in the preceding sentence applies to projects and leases which have not been authorized, or for which funds have not been appropriated, in any fiscal year before fiscal year 1995 and to projects and leases which have been authorized, or for which funds were appropriated, in fiscal years before fiscal year 1995.

(b) ADDITIONAL PROJECTS.—(1) In addition to the projects authorized in subsection (a), the Secretary may carry out the following major medical facility projects in the amounts specified for such projects:

(A) The projects that are proposed in the documents submitted to Congress by the Secretary of Veterans Affairs in conjunction with the budget of the President for fiscal year 1995 to be financed with funds from the proposed Health Care Investment Fund.

(B) Construction of a nursing home facility at the Department of Veterans Affairs Medical Center in Charleston, South Carolina, in the amount of $7,300,000.

(C) Construction of an outpatient care addition at the Department of Veterans Affairs medical center in Phoenix, Arizona, in the amount of $50,000,000.

(D) A lease/purchase of a nursing home facility near Fort Myers, Florida, in the amount of $12,800,000.

(2) The authorizations in paragraph (1) apply to projects which have not been authorized, or for which funds have not been appropriated, in any fiscal year before fiscal year 1995 and to projects which have been authorized, or for which funds were appropriated, in fiscal years before fiscal year 1995.

(c) PROJECTS FOR WHICH FUNDS APPROPRIATED.—In addition to the projects authorized in subsections (a) and (b), the Secretary may carry out the following major medical facility projects for which funds were appropriated in chapter 7 of the Emergency Supplemental Appropriations Act of 1994 (title I

of Public Law 103-211; 108 Stat. 10) in the amounts specified:

(1) Construction of an ambulatory care/support services facility at the Department of Veterans Affairs Medical Center in Sepulveda, California, $53,700,000.

(2) Other major medical facility projects required to repair, restore, or replace earthquake-damaged facilities at the Department of Veterans Affairs Medical Center in Sepulveda, California, $50,000,000.

SEC. 502. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 1995—

(1) $379,370,000 for the major medical facility projects authorized in subsections (a), (b), and (c) of section 501; and

(2) $15,800,000 for the major medical facility leases authorized in section 501(a).

(b) LIMITATION.—The projects authorized in subsections (a) and (b) of section 501 may only be carried out using—

(1) funds appropriated for fiscal year 1995 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects for a fiscal year before fiscal year 1995 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects for fiscal year 1995 for a category of activity not specific to a project.

(c) LIMITATION ON CERTAIN PROJECTS.—The projects authorized in subsection (c) of section 501 may only be carried out using—

(1) funds appropriated to the Construction, Major Projects account under chapter 7 of the Emergency Supplemental Appropriations Act of 1994 (title I of Public Law 103-211; 108 Stat. 10) and funds transferred by the President to the Construction, Major Projects account pursuant to chapter 8 of that Act (108 Stat. 14);

(2) funds appropriated to the Medical Care account by chapter 7 of the Emergency Supplemental Appropriations Act of 1994 that are transferred to the Construction, Major Projects account;

(3) funds appropriated to the Construction, Major Projects account for a fiscal year before fiscal year 1995 that remain available for obligation; and

(4) funds appropriated to the Construction, Major Projects account for fiscal year 1995 for a category of activity not specific to a project.

SEC. 503. REVISION TO PROSPECTUS REQUIREMENTS.

(a) ADDITIONAL INFORMATION.—Section 8104(b) is amended—

(1) by striking out "shall include—" and inserting in lieu thereof "shall include the following:";

(2) in paragraph (1)—

(A) by striking out "a detailed" and inserting in lieu thereof "A detailed"; and

(B) by striking out the semicolon at the end and inserting in lieu thereof a period;

(3) in paragraph (2)—

(A) by striking out "an estimate" and inserting in lieu thereof "An estimate"; and

(B) by striking out "; and" and inserting in lieu thereof a period;

(4) in paragraph (3), by striking out "an estimate" and inserting in lieu thereof "An estimate"; and

(5) by adding at the end the following new paragraphs:

"(4) Demographic data applicable to the project.

"(5) Current and projected workload and utilization data.

"(6) Current and projected operating costs of the facility, to include both recurring and non-recurring costs.

"(7) The priority score assigned to the project under the Department's prioritization methodology and, if the project is being proposed for funding ahead of a project with a higher score, a specific explanation of the factors other than the priority that were considered and the basis on which the project is proposed for funding ahead of projects with higher priority scores.

"(8) A listing of each alternative to construction of the facility that has been considered.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to any prospectus submitted by the Secretary of Veterans Affairs after the date of the enactment of this Act.

SEC. 504. ANNUAL COMPILATION OF CONSTRUCTION PRIORITIES.

Section 8107 is amended—

(1) in subsection (a)(2)—

(A) by inserting "and" at the end of subparagraph (A);

(B) by striking out subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B); and

(2) by adding at the end the following new subsection:

"(c)(1) The Secretary shall submit to each committee, not later than January 31 of each year, a report showing the current priorities of the Department for proposed major medical construction projects. Each such report shall identify the 20 projects, from within all the projects in the Department's inventory of proposed projects, that have the highest priority and, for those 20 projects, the relative priority and rank scoring of each such project. The 20 projects shall be compiled, and their relative rankings shall be shown, by category of project (including the categories of ambulatory care projects, nursing home care projects, and such other categories as the Secretary determines).

"(2) The Secretary shall include in each report, for each project listed, a description of the specific factors that account for the relative ranking of that project in relation to other projects within the same category.

"(3) In a case in which the relative ranking of a proposed project has changed since the last report under this subsection was submitted, the Secretary shall also include in the report a description of the reasons for the change in the ranking, including an explanation of any change in the scoring of the project under the Department's scoring system for proposed major medical construction projects.".

TITLE VI—GENERAL MEDICAL AUTHORITIES AND MEDICAL ADMINISTRATION

SEC. 601. ASSISTANCE IN THE PAYMENT OF EDUCATION DEBTS INCURRED BY CERTAIN VETERANS HEALTH ADMINISTRATION EMPLOYEES.

(a) PROGRAM.—(1) Chapter 76 is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—EDUCATION DEBT REDUCTION PROGRAM

"§ 7661. Authority for program

"(a) The Secretary shall carry out an education debt reduction program under this subchapter. The program shall be known as the Department of Veterans Affairs Education Debt Reduction Program. The purpose of the program is to assist individuals serving in health-care positions in the Veterans Health Administration in reducing the amount of debt incurred by such individuals in completing educational programs that qualify those individuals for such service.

"(b)(1) Subject to paragraph (2), assistance under the Education Debt Reduction Program shall be in addition to the assistance available to individuals under the Educational Assistance Program established under this chapter.

"(2) An individual may not receive assistance under both the Education Debt Reduction Program and the Educational Assistance Program for the same period of service in the Department.

"§ 7662. Eligibility; application

"(a) An individual eligible to participate in the Education Debt Reduction Program is any individual (other than a physician or dentist) who—

"(1) serves in a position in the Veterans Health Administration under an appointment under section 7402(b) of this title;

"(2) serves in an occupation, specialty, or geographic area for which the recruitment or retention of an adequate supply of qualified health-care personnel is especially difficult (as determined by the Secretary);

"(3) has pursued or is pursuing, as the case may be—

"(A) a two-year or four-year course of education or training at a qualifying undergraduate institution which course qualified or will qualify, as the case may be, the individual for appointment in a position referred to in paragraph (1); or

"(B) a course of education at a qualifying graduate institution which course qualified or will qualify, as the case may be, the individual for appointment in such a position; and

"(4) owes any amount of principal or interest under a loan or other obligation the proceeds of which were used or are being used, as the case may be, by or on behalf of the individual to pay tuition or other costs incurred by the individual in the pursuit of a course of education or training referred to in paragraph (3).

"(b) Any eligible individual seeking to participate in the Education Debt Reduction Program shall submit an application to the Secretary relating to such participation.

"§ 7663. Agreement

"(a) The Secretary shall enter into an agreement with each individual selected to participate in the Education Debt Reduction Program. The Secretary and the individual shall enter into such an agreement at the beginning of each year for which the individual is selected to so participate.

"(b) An agreement between the Secretary and an individual selected to participate in the Education Debt Reduction Program shall be in writing, shall be signed by the individual, and shall include the following provisions:

"(1) The Secretary's agreement to provide assistance on behalf of the individual under the program upon the completion by the individual of a one-year period of service in a position referred to in section 7662(a) of this title which period begins on the date of the signing of the agreement (or such later date as is jointly agreed upon by the Secretary and the individual).

"(2) The individual's agreement that the Secretary shall pay any assistance provided under the program to the holder (as designated by the individual) of any loan or other obligation of the individual referred to in section 7662(a)(4) of this title in order to reduce or satisfy the unpaid balance (including principal and interest) due on such loan or other obligation.

"(3) The individual's agreement that assistance shall not be paid on behalf of the individual under the program for a year unless and until the individual completes the one-year period of service referred to in paragraph (1).

"(4) The individual's agreement that assistance shall not be paid on behalf of the individual under the program for a year unless the individual maintains (as determined by the Secretary) an acceptable level of performance during the service referred to in paragraph (3).

"§ 7664. Amount of assistance

"(a) Subject to subsection (b), the amount of assistance provided to an individual under the Education Debt Reduction Program for a year may not exceed $4,000 (adjusted in accordance with section 7631 of this title).

"(b) The total amount of assistance received by an individual under the Education Debt Reduction Program may not exceed $12,000 (as so adjusted).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"SUBCHAPTER VI—EDUCATION DEBT REDUCTION PROGRAM

"7661. Authority for program.
"7662. Eligibility; application.
"7663. Agreement.
"7664. Amount of assistance.".

(b) CONFORMING AMENDMENTS.—Section 7631 is amended—

(1) in subsection (a), by striking out "and the maximum Selected Reserve member stipend amount" and inserting in lieu thereof "the maximum Selected Reserve stipend amount, and the education debt reduction amount and limitation"; and

(2) in subsection (b)—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph (4):

"(4) The term 'education debt reduction amount and limitation' means the maximum amount of assistance, and the limitation applicable to such assistance, for a person receiving assistance under subchapter VI of this chapter, as specified in section 7663 of this title and as previously adjusted (if at all) in accordance with this subsection.".

(c) REGULATIONS.—The Secretary of Veterans Affairs shall prescribe regulations necessary to carry out the Education Debt Reduction Program established under subchapter VI of chapter 76 of title 38, United States Code (as added by subsection (a)). Such regulations shall be prescribed not later than 90 days after the date of the enactment of this Act.

(d) REPORT.—Section 7632 is amended—

(1) in the matter preceding paragraph (1), by inserting "and the Education Debt Reduction Program" before the period at the end;

(2) in paragraph (1)—

(A) by inserting "and the Education Debt Reduction Program" after "Educational Assistance Program";

(B) by striking out "Program and" and inserting in lieu thereof "Program,"; and

(C) by inserting ", and the Education Debt Reduction Program" before "separately";

(3) in paragraph (3), by striking out "the Educational Assistance Program (or predecessor program) has" and inserting in lieu thereof "each of the Educational Assistance Program (or predecessor program) and the Education Debt Reduction Program have"; and

(4) in paragraph (4)—

(A) by striking out "and per" and inserting in lieu thereof ", per"; and

(B) by inserting ", and per participant in the Education Debt Reduction Program" before the period at the end.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated for the Department of Veterans Affairs the amount of $10,000,000 for each of fiscal years 1994 through 1998 to carry out the Education Debt Reduction Program.

(2) No funds may be used to provide assistance under the program unless expressly provided for in an appropriations law.

(f) EXEMPTION FROM LIMITATION.—Section 523(b) of the Veterans Health Care Act of 1992 (Public Law 102-585; 38 U.S.C. 7601 note) shall not apply to the Education Debt Reduction Program.

SEC. 602. PILOT PROGRAM FOR NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE.

(a) EXTENSION OF PROGRAM.—Effective on October 1, 1994, subsection (a) of section 1720C is amended by striking out "During the four-year period beginning on October 1, 1990," and inserting in lieu thereof "During the period through September 30, 1997,".

(b) VETERANS ELIGIBLE TO PARTICIPATE IN PROGRAM.—Such subsection is further amended by striking out "care and who—" and inserting in lieu thereof "care. The Secretary shall give priority for participation in such program to veterans who—".

(c) REPORT DEADLINES.—Section 201(b) of the Department of Veterans Affairs Nurse Pay Act of 1990 (Public Law 101-366; 38 U.S.C. 1720C note) is amended—

(1) by striking out "February 1, 1994," and inserting in lieu thereof "February 1, 1997,"; and

(2) by striking out "September 30, 1993," and inserting in lieu thereof "September 30, 1996,".

SEC. 603. PER DIEM FOR ADULT DAY HEALTH CARE.

(a) IN GENERAL.—Subsection (a) of section 1741 is amended to read as follows:

"(a)(1) The Secretary shall pay to each State a per diem amount for each veteran receiving domiciliary care, nursing home care, hospital care, or adult day health care in a State home if the veteran is eligible to receive that care in a Department facility.

"(2) The per diem amount to be paid under this subsection is as follows:

"(A) For domiciliary care, $15.11.

"(B) For nursing home care and hospital care, $35.37.

"(C) For adult day health care, an amount to be prescribed by the Secretary, not in excess of the amount under subparagraph (A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to adult day health care provided in a State home after the date of the enactment of this Act.

SEC. 604. STATE HOME CONSTRUCTION ASSISTANCE PROGRAM.

(a) IN GENERAL.—Subchapter III of chapter 81 is amended as follows:

(1) Section 8131(3) is amended by inserting "or adult day health care" after "hospital care".

(2) Section 8132 is amended by inserting "or adult day health care" after "hospital care".

(3) Section 8135(a)(4) is amended by inserting "and, in the case of adult day health care, not more than 25 percent of the number of patients participating in that program," after "occupancy".

(4) Section 8135(b) is amended—

(A) in paragraph (2)(C), by inserting "or adult day health care facilities" after "domiciliary beds"; and

(B) in paragraph (3)(A), by inserting ", or would involve expansion, remodeling, or alteration of existing buildings for the furnishing of adult day health care" after "buildings".

(5) Section 8136 is amended by inserting "or adult day health care" after "hospital care".

(6) The heading of such subchapter is amended to read as follows:

"SUBCHAPTER III—STATE HOME FACILITIES FOR FURNISHING DOMICILIARY CARE, NURSING HOME CARE, ADULT DAY HEALTH CARE, AND HOSPITAL CARE".

(b) CLERICAL AMENDMENT.—The item relating to subchapter III in the table of sections at the beginning of such chapter is amended to read as follows:

"SUBCHAPTER III—STATE HOME FACILITIES FOR FURNISHING DOMICILIARY CARE, NURSING HOME CARE, ADULT DAY HEALTH CARE, AND HOSPITAL CARE".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to grants made to States using funds appropriated after the date of the enactment of this Act.

SEC. 605. DEPARTMENT OF VETERANS AFFAIRS RESEARCH ADVISORY COMMITTEES.

(a) STATUTORY BASIS FOR RESEARCH ADVISORY COMMITTEES.—Subchapter III of chapter 5 is amended by adding after section 544, as added by section 302(a), the following new section:

"§ 545. Veterans research advisory committees

"(a) Congress declares that each of the veterans research advisory committees specified in subsection (c) (previously established by the Secretary in carrying out the duties of the Secretary under section 7303 of this title) has a continuing, ongoing function that is integrally related to the successful completion by the Department of its statutory duties. Each such committee shall, for all purposes, operate as though such committee had been established by, and chartered pursuant to, law. The objectives and scope of the activities of each such committee and the duties for which the committee is responsible, as specified by the Secretary as of September 1, 1993, shall be those in effect as of that date.

"(b) The Secretary may not terminate a veterans' research advisory committee specified in subsection (c) unless the Secretary finds that the committee is no longer needed. Not less than 120 days before terminating such a committee, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the proposed termination. The report shall include an explanation of (1) the basis for the Secretary's determination that such committee is no longer needed, and (2) the manner in which the Secretary will carry out the Secretary's responsibilities under section 7303 of this title in the absence of the committee.

"(c) For purposes of this section, each of the following committees and boards, as established by the Secretary as of September 1, 1993, shall be considered to be a veterans' research advisory committee:

"(1) The Career Development Committee.

"(2) The Department of Veterans Affairs Cooperative Studies Evaluation Committee.

"(3) The Merit Review Board for Basic Sciences Programs.

"(4) The Merit Review Board for Cardiovascular Programs.

"(5) The Merit Review Board for Clinical Pharmacology, Alcoholism, and Drug Dependence Programs.

"(6) The Merit Review Board for Endocrinology Programs.

"(7) The Merit Review Board for Gastroenterology Programs.

"(8) The Merit Review Board for Hematology Programs.

"(9) The Merit Review Board for Immunology Programs.

"(10) The Merit Review Board for Infectious Diseases Programs.

"(11) The Merit Review Board for Mental Health and Behavioral Sciences Programs.

"(12) The Merit Review Board for Nephrology Programs.

"(13) The Merit Review Board for Neurobiology Programs.

"(14) The Merit Review Board for Oncology Programs.

"(15) The Merit Review Board for Respiration Programs.

"(16) The Merit Review Board for Surgery Programs.

"(17) The Scientific Review and Evaluation Board for Health Services Research and Development.

"(18) The Scientific Review and Evaluation Board for Rehabilitation Research and Development.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 is amended by inserting after the item relating to section 544, as added by section 302(a), the following new item:

"545. Veterans research advisory committees.".

SEC. 606. CHILD CARE SERVICES.

(a) REVISED CHILD CARE AUTHORITY.—Chapter 81 is amended by inserting after section 8116 the following new section:

"§ 8117. Child care centers

"(a) The Secretary may provide for the operation of child care centers at Department facilities. The operation of such centers under this section shall be carried out to the extent that the Secretary determines, based on the demand of employees of the Department for the care involved, that such operation is in the best interest of the Department and that it is practicable to do so.

"(b)(1) In offering child care services under this section, the Secretary shall give priority (in the following order) to employees of—

"(A) the Department;

"(B) other departments and agencies of the Federal Government; and

"(C) schools affiliated with the Department and corporations created under section 7361 of this title.

"(2) To the extent that space is available, the Secretary may provide child care services to members of the public at a child care center operated under this section if the Secretary determines that to do so is necessary to assure the financial success of that center.

"(c)(1) The Secretary shall establish reasonable charges for child care services provided at each child care center operated under this section. Such charges may be established at different rates for different centers.

"(2) In establishing charges for child care services provided at a center, the Secretary—

"(A) shall (except as provided in paragraph (3)) establish the charges so as to ensure that the sum of all charges for child care services at that center is sufficient to meet the staffing expenses of that center; and

"(B) may also consider the expenses of constructing or acquiring space for the center, the expenses of converting existing space into the center, and the expenses of equipment and services furnished to the center under subsection (d)(2).

"(3) The Secretary may establish charges for child care services provided at a center at rates less than those necessary to ensure that the sum of all charges for child care services at that center is sufficient to meet the staffing expenses of that center if the Secretary determines (with respect to a particular facility of the Department) that—

"(A) the operation of a child care center at that facility would help overcome serious recruitment or retention problems;

"(B) adherence to the requirement to establish charges for child care services at that center at rates sufficient to meet the staffing expenses of that center would make the operation of a child care center at that facility infeasible; and

"(C) there are no other practical alternatives to meeting the needs of employees at that facility for child care services.

"(4) Proceeds from charges for child care services shall be credited to the applicable Department of Veterans Affairs account and shall be allotted to the facility served by the child care center and shall remain available until expended.

"(d) In connection with the establishment and operation of a child care center under this section, the Secretary—

"(1) may construct or alter space in any Department facility, and may lease space in a non-Department facility for a term not to exceed 20 years, for use as a child care center;

"(2) may provide, out of operating funds, other items and services necessary for the operation of the center, including furniture, office machines and equipment, utility and custodial services, and other necessary services and amenities;

"(3) shall provide for the participation (directly or through a parent advisory committee) of parents of children receiving care in the center in the establishment of policies to govern the operation of the center and in the oversight of the implementation of such policies;

"(4) shall require the development and use of a process for determining the fitness and suitability of prospective employees of or volunteers at the center; and

"(5) shall require in connection with the operation of the center compliance with all State and local laws, ordinances, and regulations relating to health and safety and the operation of child care centers.

"(e) The Secretary shall prescribe guidelines to carry out this section.

"(f) For the purpose of this section, the term 'parent advisory committee' means a committee comprised of, and selected by, the parents of children receiving care in a child care center operated under this section.".

(b) CONFORMING REPEAL.—Section 7809 is repealed.

(c) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 81 is amended by inserting after the item relating to section 8116 the following new item:

"8117. Child care centers.".

(2) The table of sections at the beginning of chapter 78 is amended by striking out the item relating to section 7809.

SEC. 607. CONTRACTS FOR UTILITIES, AUDIE L. MURPHY MEMORIAL HOSPITAL.

(a) AUTHORITY TO CONTRACT.—Subject to subsection (b), the Secretary of Veterans Affairs may enter into contracts for the provision of utilities (including steam and chilled water) to the Audie L. Murphy Memorial Hospital in San Antonio, Texas. Each such contract may—

(1) be for a period not to exceed 35 years;

(2) provide for the construction and operation of a production facility on or near property under the jurisdiction of the Secretary;

(3) require capital contributions by the parties involved for the construction of such a facility, such contribution to be in the form of cash, equipment, or other in-kind contribution; and

(4) provide for a predetermined formula to compute the cost of providing such utilities to the parties for the duration of the contract.

(b) FUNDS.—A contract may be entered into under subsection (a) only to the extent that appropriations are available.

(c) ADDITIONAL TERMS.—The Secretary may include in a contract under subsection (a) such additional provisions as the Secretary considers necessary to secure the provision of utilities and to protect the interests of the United States.

SEC. 608. FACILITIES IN REPUBLIC OF THE PHILIPPINES.

Notwithstanding section 1724 of title 38, United States Code, the Secretary of Veterans Affairs may contract with facilities in the Republic of the Philippines other than the Veterans Memorial Medical Center to furnish, during the period from February 28, 1994, through June 1, 1994, hospital care and medical services to veterans for nonservice-connected disabilities if such veterans are unable to defray the expenses of necessary hospital care. When the Secretary determines it to be most feasible, the Secretary may provide medical services under the preceding sentence to such veterans at the Department of Veterans Affairs Outpatient Clinic at Manila, Republic of the Philippines.

SEC. 609. TECHNICAL AMENDMENTS.

(a) IN GENERAL.—Sections 7361(b) and 7363(c) are each amended by striking out "section 501(c)(3) of".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of May 20, 1988.

SEC. 610. CENTER FOR MINORITY VETERANS AND CENTER FOR WOMEN VETERANS.

(a) IN GENERAL.—Chapter 3 is amended by striking out section 317 and inserting in lieu thereof the following new sections:

"§ 317. Center for Minority Veterans

"(a) There is in the Department a Center for Minority Veterans. There is at the head of the Center a Director.

"(b) The Director shall be a noncareer appointee in the Senior Executive Service. The Director shall be appointed for a term of six years.

"(c) The Director reports directly to the Secretary or the Deputy Secretary concerning the activities of the Center.

"(d) The Director shall perform the following functions with respect to veterans who are minorities:

"(1) Serve as principal adviser to the Secretary on the adoption and implementation of policies and programs affecting veterans who are minorities.

"(2) Make recommendations to the Secretary, the Under Secretary for Health, the Under Secretary for Benefits, and other Department officials for the establishment or improvement of programs in the Department for which veterans who are minorities are eligible.

"(3) Promote the use of benefits authorized by this title by veterans who are minorities and the conduct of outreach activities to veterans who are minorities, in conjunction with outreach activities carried out under chapter 77 of this title.

"(4) Disseminate information and serve as a resource center for the exchange of information regarding innovative and successful programs which improve the services available to veterans who are minorities.

"(5) Conduct and sponsor appropriate social and demographic research on the needs of veterans who are minorities and the extent to which programs authorized under this title meet the needs of those veterans, without regard to any law concerning the collection of information from the public.

"(6) Analyze and evaluate complaints made by or on behalf of veterans who are minorities about the adequacy and timeliness of services provided by the Department and advise the appropriate official of the Department of the results of such analysis or evaluation.

"(7) Consult with, and provide assistance and information to, officials responsible for administering Federal, State, local, and private programs that assist veterans, to encourage those officials to adopt policies which promote the use of those programs by veterans who are minorities.

"(8) Advise the Secretary when laws or policies have the effect of discouraging the use of benefits by veterans who are minorities.

"(9) Publicize the results of medical research which are of particular significance to veterans who are minorities.

"(10) Perform such other duties consistent with this section as the Secretary shall prescribe.

"(e) The Secretary shall ensure that the Director is furnished sufficient resources to enable the Director to carry out the functions of the Center in a timely manner.

"(f) The Secretary shall include in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year—

"(1) detailed information on the budget for the Center;

"(2) the Secretary's opinion as to whether the resources (including the number of employees) proposed in the budget for that fiscal year are adequate to enable the Center to comply with its statutory and regulatory duties; and

"(3) a report on the activities and significant accomplishments of the Center during the preceding fiscal year.

"§ 318. Center for Women Veterans

"(a) There is in the Department a Center for Women Veterans. There is at the head of the Center a Director.

"(b) The Director shall be a noncareer appointee in the Senior Executive Service. The Director shall be appointed for a term of six years.

"(c) The Director reports directly to the Secretary or the Deputy Secretary concerning the activities of the Center.

"(d) The Director shall perform the following functions with respect to veterans who are women:

"(1) Serve as principal adviser to the Secretary on the adoption and implementation of policies and programs affecting veterans who are women.

"(2) Make recommendations to the Secretary, the Under Secretary for Health, the Under Secretary for Benefits, and other Department officials for the establishment or improvement of programs in the Department for which veterans who are women are eligible.

"(3) Promote the use of benefits authorized by this title by veterans who are women and the conduct of outreach activities to veterans who are women, in conjunction with outreach activities carried out under chapter 77 of this title.

"(4) Disseminate information and serve as a resource center for the exchange of information regarding innovative and successful programs which improve the services available to veterans who are women.

"(5) Conduct and sponsor appropriate social and demographic research on the needs of veterans who are women and the extent to which programs authorized under this title meet the needs of those veterans, without regard to any law concerning the collection of information from the public.

"(6) Analyze and evaluate complaints made by or on behalf of veterans who are women about the adequacy and timeliness of services provided by the Department and advise the appropriate official of the Department of the results of such analysis or evaluation.

"(7) Consult with, and provide assistance and information to, officials responsible for administering Federal, State, local, and private programs that assist veterans, to encourage those officials to adopt policies which promote the use of those programs by veterans who are women.

"(8) Advise the Secretary when laws or policies have the effect of discouraging the use of benefits by veterans who are women.

"(9) Publicize the results of medical research which are of particular significance to veterans who are women.

"(10) Advise the Secretary and other appropriate officials on the effectiveness of the Department's efforts to accomplish the goals of section 492B of the Public Health Service Act (relating to the inclusion of women and minorities in clinical research) and of particular health conditions affecting womens' health which should be studied as part of the Department's medical research program and promote cooperation between the Department and other sponsors of medical research of potential benefit to veterans who are women.

"(11) Provide support and administrative services to the Advisory Committee on Women Veterans established under section 542 of this title.

"(12) Perform such other duties consistent with this section as the Secretary shall prescribe.

"(e) The Secretary shall ensure that the Director is furnished sufficient resources to enable the Director to carry out the functions of the Center in a timely manner.

"(f) The Secretary shall include in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year—

"(1) detailed information on the budget for the Center;

"(2) the Secretary's opinion as to whether the resources (including the number of employees) proposed in the budget for that fiscal year are adequate to enable the Center to comply with its statutory and regulatory duties; and

"(3) a report on the activities and significant accomplishments of the Center during the preceding fiscal year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 317 and and inserting in lieu thereof the following new items:

"317. Center for Minority Veterans.
"318. Center for Women Veterans.".

SEC. 611. ADVISORY COMMITTEE ON MINORITY VETERANS.

(a) ESTABLISHMENT.—Subchapter III of chapter 5 is amended by adding after section 545, as added by section 605(a), the following new section:

"§ 546. Advisory Committee on Minority Veterans

"(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Minority Veterans (hereinafter in this section referred to as 'the Committee').

"(2)(A) The Committee shall consist of members appointed by the Secretary from the general public, including—

"(i) representatives of veterans who are minority group members;

"(ii) individuals who are recognized authorities in fields pertinent to the needs of veterans who are minority group members;

"(iii) veterans who are minority group members and who have experience in a military theater of operations; and

"(iv) veterans who are minority group members and who do not have such experience.

"(B) The Committee shall include, as ex officio members, the following:

"(i) The Secretary of Labor (or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment).

"(ii) The Secretary of Defense (or a representative of the Secretary of Defense designated by the Secretary of Defense).

"(iii) The Secretary of the Interior (or a representative of the Secretary of the Interior designated by the Secretary of the Interior).

"(iv) The Secretary of Commerce (or a representative of the Secretary of Commerce designated by the Secretary of Commerce).

"(v) The Secretary of Health and Human Services (or a representative of the Secretary of Health and Human Services designated by the Secretary of Health and Human Services).

"(vi) The Under Secretary for Health and the Under Secretary for Benefits, or their designees.

"(C) The Secretary may invite representatives of other departments and agencies of the United States to participate in the meetings and other activities of the Committee.

"(3) The Secretary shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that a term of service of any such member may not exceed three years. The Secretary may reappoint any such member for additional terms of service.

"(4) The Committee shall meet as often as the Secretary considers necessary or appropriate, but not less often than twice each fiscal year.

"(b) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits by the Department for veterans who are minority group members, reports and studies pertaining to such veterans and the needs of such veterans with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department.

"(c)(1) Not later than July 1 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that pertain to veterans who are minority group members. Each such report shall include—

"(A) an assessment of the needs of veterans who are minority group members with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department;

"(B) a review of the programs and activities of the Department designed to meet such needs; and

"(C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

"(2) The Secretary shall, within 60 days after receiving each report under paragraph (1), submit to Congress a copy of the report, together with any comments concerning the report that the Secretary considers appropriate.

"(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

"(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to such section.

"(d) In this section, the term 'minority group member' means an individual who is—

"(1) Asian American;

"(2) Black;

"(3) Hispanic;

"(4) Native American (including American Indian, Alaskan Native, and Native Hawaiian); or

"(5) Pacific-Islander American.

"(e) The Committee shall cease to exist December 31, 1997.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 545, as added by section 605(b), the following new item:

"546. Advisory Committee on Minority Veterans.".

SEC. 612. AUTHORITY TO ENTER INTO AGREEMENT FOR USE OF PROPERTY AT EDWARD HINES, JR., DEPARTMENT OF VETERANS AFFAIRS HOSPITAL.

(a) IN GENERAL.—The Secretary of Veterans Affairs may enter into a long-term lease or similar agreement with the organization known as The Caring Place at Loyola, Inc., a not-for-profit organization operating under the laws of the State of Illinois, to permit that organization to establish on the grounds of the Edward Hines, Jr., Department of Veterans Affairs Hospital, Hines, Illinois, a facility to provide temporary accommodations for family members of severely ill children who are being treated at the Loyola University of Chicago Medical Center and other hospitals.

(b) CONDITIONS.—An agreement under subsection (a)—

(1) shall ensure that there shall be no cost to the United States as a result of the property use authorized by that subsection;

(2) may permit the use of the property without rent; and

(3) shall, to the extent practicable, ensure that one room of the facility is available for the use of a veteran (at no cost to the veteran) as temporary accommodations for the veteran while a severely ill child of the veteran is treated at the Loyola University of Chicago Medical Center or other hospitals.

SEC. 613. COUNSELING SERVICES FOR POW/MIA FAMILY MEMBERS.

(a) AUTHORITY.—The Secretary of Veterans Affairs may, in accordance with arrangements described in subsection (c), provide counseling services to the members of the immediate family of a member of the Armed Forces who is a prisoner of war or missing in action or who is an unaccounted-for POW/MIA.

(b) SERVICES AUTHORIZED.—Services authorized under this section are such counseling services as the Secretary of Veterans Affairs determines to be appropriate to assist family members with the mental or psychological problems associated with the status of the member as a prisoner of war, missing in action, or an unaccounted-for POW/MIA.

(c) ARRANGEMENTS WITH DEPARTMENT OF DEFENSE.—Counseling services under this section shall be provided in accordance with arrangements between the Secretary of Veterans Affairs and the Secretary of Defense. Such arrangements shall provide for reimbursement in accordance with the methodology described in section 8111(e) of title 38, United States Code. The Secretary of Veterans Affairs may waive reimbursement under this subsection if the Secretary determines that it would not be cost-effective to attempt to secure such reimbursement.

(d) DEFINITION.—For purposes of this section, the term "unaccounted-for POW/MIA" means an individual who, as a result of service in the Armed Forces, was at any time classified as a prisoner of war or missing-in-action and whose person or remains have not been returned to United States control and who remains unaccounted for.

SEC. 614. REVISION OF AUTHORITY ON USE OF TOBACCO PRODUCTS IN DEPARTMENT FACILITIES.

Subsection (a) of section 526 of the Veterans Health Care Act of 1992 (Public Law 102-585; 38 U.S.C. 1715 note) is amended to read as follows:

"(a) IN GENERAL.—(1) The Secretary of Veterans Affairs shall ensure that each facility of the Department of Veterans Affairs described in subsection (b) may establish and maintain a smoking area for patients or residents of the facility. Any such area shall be—

"(A) a suitable indoor area which is ventilated in a manner that, to the maximum extent feasible, prevents smoke from entering other areas of the facility; or

"(B) an area in a building that is detached from the facility but that is accessible to patients or residents of the facility and has appropriate heating and air conditioning.

"(2) The Secretary shall ensure that access to a smoking area established and maintained under paragraph (1) at a Department facility is provided, consistent with medical requirements and limitations, for patients or residents of the facility who are receiving care or services at the facility and who desire to use tobacco products.

"(3) The Secretary shall ensure that the establishment and maintenance of smoking areas under paragraph (1) is carried out in a manner consistent with medical requirements and limitations.

"(4) The Secretary shall ensure that any facility that as of the date of the enactment of the Veterans Health Improvements Act of 1994 has established a smoking area under this section shall continue to maintain such a smoking area.".

SEC. 615. EXTENSION OF CERTAIN EXPIRING AUTHORITIES.

(a) DRUG AND ALCOHOL ABUSE AND DEPENDENCE.—Section 1720A(e) is amended by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1997".

(b) ENHANCED-USE LEASES OF REAL PROPERTY.—Section 8169 is amended by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1997".

SEC. 616. PROTECTION AGAINST CERTAIN PROHIBITED PERSONNEL PRACTICES.

(a) IN GENERAL.—Subchapter II of chapter 74 is amended by adding at the end the following:

"§ 7427. Protection from prohibited personnel practices

"(a)(1) The provisions of law specified in paragraph (2) apply to any individual appointed as an employee of the Veterans Health Administration under chapter 73 of this title or under this chapter.

"(2) The provisions of law referred to in paragraph (1) are sections 1212, 1213, 1214, 1215, 1216, 1221, 1222, and 2302 of title 5.

"(b) The authority of the Merit Systems Protection Board and of the Office of Special Counsel to review any personnel action under the authority provided for under a provision of law specified in subsection (a)(2) shall apply only to the extent specified in that provision of law.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7426 the following new item:

"7427. Protection from prohibited personnel practices.".

SEC. 617. PERMANENT AUTHORITY FOR WAIVER OF REDUCTION OF RETIREMENT PAY FOR REGISTERED-NURSE POSITIONS.

Section 7426(c) is amended by striking out the second sentence.

SEC. 618. SUBMITTAL DATE FOR REPORT ON ANNUAL ANALYSIS OF DEPARTMENT-WIDE ADMISSIONS POLICIES.

Section 8110(a)(3)(B) is amended by striking out "December 1" and inserting in lieu thereof "April 1".

SEC. 619. HEALTH CARE RESOURCES.

(a) Section 8123 is amended—

(1) by inserting "(a)" at the beginning of the text;

(2) by inserting after subsection (a) the following:

"(b)(1) The director of a Department health care facility located in a State that has established a State health care reform plan may, without regard to section 1703 of this title, or any other law or regulation pertaining to competitive procedures, acquisition procedures, or policies (other than contract dispute procedures), or bid protests, contract with any entity or individual to procure or furnish any health care resource, as that term is defined in section 8152 of this title. The references in this subsection to laws or regulations shall not be construed to apply to any provision of title XVIII or XIX of the Social Security Act.

"(2) A director may contract to furnish services under this subsection to individuals who are not veterans or enrollees in a health plan operated by the Secretary only if the director has determined that a contract to furnish such services—

"(A) is necessary to maintain an acceptable level and quality of service to veterans at that facility;

"(B) will result in the improvement of services to eligible veterans at that facility; and

"(C) will not result in the denial of, or a delay in providing access to, care to any veteran at that facility.

"(3) In entering into a contract to provide services under this subsection, the director shall require payment to the Department in accordance with rates of payment sufficient to recover the cost of the Department in providing services under the contract. Any proceeds to the Government received therefrom shall be credited to the applicable appropriation of the Department and to funds that have been allotted to the facility that furnished the care or services.

"(4) For purposes of this subsection, a State health care reform plan shall be considered to have been established in a State if

the Secretary determines that the State has enacted legislation that is intended, at least in part, to provide residents of that State who lack, or have inadequate, health insurance coverage access to health care services.

"(c) A provision of law enacted after the date of enactment of this subsection shall not be construed as applicable to purchases of prosthetic appliances or health care resources by the Department unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

"(d) The authority to enter into a contract under subsection (b) shall expire upon the expiration of the authority of the Secretary to conduct pilot programs under title VII of the Veterans Health Improvements Act of 1994.".

(b) CLERICAL AMENDMENTS.—

(1) The heading of section 8123 is amended to read:

"§ 8123. Procurement of prosthetic appliances and health care resources".

(2) The table of sections at the beginning of chapter 81 is amended by striking out the item relating to section 8123 and inserting in lieu thereof the following:

"8123. Procurement of prosthetic appliances and health care resources.".

TITLE VII—HEALTH CARE DELIVERY PILOT PROGRAM

SEC. 701. PILOT PROGRAM AUTHORITY.

(a) IN GENERAL.—Subject to section 702, the Secretary of Veterans Affairs may establish and operate a pilot program under this title in any State that has established a State comprehensive health benefit plan. Such a pilot program may not be established in more than five States.

(b) STATE COMPREHENSIVE HEALTH BENEFIT PLAN.—For purposes of this title, a State comprehensive health benefit plan shall be considered to have been established in a State if the Secretary determines that the State has enacted legislation which establishes a plan or program that is intended to ensure access to comprehensive basic health care benefits to all residents of the State who otherwise lack such health care coverage.

(c) AUTHORITIES UNDER PILOT PROGRAM.—Subject to subsection (d), the Secretary, in carrying out a pilot program in a State under this title, may—

(1) establish and operate health plans, either independently or through a joint venture with any health care plan, insurer, or any other entity—

(A) in accordance with the statutory requirements applicable to the establishment and operation of a health plan under the comprehensive health benefit plan of the State in which the pilot program is carried out, and

(B) through the provision of the required benefits to persons eligible for such benefits under subsection (f) by Department of Veterans Affairs health care facilities or by contract;

(2) conduct the pilot program in some or all Department of Veterans Affairs health care facilities located in the State; and

(3) establish such coverage areas for participation in the pilot programs as the Secretary determines appropriate.

(d) COMPLIANCE WITH STATE LAW.—In carrying out subsection (c), the Secretary shall comply with applicable provisions of State law, except that a State may not impose on a health plan established under this section any standard or requirement that—

(1) would prevent the Secretary from establishing and operating a plan solely because it is not open to all residents of the State;

(2) would require particular health care personnel employed by the Secretary to be licensed in that State;

(3) imposes reserve or reinsurance requirements, requirements to purchase reinsurance coverage or financial reporting requirements based on such requirements;

(4) is based on a professional practice act of such State;

(5) would limit the number of beds which the Secretary may operate at any health care facility under the jurisdiction of the Secretary;

(6) would limit or restrict the Secretary from procuring equipment or carrying out any construction work at a health care facility under the jurisdiction of the Secretary; or

(7) would require payment of any tax which is not based on revenues generated from operating a health plan or which imposes a discriminatory burden on a Department health plan.

(e) DESIGNATION OF STATES AS LOCATIONS FOR PILOT PROGRAMS.—(1) Not later than 45 days after the date of the enactment of this Act, the Secretary shall (subject to section 702) designate not less than two States as locations for pilot programs under this title. The Secretary may (subject to section 702) designate additional States (not in excess of three) for locations for a pilot program under this title. The Secretary shall seek to make any such designation not later than the end of the 90-day period beginning on such date of enactment. After the end of such period, the Secretary may make such a designation of an additional State only after—

(A) the Secretary submits to the Committees on Veterans' Affairs of the Senate and House of Representatives a report stating that the Secretary intends to make such a designation and setting forth the rationale for each proposed designation; and

(B) a period of 30 days of continuous session of Congress has elapsed after the submission of the report under subparagraph (A).

For purposes of subparagraph (B), continuity of a session of Congress is broken only by adjournment sine die, and there shall be excluded from the computation of such 30-day period any day during which either House of Congress is not in session during an adjournment of more than three days to a day certain.

(2) In designating locations for pilot programs from among States other than States described in paragraph (3), the Secretary shall give preference to States with respect to which the Secretary determines that the establishment and operation of a pilot program in those States would result in substantial collections by the United States under section 705(e) from sources such as employer contributions and premium subsidy payments.

(3)(A) In carrying out this title, the Secretary shall (subject to subparagraph (C)) designate as a location for a pilot program each State with respect to which the Secretary has determined, based on factors that the Secretary considers relevant (which shall include the factors specified in subparagraph (B)) that a failure to establish a Department of Veterans Affairs plan in that State would result in a decline in the projected workload in one or more Department of Veterans Affairs health care facilities in that State to such an extent that the decline—

(i) would threaten to impair the capability of those facilities to meet one or more assigned missions; or

(ii) would result in a deterioration in the quality of service-delivery to a degree that it would not be reasonable to continue to provide a needed service or services in such facility or facilities.

(B) Factors considered by the Secretary for purposes of subparagraph (A) shall include—

(i) the scope of benefits offered under the State comprehensive health benefit plan; and

(ii) the extent of financing supporting that plan.

(C) If the Secretary makes a determination described in subparagraph (A) with respect to more than five States, the requirement in that subparagraph that each such State be designated as a location for a pilot program shall not apply and the Secretary shall designate five (rather than all) of such States as locations for a pilot program.

(f) ELIGIBLE PERSONS.—A person eligible for health care benefits under a pilot program is any person residing within the coverage area (as established by the Secretary under subsection (c)(3)) of a Department health care facility which the Secretary has designated for participation in the pilot program as follows:

(1) Any veteran.

(2) Any spouse or child of a veteran who enrolls in a Department of Veterans Affairs health plan.

(3) Any individual eligible for care under paragraph (2) or (3) of section 1713(a) of title 38, United States Code.

(g) COPAYMENTS AND OTHER CHARGES.—(1) Except as provided in paragraph (2), the Secretary may collect from or on behalf of any individual receiving health care benefits from the Secretary under a pilot program under this title a premium, deductible, copayment, or other charge with respect to the provision of a benefit under the pilot program.

(2) The following individuals who receive health care benefits from the Secretary under a pilot program incur no liability to pay a premium, deductible, copayment, or other charge in connection with receiving such benefits:

(A) A veteran with a compensable service-connected disability.

(B) A veteran whose discharge or release from active military, naval, or air service was for a compensable disability that was incurred or aggravated in the line of duty.

(C) A veteran who is in receipt of, or who, but for a suspension pursuant to section 1151 of title 38, United States Code (or both a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section.

(D) A veteran who is a former prisoner of war.

(E) A veteran of the Mexican border period or of World War I.

(F) A veteran who is unable to defray the expenses of necessary care, as determined in accordance with section 1722(a) of such title.

(3) In no case shall an enrollee under a health plan operated under this title be liable for unsatisfied claims against such plan.

SEC. 702. CONDITIONS OF PARTICIPATION.

(a) IN GENERAL.—The Secretary may establish and operate a pilot program in a State under section 701 only if the Secretary has done each of the following:

(1) Taken action to ensure that in designing and establishing a health plan under the pilot program, provisions are made, to the extent feasible, for the applicability and

compatibility of data collection, services, and other aspects of medical care and administration with those of other Department health care facilities that are not participants in the pilot program in that State.

(2) Provided for an evaluation of the pilot program to assess—

(A) access to care;

(B) cost of care;

(C) patient satisfaction;

(D) quality of care;

(E) the ability of health plans under the pilot program to attract enrollees; and

(F) such other matters as the Secretary determines appropriate.

(3) Required the director of each medical center that is to participate in the pilot program to establish, and to consult regularly with, a committee, which shall include veteran and other patient representatives, regarding the delivery of services and the conduct of the pilot program.

(b) SUBMISSION OF PLAN TO CONGRESS.—The Secretary may implement a pilot program under section 701 only after the Secretary submits to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the proposed plan.

(c) MATTERS TO BE INCLUDED IN REPORT.—Each report under subsection (b) shall include the following:

(1) A detailed description of the rationale for proposed participation in the State comprehensive health benefit plan.

(2) A detailed business plan for the Department's participation under the State comprehensive health benefits plan.

(3) A description of the actions the Secretary has taken to consult with veterans on the Department's proposed participation in the State comprehensive health benefit plan.

(4) A description of the provisions the Secretary has made to ensure the fiscal solvency of the proposed pilot programs.

(d) RETENTION OF SPECIALIZED CAPACITIES.—In carrying out the pilot programs, the Secretary shall ensure that the Department maintains its capacity to provide for the specialized treatment and rehabilitative needs of disabled veterans described in section 1710(a) of title 38, United States Code, including veterans with spinal cord dysfunction, blindness, and mental illness.

SEC. 703. OPERATION OF PILOT PROGRAMS.

(a) DELEGATION OF AUTHORITY.—Not later than 30 days after the date of the enactment of this Act, the Secretary, with respect to the authority of the Secretary to operate pilot programs under this title in those States in which pilot program are established—

(1) shall delegate, to the maximum extent feasible, authority for the operation of that pilot program to an official described in subsection (e)(1);

(2) shall delegate in full the authority of the Secretary under subsection (f)(2); and

(3) shall delegate so much of the authority of the Secretary under subsection (f)(1) as is applicable to an administrative reorganization concerning a medical facility of the Department in that State which does not result—

(A) in a mission change to, or closure of, that medical facility; or

(B) in a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at that facility by 20 percent or more.

(b) DEVELOPMENT OF CONTRACT PROVISIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall, in connection with the development of contracts relating to the establishment and operation of pilot programs, prescribe the following:

(1) Procedures which—

(A) identify classes of contracts, other than contracts described in subsection (e)(2), which shall not be subject to prior Central Office review; and

(B) provide for expedited review and consideration of proposed contracts which the Secretary determines require such review.

(2) Accountability mechanisms to ensure that such procedures are implemented.

(c) IMPLEMENTATION REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of this section. The report shall—

(1) describe the delegations of authority prescribed under subsection (a) and identify and describe the areas of responsibility for which the Secretary proposes to retain decisionmaking authority with respect to the operation of the pilot program and the rationale for such proposed retention in each instance; and

(2) in connection with contracts relating to the establishment and operation of the pilot programs, identify—

(A) the classes of proposed contracts which are subject to prior Central Office review;

(B) the procedures and accountability mechanisms for expediting review and consideration of such proposed contracts; and

(C) the mechanism or mechanisms by which such expedited review and decisionmaking will take place.

(d) TIMELY CENTRAL OFFICE REVIEW.—The accountability mechanisms described in subsection (b)(2) shall include a requirement that any required prior review of a contract by Central Office be completed within 30 days of its submittal and a requirement that the failure to approve or reject a contract described in subsection (b)(1)(B) within such 30-day period result in the contract being deemed approved.

(e) ADMINISTRATION.—In carrying out pilot programs under section 701, the Secretary shall—

(1) designate a health system director for each State in which a pilot program is carried out under this title;

(2) ensure that contracts for health care services may be entered into without prior review by the Central Office of the Department; and

(3) provide for training Department personnel in each State in which a pilot program will be carried out in the negotiation and development of managed care contracts and for ensuring that an attorney employed by the Department and a warranted contracting officer employed by the Department participate in negotiation and development of all such contracts.

(f) ADMINISTRATIVE FLEXIBILITY.—The Secretary, when the Secretary considers it necessary in carrying out a pilot program under section 701, may—

(1) carry out administrative reorganizations, subject to section 702(d), without regard to section 510(b) of title 38, United States Code;

(2) appoint personnel to positions in the health care system of the Department in the State in which the pilot program is carried out in accordance with such standards for such positions as the Secretary may establish and promote and advance personnel serving in such positions in accordance with such standards as the Secretary may establish;

(3) enter into contracts, including contracts under the terms and conditions described in section 8123(b) of title 38, United Sates Code, as added by this Act, without regard to the provisions of section 8110(c) or 8125 of title 38, United States Code; and

(4) carry out consumer-survey, promotional, advertising, and marketing activities related to establishing and operating a health plan.

SEC. 704. PROVISION OF BENEFITS.

In the case of care and services that may be provided under chapter 17 of title 38, United States Code, and that are not included among the comprehensive basic health care benefits provided for under a State comprehensive health benefit plan in a State in which the Secretary operates a pilot program under this title, the Secretary shall provide to any veteran (whether or not enrolled in a Department of Veterans Affairs health plan under the pilot program in that State) the care and services authorized under that chapter in accordance with the terms and conditions applicable to that veteran and that care under that chapter.

SEC. 705. FUNDING.

(a) ESTABLISHMENT OF REVOLVING FUND.—There is established in the Treasury of the United States a revolving fund for conduct of the pilot programs under this title. Subject to subsection (e), amounts in the revolving funds are available without fiscal year limitation for all expenses necessary to carry out the purposes of the pilot program.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the revolving fund such sums as may be necessary for each of fiscal years 1995 through 2000 for conduct and evaluation of the pilot programs.

(c) AUTHORIZATION TO TRANSFER CERTAIN FUNDS.—In addition to funds appropriated pursuant to subsection (b), the Secretary may transfer to the revolving fund authorized by subsection (a) funds from the Medical Care Appropriation Account of the Department when the Secretary determines that such transfer is necessary to carry out the purposes of the pilot program. The Secretary shall include in budget documents of the Department for any fiscal year the Secretary's estimate of the amount to be transferred pursuant to this subsection.

(d) AUTHORIZED DISBURSEMENTS.—(1) The Secretary, subject to paragraph (2) and to subsection (e), may make such disbursements from the revolving fund established under subsection (a) as the Secretary considers necessary to carry out the purposes of the pilot programs and their evaluation. Such disbursements may be made to cover any expense, both direct and indirect, related to the establishment and operation of a health plan, including the following:

(A) The furnishing of medical care and services.

(B) The acquisition of information systems.

(C) Acquisition, construction, repair, and renovation of facilities (including the land on which facilities are located or to be constructed) necessary to carry out the pilot program.

(D) Legal services provided in support of the pilot program by the General Counsel of the Department of Veterans Affairs.

(E) Conduct of consumer surveys and printing, marketing, and advertising (including contracts for such services).

(2) Funds in the revolving fund shall not be available for a major medical facility project, or a major medical facility lease, as defined in section 8104(a)(3) of title 38, United

States Code, unless funds for such project or lease have been specifically authorized by law.

(e) RECEIPT OF CERTAIN FUNDS.—(1) The Secretary, subject to section 701(g)(2), may collect premiums, deductibles, copayments, and other charges with respect to health care services furnished by the Secretary under a pilot program authorized under section 701 from any party obligated to pay such expenses.

(2) Any funds received under paragraph (1), other than funds for which recovery could have been accomplished under section 1710(f), 1712(f), 1722A, or 1729(a) of title 38, United States Code, shall be deposited in the revolving fund. Funds for which recovery could have been accomplished under any of those sections shall be deposited in the Medical-Care Cost Recovery Fund established under section 1729(g) of that title.

(3) Funds deposited in the Medical-Care Cost Recovery Fund during any fiscal year in an amount in excess of the Congressional Budget Office baseline (as of the date of the enactment of this Act) for deposits in that fund for that fiscal year shall not be subject to paragraph (4) of section 1710(f), 1712(f), or 1729(g) (as the case may be) of that title, but shall be transferred to the revolving fund. Such transfer for any fiscal year shall be made at any time that the total of amounts so received less amounts estimated to cover the expenses, payments, and costs described in paragraph (3) of section 1729(g) of that title is in excess of the applicable Congressional Budget Office baseline.

(f) TRANSFER OF EXCESS FUNDS.—If the Secretary determines that moneys in the revolving fund established under subsection (a) are in excess of the needs of the pilot program, the Secretary shall transfer the excess funds to the Medical Care Appropriation account of the Department.

(g) REIMBURSEMENT REQUIRED FOR VETERANS ENROLLED WITH HEALTH PLANS OUTSIDE DEPARTMENT.—(1) A veteran who is residing in a State in which the Secretary operates a pilot program under this title and who is enrolled in a health plan other than a health plan operated by the Secretary under that pilot program may be provided the items and services in the comprehensive basic health benefits package in effect in that State by a VA health plan operating in that State only if (except as provided in paragraph (2)) the plan is reimbursed for the cost of the care provided.

(2) The Secretary may not impose on or collect from a veteran described in paragraph (1) a cost-share charge of any kind in the case of treatment for a service-connected disability that (as determined by the Secretary) requires a specialized treatment capacity for which the Department has particular expertise.

SEC. 706. ANNUAL REPORTS TO CONGRESS.

Not later than 14 months after the completion of the designation of States as locations for pilot programs under this title and not later than November 30 of each year from 1997 through the expiration of all pilot programs under this title, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report of the Department's experience in carrying out the provisions of this title and the findings or interim findings or evaluations carried out in accordance with section 702(a)(2). Each such report shall include information regarding the effect on Department health care delivery and operations in each State in which a State comprehensive health benefit plan has been implemented and shall specifically identify each transfer of funds under section 705(c) and account specifically for the use of such funds.

SEC. 707. EXPIRATION OF AUTHORITY.

The authority to conduct a pilot program under this title shall expire on the earlier of (1) the date that is five years after the date of the commencement of the provision of benefits under the pilot program, or (2) the effective date of a Federal health-care reform statute which has the effect of superseding State laws establishing reformed systems.

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to revise and improve veterans' health care programs, and for other purposes.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Mississippi [Mr. MONTGOMERY]?

Mr. SMITH of New Jersey. Mr. Speaker, I object to the original request.

The SPEAKER pro tempore. Objection is heard.

VETERANS HEALTH IMPROVEMENTS ACT OF 1993

Mr. MONTGOMERY. Mr. Speaker, since the gentleman (Mr. SMITH of New Jersey) objected to my request, I will make the following request:

Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3313), to amend title 38, United States Code, to improve health care services of the Department of Veterans Affairs relating to women veterans, to extend and expand authority for the Secretary of Veterans Affairs to provide priority health care to veterans who were exposed to ionizing radiation or to Agent Orange, to expand the scope of services that may be provided to veterans through Vet Centers, and for other purposes, and concur in the Senate amendments with amendments that are at the desk.

Mr. Speaker, this is the same number, but with different nomenclature.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will request the proposed amendments.

The Clerk read the House amendments to the Senate amendments, as follows:

House amendments to the Senate amendments: In lieu of the matter proposed to be inserted by the amendment to the Senate to the text of the bill, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Health Programs Extension Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.
TITLE I—GENERAL MEDICAL AUTHORITIES
Sec. 101. Sexual trauma counseling and services.
Sec. 102. Research relating to women veterans.
Sec. 103. Extension of expiring authorities.
Sec. 104. Facilities in Republic of the Philippines.
Sec. 105. Savings provision.
TITLE II—CONSTRUCTION AUTHORIZATION
Sec. 201. Authorization of major medical facility projects and major medical facility leases.
Sec. 202. Authorization of appropriations.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—GENERAL MEDICAL AUTHORITIES

SEC. 101. SEXUAL TRAUMA COUNSELING AND SERVICES.

(a) AUTHORITY TO PROVIDE TREATMENT SERVICES FOR SEXUAL TRAUMA; REPEAL OF LIMITATION ON TIME TO SEEK SERVICES.—Subsection (a) of section 1720D is amended—

(1) by striking out paragraph (2); and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) During the period referred to in paragraph (1), the Secretary may provide appropriate care and services to a veteran for an injury, illness, or other psychological condition that the Secretary determines to be the result of a physical assault, battery, or harassment referred to in that paragraph.".

(b) EXTENSION OF PERIOD OF AUTHORITY TO PROVIDE SEXUAL TRAUMA SERVICES.—Such subsection is further amended—

(1) in paragraph (1), by striking out "December 31, 1995," and inserting in lieu thereof "December 31, 1998,"; and

(2) in paragraph (3), by striking out "December 31, 1994," and inserting in lieu thereof "December 31, 1998,".

(c) REPEAL OF LIMITATION ON PERIOD OF RECEIPT OF SERVICES.—Such section is further amended—

(1) by striking out subsection (b); and

(2) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(d) COORDINATION OF CARE.—Paragraph (1) of subsection (b) of such section, as redesignated by subsection (c)(2), is amended to read as follows:

"(1) The Secretary shall give priority to the establishment and operation of the program to provide counseling and care and services under subsection (a). In the case of a veteran eligible for counseling and care and services under subsection (a), the Secretary shall ensure that the veteran is furnished counseling and care and services under this section in a way that is coordinated with the furnishing of such care and services under this chapter.".

(e) INCREASED PRIORITY OF CARE.—Section 1712(i) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "To a veteran"; and

(B) by inserting ", or (B) who is eligible for counseling and care and services under section 1720D of this title, for the purposes of such counseling and care and services" before the period at the end; and

(2) in paragraph (2)—

(A) by striking out ", (B)" and inserting in lieu thereof "or (B)"; and

(B) by striking out ", or (C)" and all that follows through "such counseling".

(f) PROGRAM REVISION.—(1) Section 1720D is further amended—

(A) by striking out "woman" in subsection (a)(1);

(B) by striking out "women" in subsection (b)(2)(C) and in the first sentence of subsection (c), as redesignated by subsection (c); and

(C) by striking out "women" in subsection (c)(2), as so redesignated, and inserting in lieu thereof "individuals".

(2)(A) The heading of such section is amended to read as follows:

"§ 1720D. Counseling and treatment for sexual trauma".

(B) The item relating to such section in the table of sections at the beginning of chapter 17 is amended to read as follows:

"1720D. Counseling and treatment for sexual trauma.".

(g) INFORMATION BY TELEPHONE.—(1) Paragraph (1) of section 1720D(c), as redesignated by subsection (c) of this section, is amended to read as follows:

"(1) shall include availability of a toll-free telephone number (commonly referred to as an 800 number); and".

(2) In providing information on counseling available to veterans as required under section 1720D(c)(1) of title 38, United States Code (as amended by paragraph (1)), the Secretary of Veterans Affairs shall ensure that the Department of Veterans Affairs personnel who provide assistance under such section are trained in the provision to persons who have experienced sexual trauma of information about the care and services relating to sexual trauma that are available to veterans in the communities in which such veterans reside, including care and services available under programs of the Department (including the care and services available under section 1720D of such title) and from non-Department agencies or organizations.

(3) The telephone assistance service shall be operated in a manner that protects the confidentiality of persons who place calls to the system.

(4) The Secretary shall ensure that information about the availability of the telephone assistance service is visibly posted in Department medical facilities and is advertised through public service announcements, pamphlets, and other means.

(5) Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the operation of the telephone assistance service required under section 1720D(c)(1) of title 38, United States Code (as amended by paragraph (1)). The report shall set forth the following:

(A) The number of persons who sought information during the period covered by the report through a toll free telephone number regarding services available to veterans relating to sexual trauma, with a separate display of the number of sucn persons arrayed by State (as such term is defined in section 101(20) of title 38, United States Code).

(B) A description of the training provided to the personnel who provide such assistance.

(C) The recommendations and plans of the Secretary for the improvement of the service.

(h) CONFORMING REPEAL.—Section 102(b) of the Veterans Health Care Act of 1992 (Public Law 102–585; 106 Stat. 4946; 38 U.S.C. 1720D note) is repealed.

SEC. 102. RESEARCH RELATING TO WOMEN VETERANS.

(a) INCLUSION OF WOMEN AND MINORITIES IN CLINICAL RESEARCH PROJECTS.—Section 7303 is amended—

(1) by transferring the text of subsection (c) to the end of subsection (a)(1); and

(2) by striking out "(c)" and inserting in lieu thereof the following:

"(c)(1) In conducting or supporting clinical research, the Secretary shall ensure that, whenever possible and appropriate—

"(A) women who are veterans are included as subjects in each project of such research; and

"(B) members of minority groups who are veterans are included as subjects of such research.

"(2) In the case of a project of clinical research in which women or members of minority groups will under paragraph (1) be included as subjects of the research, the Secretary shall ensure that the project is designed and carried out so as to provide for a valid analysis of whether the variables being tested in the research affect women or members of minority groups, as the case may be, differently than other persons who are subjects of the research.".

(b) HEALTH RESEARCH.—(1) Such section is further amended by adding after subsection (c), as added by subsection (a), the following new subsection:

"(d)(1) The Secretary, in carrying out the Secretary's responsibilities under this section, shall foster and encourage the initiation and expansion of research relating to the health of veterans who are women.

"(2) In carrying out this subsection, the Secretary shall consult with the following to assist the Secretary in setting research priorities:

"(A) Officials of the Department assigned responsibility for women's health programs and sexual trauma services.

"(B) The members of the Advisory Committee on Women Veterans.

"(C) Members of appropriate task forces and working groups within the Department (including the Women Veterans Working Group and the Task Force on Treatment of Women Who Suffer Sexual Abuse).".

(2) Section 109 of the Veterans Health Care Act of 1992 (Public Law 102–585; 38 U.S.C. 7303 note) is repealed.

(c) POPULATION STUDY.—Section 110(a) of the Veterans Health Care Act of 1992 (Public Law 102–585; 106 Stat. 4948) is amended by adding at the end of paragraph (3) the following: "If it is feasible to do so within the amounts available for the conduct of the study, the Secretary shall ensure that the sample referred to in paragraph (1) constitutes a representative sampling (as determined by the Secretary) of the ages, the ethnic, social and economic backgrounds, the enlisted and officer grades, and the branches of service of all veterans who are women.".

SEC. 103. EXTENSION OF EXPIRING AUTHORITIES.

(a) AUTHORITY TO PROVIDE PRIORITY HEALTH CARE FOR VETERANS EXPOSED TO TOXIC SUBSTANCES.—Chapter 17 is amended—

(1) in section 1710(e)(3)—

(A) by striking out "June 30, 1994" and inserting in lieu thereof "June 30, 1995"; and

(B) by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1995"; and

(2) in section 1712(a)(1)(D), by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1995".

(b) DRUG AND ALCOHOL ABUSE AND DEPENDENCE.—Section 1720A(e) is amended by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1995".

(c) PILOT PROGRAM FOR NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE.—(1) Effective as of October 1, 1994, subsection (a) of section 1720C is amended by striking out "During the four-year period beginning on October 1, 1990," and inserting in lieu thereof "During the period through September 30, 1995,".

(2) Such subsection is further amended by striking out "care and who—" and inserting in lieu thereof "care. The Secretary shall give priority for participation in such program to veterans who—".

(d) ENHANCED-USE LEASES OF REAL PROPERTY.—Section 8169 is amended by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1995".

(e) AUTHORITY FOR COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS CHRONICALLY MENTALLY ILL VETERANS AND OTHER VETERANS.—Section 115(d) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended by striking out "September 30, 1994" and inserting in lieu thereof "September 30, 1995".

(f) DEMONSTRATION PROGRAM OF COMPENSATED WORK THERAPY.—Sction 7(a) of Public Law 102–54 (105 Stat. 269; 38 U.S.C. 1718 note) is amended by striking out "1994" and inserting in lieu thereof "1995".

(g) REPORT DEADLINES.—Section 201(b) of the Department of Veterans Affairs Nurse Pay Act of 1990 (Public Law 101–366; 38 U.S.C. 1720C note) is amended by striking out "February 1, 1994," and inserting in lieu thereof "February 1, 1995,".

SEC. 104. FACILITIES IN REPUBLIC OF THE PHILIPPINES.

Notwithstanding section 1724 of title 38, United States Code, the Secretary of Veterans Affairs may contract with facilities in the Republic of the Philippines other than the Veterans Memorial Medical Center to furnish, during the period from February 28, 1994, through June 1, 1994, hospital care and medical services to veterans for nonservice-connected disabilities if such veterans are unable to defray the expenses of necessary hospital care. When the Secretary determines it to be most feasible, the Secretary may provide medical services under the preceding sentence to such veterans at the Department of Veterans Affairs Outpatient Clinic at Manila, Republic of the Philippines.

SEC. 105. RATIFICATION OF ACTIONS DURING PERIOD OF LAPSED AUTHORITY.

Any action of the Secretary of Veterans Affairs under section 1710(e) of title 38, United States Code, during the period beginning on July 1, 1994, and ending on the date of the enactment of this Act is hereby ratified.

TITLE II—CONSTRUCTION AUTHORIZATION

SEC. 201. AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS AND MAJOR MEDICAL FACILITY LEASES.

(a) PROJECTS AUTHORIZED.—The Secretary of Veterans Affairs may carry out the major medical facility projects for the Department of Veterans Affairs, and may carry out the major medical facility leases for that Department, for which funds are requested in the budget of the President for fiscal year 1995. The authorization in the preceding sentence applies to projects and leases which have not been authorized, or for which funds have not been appropriated, in any fiscal

year before fiscal year 1995 and to projects and leases which have been authorized, or for which funds were appropriated, in fiscal years before fiscal year 1995.

(b) ADDITIONAL PROJECTS.—(1) In addition to the projects authorized in subsection (a), the Secretary may carry out the following major medical facility projects in the amounts specified for such projects:

(A) The projects that are proposed in the documents submitted to Congress by the Secretary of Veterans Affairs in conjunction with the budget of the President for fiscal year 1995 to be financed with funds from the proposed Health Care Investment Fund.

(B) Construction of a nursing home facility at the Department of Veterans Affairs Medical Center in Charleston, South Carolina, in the amount of $7,300,000.

(C) Construction of an outpatient care addition at the Department of Veterans Affairs medical center in Phoenix, Arizona, in the amount of $50,000,000.

(D) A lease/purchase of a nursing home facility near Fort Myers, Florida, in the amount of $12,800,000.

(2) The authorizations in paragraph (1) apply to projects which have not been authorized, or for which funds have not been appropriated, in any fiscal year before fiscal year 1995 and to projects which have been authorized, or for which funds were appropriated, in fiscal years before fiscal year 1995.

(c) PROJECTS FOR WHICH FUNDS APPROPRIATED.—In addition to the projects authorized in subsections (a) and (b), the Secretary may carry out the following major medical facility projects for which funds were appropriated in chapter 7 of the Emergency Supplemental Appropriations Act of 1994 (title I of Public Law 103-211; 108 Stat. 10) in the amounts specified:

(1) Construction of an ambulatory care/support services facility at the Department of Veterans Affairs Medical Center in Sepulveda, California, $53,700,000.

(2) Other major medical facility projects required to repair, restore, or replace earthquake-damaged facilities at the Department of Veterans Affairs Medical Center in Sepulveda, California, $50,000,000.

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 1995—

(1) $379,370,000 for the major medical facility projects authorized in subsections (a), (b), and (c) of section 201; and

(2) $15,800,000 for the major medical facility leases authorized in section 201(a).

(b) LIMITATION.—The projects authorized in subsections (a) and (b) of section 201 may only be carried out using—

(1) funds appropriated for fiscal year 1995 pursuant to the authorization of appropriations in subsection (a);

(2) funds appropriated for Construction, Major Projects for a fiscal year before fiscal year 1995 that remain available for obligation; and

(3) funds appropriated for Construction, Major Projects for fiscal year 1995 for a category of activity not specific to a project.

(c) LIMITATION ON CERTAIN PROJECTS.—The projects authorized in subsection (c) of section 201 may only be carried out using—

(1) funds appropriated to the Construction, Major Projects account under chapter 7 of the Emergency Supplemental Appropriations Act of 1994 (title I of Public Law 103-211; 108 Stat. 10) and funds transferred by the President to the Construction, Major Projects account pursuant to chapter 8 of that Act (108 Stat. 14);

(2) funds appropriated to the Medical Care account by chapter 7 of the Emergency Supplemental Appropriations Act of 1994 that are transferred to the Construction, Major Projects account;

(3) funds appropriated to the Construction, Major Projects account for a fiscal year before fiscal year 1995 that remain available for obligation; and

(4) funds appropriated to the Construction, Major Projects account for fiscal year 1995 for a category of activity not specific to a project.

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to extend certain expiring veterans' health care programs, and for other purposes.".

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to dispensing with the reading?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, H.R. 3313 was a comprehensive health care bill which the House passed in April after a year of work by our Subcommittee on Hospitals and Health Care. The other body would not take up our bill. We had to wait months before it acted on a series of its own veterans bills. Tough negotiations finally produced a good compromise bill. The compromise would have dramatically improved VA care for many veterans—particularly women veterans, veterans exposed to agent orange and other toxic substances, homeless veterans, and the chronically mentally ill. The bill would have allowed VA to participate in ongoing State health reform plans, and would have improved VA construction planning.

I deeply regret that our efforts today to bring up that compromise were blocked. They were blocked because the bill would have expanded services to women veterans. I respect the deep convictions which prompted the objection, but I believe the gentleman from New Jersey has misread the bill. Despite my repeated efforts to reach an accord, we faced continued insistence on language objectionable to the other body.

Mr. Speaker, we were reluctantly prepared to drop this controversial provision in order to salvage a good bill. Our Senate counterparts insisted, however, on what amounted to an "all or nothing" approach. When they didn't get everything they wanted, they rejected every provision that was not absolutely critical to them. One provision the Senate was prepared to accept would have authorized VA to launch a modest pilot program in States undertaking health reforms. The major veterans organizations and the administration supported this vital provision. But late yesterday, the gentleman from New Jersey announced his objection to that provision, a provision he had supported as the ranking minority member of the subcommittee that marked it up.

There will be those who will second-guess us from the sidelines or criticize our failure to override these objections through a conference agreement. Members should be aware that we discussed legislative strategies with leaders in the other body. It became clear that because of the nature of the objections being raised in the House, a conference agreement could not have been brought up in the Senate.

I am disappointed that real veterans' needs have been subordinated to remote "what if's" and "take-it-or-leave-it" politics. Veterans are the losers when that happens.

Mr. Speaker, this bill takes very modest steps forward, and we should enact it. But we should not—and I pledge that I will not—abandon efforts to make real progress for our veterans. I pledge to take up early in the 104th Congress the cause of women veterans, mentally ill veterans, homeless veterans, and the victims of agent orange, radiation, and Persian Gulf service, who are not getting all they deserve in this bill today.

There follows a joint explanatory statement comparing the House bill, the Senate amendments, and the compromise agreement.

JOINT EXPLANATORY STATEMENT FOR H.R. 3313, THE PROPOSED VETERANS PROGRAMS EXTENSION ACT OF 1994

H.R. 3313, the proposed "Veterans Health Programs Extension Act of 1994", reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs have reached on a number of bills considered in the Senate and House during the 103rd Congress, including: H.R. 3313 as passed by the House on November 16, 1993 (hereinafter referred to as the "House bill") H.R. 4425 as passed by the House on May 23, 1994; S. 1030 as passed by the Senate on July 26, 1994 (hereinafter referred to as the "Senate bill") S. 2277 as passed by the Senate on August 19, 1994; and S. 2325, which the Senate Committee on Veterans' Affairs reported on September 27, 1994, but which did not receive Senate consideration prior to the end of the 103rd Congress.

The Committees on Veterans' Affairs have prepared the following explanation of H.R. 3313 as amended (hereinafter referred to as "compromise agreement"). Differences between the provisions contained in the compromise agreement and the related provisions in the bills listed above are noted in this document, except for clerical corrections and conforming changes made necessary by the compromise agreement, and minor drafting technical and clarifying changes.

TITLE I—GENERAL MEDICAL AUTHORITIES

SEXUAL TRAUMA COUNSELING AND SERVICES

Current law.—Section 102 of 1720D of title 38(a) provides that through December 31, 1995, VA may furnish sexual trauma counseling to any woman who seeks counseling within 2 years after her discharge from service; (b) authorizes VA to provide counseling services through contract with non-VA providers through December 31, 1994; (c) prohibits VA from providing counseling for a period in excess of 1 year unless the Secretary determines that a longer period of counseling is needed; and (d) requires the Secretary to provide information on the availability of such counseling.

Under section 103 of Public Law 102-585, veterans who seek care for sexual trauma have the same priority for care as a veteran who has a service-connected disability rated at 30 percent or below and who is being examined to determine the existence or severity of a service-connected disability.

House bill.—Section 106 would (a) extend the time period during which VA may provide sexual trauma counseling to veterans to

December 31, 1998; (b) repeal the limitation on the period within which a veteran could seek sexual trauma counseling; (c) extend VA's authority to provide sexual trauma care through contracts with non-VA providers for 4 years, through December 31, 1998; (d) authorize VA to provide sexual trauma counseling to males; (e) require, rather than permit, VA to establish a toll-free telephone number to provide informational services; and (f) require a report on the operation of the telephone program. Section 106(d) would increase the priority for VA outpatient care accorded to veterans for sexual trauma care to that accorded to any veteran seeking care for a service-connected disability or for the treatment of any disability of a veteran who has a service-connected disability rated at 50 percent or above.

Senate bills.—Section 101 is similar to the house bill, except that it authorizes VA to provide, in addition to counseling for sexual trauma, treatment for physical conditions resulting from that trauma.

Compromise agreement.—Section 101 contains provisions derived from the two bills, including the provision from the Senate bill relating to treatment for physical conditions.

RESEARCH RELATING TO WOMEN VETERANS

Current law.—Section 109 of Public Law 102-585 directs the Secretary to foster and encourage research relating to the health of women veterans, section 110 of Public Law 102-585 authorizes a population study of women veterans.

House bill.—Section 105 would (a) require the Secretary to include women and minority veterans in research projects whenever possible and appropriate and ensure that in studies in which such veterans are included, the studies be designed and carried out so as to yield information on such veterans; and (b) amend section 110 of Public Law 102-585 to require that the population study include a sample that is representative of all women veterans.

Senate bill.—Section 105 would (a) amend section 109(a) of Public Law 102-585, relating to VA research activity, to require the Secretary to consult with other specified VA officials as part of the effort to foster and encourage the initiation and expansion of research into women's health issues, to ensure that certain personnel be engaged in such research, and to include in such research, research into the following matters as they relate to women: (1) breast cancer, (2) gynecological and reproductive health, including gynecological cancer, infertility, sexually transmitted diseases, and pregnancy, (3) Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS), (4) mental health, including posttraumatic stress disorder and depression, (5) diseases relating to aging, including menopause, osteoporosis, and Alzheimer's Disease, (6) substance abuse, (7) sexual violence and related trauma, and (8) exposure to toxic chemicals and other environmental hazards; and (b) amend section 109(b), relating to the population study, in a way similar to the House provision.

Compromise agreement.—Section 102 follows the House bill with respect to the amendment to section 110 of Public Law 102-585 relating to the population study. However, rather than amending section 109(a) of Public Law 102-585 with respect to the Secretary's role in encouraging research, the compromise agreement repeals that section and adds a new subsection to section 7303 of title 38. The compromise agreement follows the Senate bill with respect to requiring the Secretary to consult with individuals charged with overseeing women's health programs, including the Director of the Nursing Service, Central Office officials who have the responsibility for women's health programs and sexual trauma services, members of the Advisory Committee on Women Veterans, and other members of appropriate task forces and working groups within the Department.

The Committees strongly urge the Secretary to improve VA research on women's health issues by establishing research priorities, supporting more research on women's health, and when possible, comparing the efficacy of treatment regimens for male and female patients.

EXTENSION OF EXPIRING AUTHORITIES

Authority to provide priority health care

Current law.—Under section 1710(e) of title 38, various groups of veterans exposed to hazardous substances during their service—those exposed (a) to ionizing radiation from the detonation of a nuclear device or during service in Hiroshima or Nagasaki, Japan, following World War II; (b) to dioxin or other toxins during service in Vietnam; or (c) to toxins or environmental hazards during the Persian Gulf War—are eligible for inpatient and nursing home care for the treatment of any disability not found to have resulted from a cause other than the exposure in question. Veterans exposed to radiation or dioxin are eligible for certain outpatient care for the treatment of such disabilities under section 1712(a)(4). Persian Gulf War veterans are eligible under section 1712(a)(1)(D) for comprehensive outpatient care for the treatment of such disabilities. The authority expired on June 30, 1994, as to veterans exposed to radiation or dioxin and expires on December 31, 1994, as to Persian Gulf War veterans.

House bill.—Section 201 would modify current law so as to (a) limit the treatment of veterans exposed to dioxin to treatment of those diseases as to which the National Academy of Sciences has determined there is sufficient evidence to conclude there is a positive association between the disease in humans and exposure to an herbicide agent, those as to which there is evidence suggestive of an association, but such evidence is limited, and those as to which available studies are insufficient to permit a conclusion of an association; (b) extend the period of eligibility for hospital and nursing home care for those exposed to dioxin until September 30, 1996; (c) limit the treatment of veterans exposed to radiation to treatment of those diseases listed in section 1112(c)(2) of title 38 and those as to which VA determines there is credible evidence of a positive association between disease occurrence and radiation exposure for which the Congress has established presumptive service connection; (d) repeal the sunset date for eligibility for hospital and nursing home care for veterans exposed to radiation; (e) mandate, in the case of veterans exposed to either radiation or dioxin, any needed outpatient treatment for covered illnesses and provide a higher priority to such treatment; and (f) provide that veterans who had received care under the prior authority would not lose eligibility for continued care.

Senate bill.—Section 201 would amend section 1710(e) of title 38 to extend the period of entitlement to VA inpatient and nursing home care for veterans exposed to dioxin or radiation until December 31, 2003. Section 202 would extend the authority to provide care for veterans of the Persian Gulf War until October 1, 2003.

Compromise agreement.—Section 103(a) would amend section 1710(e) of title 38 to extend current law regarding care for veterans exposed to dioxin or radiation until June 30, 1995, and to extend current law regarding care for Persian Gulf War veterans until December 31, 1995.

Drug and alcohol abuse and dependence

Current law.—Section 1720(A) of title 38 authorizes VA, through December 31, 1994, to provide veterans who are suffering from substance abuse disabilities with care on a contract basis through community halfway houses.

House bill.—No provision.

Senate bill.—Section 102 of S. 2325 would make permanent VA's authority to contract with non-VA halfway houses for rehabilitation services for veterans with substance abuse problems.

Compromise agreement.—Section 103(b) would extend the authorization of this program until December 31, 1995.

Pilot program for noninstitutional alternatives to nursing home care

Current law.—Section 1720C of title 38 authorizes VA, through October 1, 1994, to conduct a pilot program for furnishing certain services in noninstitutional settings for certain veterans who are in need of nursing home care.

House bill.—Section 202 of H.R. 4425 would extend, until September 30, 1997, the pilot program, and would expand eligibility for the program to include all veterans who are eligible for and in need of VA nursing home care.

Senate bill.—No provision.

Compromise agreement.—Section 103(c) would extend the pilot program until September 30, 1995.

Enhanced-use leases of real property

Current law.—Subchapter V of chapter 81, title 38, authorizes the Secretary, through December 31, 1994, to enter into enhanced-use leases under which another party may use VA property so long as at least part of the property will provide for an activity which contributes to the mission of the Department of Veterans Affairs and enhances the use of the property.

House bill.—No provision.

Senate bill.—Section 408 of S. 2325 would extend until December 31, 1996, the authority for VA to enter into enhanced-use leases.

Compromise agreement.—Section 103(d) follows the Senate bill with an extension until December 31, 1995.

Authority for community-based residential care for homeless chronically mentally ill veterans and other veterans

Current law.—Public Law 100-322, based on Public Law 100-6, authorizes VA to conduct a program, known as the Homeless Chronically Mentally Ill (HCMI) program, through which VA outreach workers contact homeless veterans in the community, assess and refer veterans to community services, and place eligible veterans in contracted community-based residential treatment facilities. Public Law 102-405 extended VA's authority to conduct the HCMI program until September 30, 1994.

House bill.—No provision.

Senate bill.—Section 104 of S. 2325 would reauthorize until September 30, 1999, the HCMI program and codify the program in title 38, United States Code.

Compromise agreement.—Section 103(e) would reauthorize the HCMI program until September 30, 1995.

Demonstration program of compensated work therapy

Current law.—Section 7 of Public Law 102-54, enacted in 1991, authorizes VA to conduct

through October 1, 1994, a demonstration program of compensated work therapy and transitional residences (CWT/TR), which shall have two components. Under one component, VA is authorized to purchase and renovate no more than 50 residences as therapeutic transitional houses for chronic substance abusers. Under the second component, VA is authorized to contract with nonprofit corporations which would own and operate the transitional residences in conjunction with existing VA compensated work therapy programs.

House bill.—Section 402 would (a) extend the CWT/TR demonstration program from fiscal year 1994 through fiscal year 1998, and (b) permit the Department to increase incrementally the number of residences it operates to a maximum of 106 in fiscal year 1998.

Senate bill.—Section 101 of S. 2325 would extend the authorization of the CWT/TR program to fiscal year 1996.

Compromise agreement.—Section 103(f) would reauthorize the CWT/TR program until October 1, 1995.

FACILITIES IN THE REPUBLIC OF THE PHILIPPINES

Current law.—Section 1724 of title 38 limits the circumstances under which VA may provide medical care outside the United States, Puerto Rico, and the Virgin Islands. Under that section, VA may furnish non-service-connected treatment in the Philippines only on a contract basis with the Veterans Memorial Medical Center, a non-VA facility.

House bill.—Section 504 of H.R. 4425 would ratify VA's actions in finding alternative means for caring for patients at the Veterans Memorial Medical Center in the Philippines during the period between February 29 and June 1, 1994, to include the provision of medical services to non-service-connected veterans at its Manila outpatient clinic.

Senate bill.—No provision.

Compromise agreement.—Section 104 follows the House bill.

TITLE II—CONSTRUCTION AUTHORIZATION

AUTHORIZATION OF MAJOR MEDICAL FACILITY PROJECTS AND MAJOR MEDICAL FACILITY LEASES

Current law.—Section 8104(a)(2) of title 38 provides that no funds may be appropriated for any fiscal year, and the Secretary of Veterans Affairs may not obligate or expend funds (other than for advance planning and design), for any major medical facility project or any major medical facility lease, unless funds for that project or lease have been specifically authorized by law.

House bill.—Section 101(a)(1) of H.R. 4425 would authorize the Secretary, except as provided in section 101(a)(2), to carry out the major medical facility projects and major medical facility leases for the Department of Veterans Affairs for which funds were requested in the President's budget for fiscal year 1995.

Section 101(a)(2) would prohibit the Secretary from carrying out the projects for the construction of research additions at Huntington, WV, and Portland, OR.

Section 101(b) would authorize the Secretary to carry out the following additional major medical facility projects in the amounts specified: (1) The projects for ambulatory care facilities that are proposed in the budget for fiscal year 1995 to be financed with funds from the Health Care Investment Fund; (2) a nursing home facility at the VA Medical Center in Charleston, SC, $7,300,000; (3) a lease/purchase of a nursing home facility near Ft. Myers, FL, $18,630,000; and (4) an outpatient care addition at the VA Medical Center in Phoenix, AZ, $50,000,000.

Section 201(c) would authorize the construction of an ambulatory care/support services facility and other projects required to repair, restore, or replace, earthquake damage at the VA Medical Center in Sepulveda, CA, for which funds were appropriated in the Emergency Supplemental Appropriations Act of 1994.

Senate bill.—Section 1(a) of S. 2277 is substantively identical to the House provision in section 101(a), except that it would authorize all of the VA major medical facility projects for which funds are requested for fiscal year 1995, including the research additions in Portland and Huntington. Section 1(a) states that the authorization in section 1(a) includes projects or leases that were previously authorized or funded.

Section 1(b) would authorize the following additional projects: (1) The projects for ambulatory care facilities that are proposed in the budget for fiscal year 1995 to be financed with funds from the Health Care Investment Fund; (2) a nursing home facility at the VA Medical Center in Charleston SC, $7,300,000; and (3) an outpatient care addition at the VA Medical Center in Phoenix, AZ, $50,000,000.

Section 1(c) authorizes the construction of an ambulatory care/support services facility and other projects required to repair, restore, or replace, earthquake damage at the VA Medical Center in Sepulveda, CA, for which funds were appropriated in the Emergency Supplemental Appropriations Act of 1994.

Compromise agreement.—Section 201(a) follows Senate provision section 1(a) and would authorize the VA to enter into the major medical facility projects and major medical facility leases for the Department of Veterans Affairs for which funds were requested in the President's budget for fiscal year 1995.

Section 201(b) generally follows House provision section 101(b) and would authorize the following additional projects: (1) The projects for ambulatory care facilities that are proposed in the budget for fiscal year 1995 to be financed with funds from the Health Care Investment Fund; (2) a nursing home facility at the VA Medical Center in Charleston, SC, $7,300,000; (3) a lease/purchase of a nursing home facility near Ft. Myers, FL, $12,800,000; and (4) an outpatient care addition at the VA Medical Center in Phoenix, AZ, $50,000,000.

Section 201(c) is identical to House provision section 101(c) and Senate provision section 1(c) and would authorize the construction of an ambulatory care/support services facility and other projects required to repair, restore, or replace, earthquake damage at the VA medical Center in Sepulveda, CA, for which funds were appropriated in the Emergency Supplemental Appropriations Act of 1994.

The Committees note that some major medical facility projects in the VA fiscal year 1995 budget submission were authorized or partially funded in a prior year and therefore do not require authorization under section 8104(a)(2) of title 38. These projects are: (1) Seismic corrections at the Memphis, TN, Medical Center, $62.3 million ($10.7 million was authorized for FY 1994); (2) construction of a medical center in Travis, CA, to replace the Martinez facility, $7.3 million for phase I ($11 million was appropriated for FY 1993); (3) construction of a research facility in Huntington, WV, $9.9 million ($250,000 was appropriated for FY 1991); (4) construction of an ambulatory care addition at the Columbia, MO, Medical Center, $22.9 million ($300,000 was appropriated for FY 1993); (5) construction of an ambulatory care addition and parking garage at the San Juan, PR, Medical Center, $34.8 million ($46 million was authorized FY 1994); and (6) construction of an outpatient facility at the VA Medical Center in Gainesville, FL, $17.8 million ($8.9 million appropriated for FY 1990).

Leases for which funding is requested in the budget but for which authorization is not required are: (1) Hilo, HI, residential facility, $457,200 (funds appropriated for FY 1992); (2) Sacramento, CA, outpatient expansion, $345,000 (funds authorized for FY 1994); (3) Birmingham, AL, Parking garage $546,000 (GSA lease); (4) Washington, DC, health care medical education center, $350,000 (GSA lease).

AUTHORIZATION OF APPROPRIATIONS

Current law.—Section 8104(a)(2) of title 38 provides that no funds may be appropriated for any fiscal year, and the Secretary of Veterans Affairs may not obligate or expend funds (other than for advance planning and design), for any major medical facility project or any major medical facility lease, unless funds for that project or lease have been specifically authorized by law.

House bill.—Section 102(a) of H.R. 4425 would authorize to be appropriated to the Secretary of Veterans Affairs for fiscal year 1995 (1) $343,800,000 for the authorized major medical facility projects; and (2) $15,800,000 for the authorized major medical facility leases.

Section 102(b) would limit the authorized projects to be carried out using only (1) specifically authorized major construction funds appropriated for fiscal year 1995; (2) funds appropriated for Construction, Major Projects, for a fiscal year before fiscal year 1995 that remain available for obligation; and (3) funds appropriated for Construction, Major Projects, for fiscal year 1995 for a category of activity not specific to a project.

Section 102(c) would limit the project authorized in section 101(c) to be carried out using only (1) funds appropriated as well as funds transferred by the President to the Construction, Major Projects account pursuant to the Emergency Supplemental Appropriations Act of 1994; (2) funds appropriated to the Medical Care Account by the Emergency Supplemental Appropriations Act of 1994 that are transferred by law to the Construction, Major Projects account; (3) funds appropriated to the Construction, Major Projects account for a fiscal year before fiscal year 1994 that remain available for obligation; and (4) funds appropriated for Construction, Major Projects, for fiscal year 1994 for a category of activity not specific to a project.

Senate bill.—Section 2(a) of S. 2277 would authorize to be appropriated for fiscal year 1995 (1) $395,000,000 for major medical facility projects; and (2) $15,900,000 for major medical facility leases.

Section 2(b) is substantively identical to the House provision in section 102(b).

Section 2(c) is substantively identical to the House provision in section 102(c).

Compromise agreement.—Section 202(a) would authorize to be appropriated to the Secretary of Veterans Affairs for fiscal year 1995 (1) $379,370,000 for the authorized major medical facility projects; and (2) $15,800,000 for the authorized major medical facility leases.

Section 202(b) is identical to House provision section 102(b), and Senate provision section 2(b).

Section 202(c) would limit the projects authorized in section 101(c) to be carried out

using only: (1) Funds appropriated as well as funds transferred by the President to the Construction, Major Projects account pursuant to the Emergency Supplemental Appropriations Act of 1994; (2) funds appropriated to the Medical Care Account by the Emergency Supplemental Appropriations Act of 1994 that are transferred by law to the Construction, Major Projects account; (3) funds appropriated to the Construction, Major Projects account for a fiscal year before fiscal year 1995 that remain available for obligation; and (4) funds appropriated for Construction, Major Projects, for fiscal year 1995 for a category of activity not specific to a project.

Mr. STUMP. Mr. Speaker, I rise in support of the House amendments to the Senate amendments to H.R. 3313. Despite the best efforts of all concerned, we were not able to reach agreement on two major issues—the scope of women's health care services and a pilot program for VA participation in State health care plans. I regret that so many other provisions also fell out of the bill in our negotiations with the other body.

This bill does not contain provisions to extend the VA health care authorization for veterans who have been exposed to Agent Orange and radiation. The bill also expands the VA's authority to provide sexual trauma counseling and services to veterans and authorizes the VA to establish an 800 number to deal with this important issue.

As part of these amendments to the Senate amendments, women and minorities will be included in the important clinical research programs of the VA. Through these new provisions, research relating to the health of women veterans will be expanded. Furthermore, understanding the need for noninstitutional alternatives to nursing home care, H.R. 3313 would provide for an emphasis in this evolving program area.

Most importantly, this bill provides the VA with authority to proceed with $379 million of needed construction projects, including funding for a new outpatient care addition for the Phoenix VA Medical Center. The addition is greatly needed for veterans. Due to the rapid growth of the veterans population in the Phoenix area, the outpatient clinic has been operating at a patient volume which is far greater than its planned capacity.

I urge my colleagues to support this compromise and we will make every effort in the next Congress to act promptly with new legislative proposals on the remaining issues.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

□ 1300

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 1994

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1927) to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, with a Senate amendment to the House amendment thereto, and concur in the Senate amendment to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendment, as follows:

Senate amendment to House amendment: In lieu of the matter proposed to be inserted by the House amendment to the text of the bill, insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1994".

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) RATE ADJUSTMENT.—The Secretary of Veterans Affairs shall, effective on December 1, 1994, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b)—

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) COMPENSATION.—Each of the dollar amounts in effect under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts in effect under section 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount in effect under section 1162 of such title.

(4) NEW DIC RATES.—The dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of such title.

(5) OLD DIC RATES.—Each of the dollar amounts in effect under section 1311(a)(3) of such title.

(6) ADDITIONAL DIC FOR DISABILITY.—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

(7) DIC FOR DEPENDENT CHILDREN.—The dollar amounts in effect under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF PERCENTAGE INCREASE.—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 1994. Each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1994, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(2) In the computation of increased dollar amounts pursuant to paragraph (1), any amount which as so computed is not an even multiple of $1 shall be rounded to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. PUBLICATION OF ADJUSTED RATES.

At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1994, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in section 2(b), as increased pursuant to section 2.

Mr. MONTGOMERY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I rise in strong support of S. 1927, as amended.

S. 1927 provides a cost-of-living-adjustment for disabled veterans and recipients of dependency and indemnity compensation [DIC]. This COLA is effective December 1, 1994.

S. 1927 is a good bill which will benefit our Nation's veterans, and I urge my colleagues to support S. 1927.

Mr. STUMP. Mr. Speaker, I rise in strong support of S. 1927, as amended. I commend Chairman MONTGOMERY for leading the way on this legislation to provide a veterans' cost-of-living adjustment [COLA]. Also, I commend Mr. SLATTERY, chairman of the Subcommittee on Compensation, Pension and Insurance, and Mr. BILIRAKIS, the subcommittee's ranking minority member, for their commitment in seeing to it that veterans receive their COLA.

This is a clean bill which would assure veterans of a full fiscal year 1995 COLA for service-connected disability compensation and for dependency and indemnity compensation, effective December 1, 1994. The amount of the veterans' COLA will be the same as the Social Security COLA. It is noncontroversial and very important to our Nation's veterans and their families. It comes to this body from the Senate after we reached agreement on the form of the adjustment and the content of the bill.

Therefore, Mr. Speaker, I urge my colleagues to approve S. 1927, as amended.

Mr. SLATTERY. Mr. Speaker, I simply want to echo the thoughts of Chairman MONTGOMERY as to the importance of our favorable action on the Compensation and DIC Cost-of-Living Adjustment Act. I am proud to have sponsored the House counterpart to this bill, H.R. 4088, which would accomplish the same result as S. 1927.

I thank Chairman MONTGOMERY and the committee's ranking minority member, the gentleman from Arizona [Mr. STUMP], for their strong leadership on this issue and also wish to express my appreciation to the gentleman from Florida [Mr. BILIRAKIS], for his great cooperation on this matter.

I urge my colleagues to support this bill.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the

amendments to the two bills which have just been adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

CONVEYANCE TO STATE OF MINNESOTA OF NEW LONDON NATIONAL FISH HATCHERY

Mr. STUDDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3664) to direct the Secretary of the Interior to convey to the State of Minnesota the New London National Fish Hatchery production facility, with Senate amendments thereto, and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The Clerk read the House amendments to the Senate amendments, as follows:

House amendments to Senate amendments; In lieu of the matter proposed to be inserted by the Senate amendment to the text, insert the following:

TITLE I—FISH HATCHERY CONVEYANCES

SECTION 101. CONVEYANCE OF NEW LONDON NATIONAL FISH HATCHERY PRODUCTION FACILITY TO THE STATE OF MINNESOTA.

(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law and within 180 days after the enactment of this Act, the Secretary of the Interior shall convey to the State of Minnesota without reimbursement all right, title, and interest of the United States in and to the property comprising the New London National Fish Hatchery production facility, located outside of downtown New London, Minnesota, including—

(1) all easements and water rights relating to that property; and

(2) all land, improvements, and related personal property comprising that production facility.

(b) USE OF PROPERTY.—All property and interests conveyed under this section shall be used by the Minnesota Department of Natural Resources for the Minnesota fishery resources management program.

(c) REVERSIONARY INTEREST.—All right, title, and interest in and to all property interests conveyed under this section shall revert to the United States on any date on which any of the property or interests are used other than for the Minnesota fishery resources management program.

SEC. 102. CONVEYANCE OF THE FAIRPORT NATIONAL FISH HATCHERY TO THE STATE OF IOWA.

(a) CONVEYANCE.—The Secretary of the Interior shall convey to the State of Iowa, without reimbursement and by no later than December 31, 1994, all right, title, and interest of the United States in and to the fish hatchery described in subsection (b) for use by the State for purposes of fishery resources management.

(b) HATCHERY DESCRIBED.—The fish hatchery described in subsection (a) is the Fairport National fish Hatchery located in Muscatine County, Iowa, adjacent to the State Highway 22 west of Davenport, Iowa, including all real property, improvements to real property, and personal property.

(c) USE AND REVERSIONARY INTEREST.—The property conveyed to the State of Iowa pursuant to this section shall be used by the State for purposes of fishery resources management, and if it is used for any other purpose all right, title, and interest in and to all property conveyed pursuant to this section shall revert to the United States.

SEC. 103. CONVEYANCE OF CORNING NATIONAL FISH HATCHERY TO THE STATE OF ARKANSAS.

(a) CONVEYANCE REQUIREMENT.—The Secretary of the Interior shall convey to the State of Arkansas, without reimbursement and by no later than 90 days after the enactment of this act, all right, title, and interest of the United States in and to the property described in subsection (b), for use by the Arkansas Game and Fish Commission as part of the State of Arkansas Fish culture program.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is the property known as the Corning National Fish Hatchery (popularly known as the William H. Donham State Fish Hatchery), located one mile west of Corning, Arkansas, on Arkansas State Highway 67 in Clay County, Arkansas, consisting of 137.34 acres (more or less), and all improvements and related personal property under the control of the Secretary that is located on that property, including buildings, structures, and equipment.

(c) REVERSIONARY INTEREST OF THE UNITED STATES.—All right, title, and interest in property described in subsection (b) shall revert to the United States if the property ceases to be used as part of the State of Arkansas fish culture program. The State of Arkansas shall ensure that the property reverting to the United States is in substantially the same or better condition as at the time of transfer.

TITLE II—OCEAN RADIOACTIVE WASTE DUMPING BAN

SEC. 201. OCEAN RADIOACTIVE WASTE.

(a) AMENDMENTS TO THE OCEAN DUMPING ACT.—The Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) is amended—

(1) in section 3 (33 U.S.C. 1402), by—

(A) striking paragraph (j); and

(B) redesignating the following paragraphs accordingly;

(2) by altering a reference to the paragraphs redesignated under paragraph (1) of this section;

(3) in section 102(a) (33 U.S.C. 1412(a)), by striking "high-level" before "radioactive waste"; and

(4) in section 104 (33 U.S.C. 1414), by striking subsection (i).

(b) CLARIFICATION.—Nothing in this section shall affect the transportation of material containing de minimis levels of radioactivity for the purpose of dumping it into ocean waters under the Marine Protection, Research, and Sanctuaries Act of 1972.

TITLE III—THE EDWIN B. FORSYTHE NATIONAL WILDLIFE REFUGE

SEC. 301. VISITOR CENTER.

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary of the Interior shall, subject to the availability of appropriations, construct and operate a visitor center at the Edwin B. Forsythe National Wildlife Refuge in Atlantic County, New Jersey for purposes of—

(A) providing public opportunities, facilities, and resources to study the natural history and natural resources of New Jersey and its coast;

(B) providing public opportunities, facilities, and resources to highlight and research areas and artifacts of historical significance within the Refuge;

(C) fostering an awareness and understanding of the interactions among wildlife, coastal and wetland ecosystems, and human activities both in a modern and historical context; and

(D) providing office space and facilities for refuge administration, research, educational, and related activities.

(b) DESIGN.—The Secretary of the Interior shall ensure that the design, size, and location of a facility constructed under this section are consistent with the cultural and natural history of the area with which the facility will be concerned.

(c) COST SHARING.—The Secretary of the Interior may accept contributions of funds from non-Federal sources to pay the costs of operating and maintaining the facility authorized under this section, and shall diligently pursue appropriate steps to obtain such contributions.

TITLE IV—STATE AND FEDERAL COOPERATION

SEC. 401. IN GENERAL.—To the greatest extent practicable, the Secretary of the Interior and the heads of other federal agencies shall consult and cooperate with state fish and wildlife agency personnel on areas of mutual concern involving the conservation of fish, wildlife and their habitats, and the implementation of federal laws involving the conservation of such species and their habitats. In cooperating with such agencies, the Secretary and the heads of other federal agencies shall not be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. APP. 2).

TITLE V—DON EDWARDS CENTER FOR ENVIRONMENTAL EDUCATION AT SAN FRANCISCO BAY NATIONAL WILDLIFE REFUGE

SEC. 501 FINDINGS.

The Congress Finds that—

(1) The San Francisco Bay National Wildlife Refuge provides great opportunities for observing and interpreting the biological richness of the San Francisco Bay estuary and its wetlands and wildlife.

(2) Congressman Don Edwards was the sponsor of legislation to establish and to expand the San Francisco Bay National Wildlife Refuge and has led the efforts to secure acquisition funds for the refuge.

(3) The people of the San Francisco Bay area and the State of California will benefit, for decades to come, from the tireless efforts of Congressman Don Edwards on behalf of environmental protection and specifically, in establishing the San Francisco Bay National Wildlife Refuge.

(4) Congressman Don Edwards should most appropriately be recognized for his work by having the San Francisco Bay National Wildlife Refuge visitor center named and dedicated in his honor.

SEC. 502. SAN FRANCISCO BAY NATIONAL WILDLIFE REFUGE NAMED AS DON EDWARDS CENTER FOR ENVIRONMENTAL EDUCATION.

Within 60 days of enactment, the Secretary of the Interior shall rename the San Francisco Bay National Wildlife Refuge visitor center as the Don Edwards Center for Environmental Education.

SEC. 503. COST SHARING.

Notwithstanding any provision of law, the Secretary of the Interior may solicit, accept and expend contributions of funds from non-Federal sources to help support the costs of operation and maintenance of the Don Edwards Center for Environmental Education.

TITLE VI—AMENDMENTS TO THE COASTAL BARRIER RESOURCES SYSTEM

SEC. 601. CORRECTION TO MAPS.

(a) IN GENERAL.—The Secretary of the Interior shall, not later than 30 days after the enactment of this Act, make such corrections to the maps described in subsection (b) as are necessary to ensure that—

(1) depictions of areas on the maps are consistent with the depictions of areas appearing on the maps entitled "Coastal Barrier Resources System", dated September 27, 1994, and on file with the Secretary of the Interior; and

(2) the Coastal Barriers Resources System does not include any area that, on the day before the date of the enactment of this Act, was part of unit FL–05P of the system.

(b) MAPS DESCRIBED.—The maps described in this subsection are maps that—

(1) are included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990; and

(2) relate to the following units of the Coastal Barrier Resources System: AL–01P, FL–05P, P11A, P17, P17A, P18P, P19P, FL–15, FL–95P, FL–36P, P31P, FL–72P, MI–21, NY–75, and VA–62P.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 12 of Coastal Barrier Resources Act (16 U.S.C. 3510) is amended to read as follows:

"SEC 12. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary for carrying out this Act $2,000,000 for each of fiscal years 1995 through 1998.".

TITLE VII—RHINOCEROS AND TIGER CONSERVATION

SEC. 701. SHORT TITLE.

This title may be cited as the "Rhinoceros and Tiger Conservation Act of 1994".

SEC. 702. FINDINGS.

The Congress finds the following:

(1) The world's rhinoceros population is declining at an alarming rate, a 90 percent decline since 1970.

(2) All 5 subspecies of tiger are currently threatened with extinction in the wild, with approximately 5,000 to 6,000 tigers remaining worldwide.

(3) All rhinoceros species have been listed on Appendix I of CITES since 1977.

(4) All tiger subspecies have been listed on Appendix I of CITES since 1987.

(5) The tiger and all rhinoceros species, except the southern subspecies of white rhinoceros, are listed as endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(6) In 1987, the parties of CITES adopted a resolution that urged all parties to establish a moratorium on the sale and trade in rhinoceros products (other than legally taken trophies), to destroy government stockpiles of rhinoceros horn, and to exert pressure on countries continuing to allow trade in rhinoceros products.

(7) On September 7, 1993, under section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) the Secretary certified that the People's Republic of China and Taiwan were engaged in trade of rhinoceros parts and tiger parts that diminished the effectiveness of an international conservation program for that endangered species.

(8) On September 9, 1993, the Standing Committee on CITES, in debating the continuing problem of trade in rhinoceros horn and tiger parts, adopted a resolution urging parties to CITES to implement stricter domestic measures, up to and including an immediate prohibition in trade in wildlife species.

(9) On November 8, 1993, under section 8 of the Fishermen's Protection Act of 1967 (22 U.S.C. 1978), the President announced that the United States would impose trade sanction against China and Taiwan unless substantial progress was made by March 1994 towards ending trade in rhinoceros and tiger products.

(10) On April 11, 1994, under section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978), the President—

(A) directed that imports of wildlife specimens and products from Taiwan be prohibited, in response to Taiwan's failure to undertake sufficient actions to stop illegal rhinoceros and tiger trade; and

(B) indicated that the certification of China would remain in effect and directed that additional monitoring of China's progress be undertaken.

SEC. 703. PURPOSES.

The purposes of this Act are the following:

(1) To assist in the conservation of rhinoceros and tigers by supporting the conservation programs of nations whose activities directly or indirectly affect rhinoceros and tiger populations, and the CITES Secretariat.

(2) To provide financial resources for those programs.

SEC 704. DEFINITIONS.

In this Act—

(1) "CITES" means the Convention of International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973, and its appendices;

(2) "conservation" means the use of all methods and procedures necessary to bring rhinoceros and tigers to the point at which there are sufficient populations to ensure that those species do not become extinct, including all activities associated with scientific resource management, such as research, census, law enforcement, habitat protection, acquisition, and management, propagation, live trapping, and transportation;

(3) "Fund" means the Rhinoceros and Tiger Conservation Fund established under section 706(a);

(4) "Secretary" means the Secretary of the Interior; and

(5) "Administrator" means the Administrator of the Agency for International Development.

SEC. 705. RHINOCEROS AND TIGER CONSERVATION ASSISTANCE.

(a) IN GENERAL.—The Secretary, subject to the availability of appropriations and in consultation with the Administrator, shall use amounts in the Fund to provide financial assistance for projects for the conservation of rhinoceros and tigers.

(b) PROJECT PROPOSAL.—A country whose activities directly or indirectly affect rhinoceros or tiger populations, the CITES Secretariat, or any other person may submit to the Secretary a project proposal under this section. Each proposal shall—

(1) name the individual responsible for conducting the project;

(2) state the purposes of the project succinctly;

(3) describe the qualifications of the individuals who will conduct the project;

(4) estimate the funds and time required to complete the project;

(5) provide evidence of support of the project by appropriate governmental entities of countries in which the project will be conducted, if the Secretary determines that the support is required for the success of the project; and

(6) provide any other information the Secretary considers to be necessary for evaluating the eligibility of the project for funding under this Act.

(c) PROJECT REVIEW AND APPROVAL.—Within 30 days of receiving a final project proposal, the Secretary shall provide a copy of the proposal to the Administrator. The Secretary shall review each final project proposal to determine if it meets the criteria set forth in subsection (d). Not later than 6 months after receiving a final project proposal, and subject to the availability of funds, the Secretary, after consulting with the Administrator, shall approve or disapprove the proposal and provide written notification to the person who submitted the proposal, to the Administrator, and to each country within which the project is to be conducted.

(d) CRITERIA FOR APPROVAL.—The Secretary may approve a project under this section if the project will enhance programs for conservation of rhinoceros or tigers by assisting efforts to—

(1) implement conservation programs;

(2) enhance compliance with provisions of CITES and laws of the United States or a foreign country that prohibit or regulate the taking or trade of rhinoceros or tigers or the use of rhinoceros or tiger habitat; or

(3) develop sound scientific information on that species' habitat condition and carrying capacity, total numbers and population trends, or annual reproduction and mortality.

(e) PROJECT SUSTAINABILITY.—To the maximum extent practical, the Secretary should give consideration to projects which will enhance sustainable development programs to ensure effective, long-term conservation of rhinoceros and tigers.

(f) PROJECT REPORTING.—Each person that receives assistance under this section for a project shall provide periodic reports, as the Secretary considers necessary, to the Secretary and the Administrator. Each report shall include all information requested by the Secretary, after consulting with the Administrator, for evaluating the progress and success of the project.

SEC. 706. RHINOCEROS AND TIGER CONSERVATION FUND.

(a) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account to be known as the "Rhinoceros and Tiger Conservation Fund", which shall consist of amounts deposited into the Fund of the Secretary of the Treasury under subsection (b).

(b) DEPOSITS INTO THE FUND.—The Secretary of the Treasury shall deposit into the Fund—

(1) all amounts received by the Secretary in the form of donations under subsection (d); and

(2) other amounts appropriated to the Fund.

(c) USE.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may use amounts in the Fund without further appropriation to provide assistance under section 705.

(2) ADMINISTRATION.—Of amounts in the Fund available for each fiscal year, the Secretary may use not more than 3 percent to administer the Fund.

(d) ACCEPTANCE AND USE OF DONATIONS.—The Secretary may accept and use donations to provide assistance under section 705. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the Fund.

SEC. 707. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Fund $10,000,000 for each of fiscal years

1996, 1997, 1998, 1999, and 2000 to carry out this Act, to remain available until expended.

Amend the title so as to read "A bill to direct the Secretary of the Interior to transfer certain national fish hatcheries, and for other purposes".

Mr. STUDDS (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. FIELDS of Texas. Mr. Speaker, reserving the right to object, I will not object, but I would like to give the distinguished gentleman from Massachusetts [Mr. STUDDS] an opportunity to explain the bill.

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. FIELDS of Texas. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Speaker, after H.R. 3664 passed the House in March of this year, the Senate amended and returned it a little over a month ago. In the pending month that I have at the desk, I will ask that we concur in most of the Senate amendments with some further amendments.

As the gentleman knows, these amendments have been worked out in a bipartisan manner in our committee and the appropriate committee in the Senate is aware of the action we are about to take.

Our bipartisan amendments contain seven titles.

Title I transfers three fish hatchery facilities from the U.S. Fish and Wildlife Service; one to the State of Minnesota, one to Iowa, and one to Arkansas.

Title II is the text of H.R. 3982, the Ocean Radioactive Waste Dumping Ban Act. This bill also was passed previously in the House.

Title III authorizes the construction of a visitor center at the Edwin B. Forsythe National Wildlife Refuge in New Jersey.

Title IV directs the Secretary of the Interior and other Federal agencies to consult and cooperate with State agencies in the implementation of Federal conservation laws and exempts such consultations from the requirements of the Federal Advisory Committee Act. Because of some recent court holdings, there is a chill in the traditionally cooperative Federal and State management of fish and wildlife. Instead of working directly with the States to achieve the intent of Federal conservation laws, Federal agencies are either requiring the formation of formal Federal advisory committees before dealing with the States or are avoiding discussions altogether. The quality of decisionmaking is adversely affected. This amendment will help restore the historically strong cooperation between State and Federal agencies.

Title V names the visitor center at the San Francisco Bay National Wildlife Refuge for our distinguished colleague, the Honorable (and venerable) DON EDWARDS. The Don Edwards Center for Environmental Education will be a great and lasting tribute to the years of hard work which DON EDWARDS has put into protecting our environment. It is especially appropriate given Mr. EDWARDS' leadership in establishing and expanding the San Francisco Bay refuge.

Title VI is the text of H.R. 4598, a bill which makes technical corrections to the Coastal Barrier Resources Act. Title VI is identical to the House-passed bill with the addition of one property in Alabama. The Interior Department identified this mapping error after House passage and the correction was added during action by the Senate Committee.

Title VII is the text of H.R. 4924, the Rhinoceros and Tiger Conservation Act of 1994, a bill that passed the House about 10 days ago by unanimous consent and is a matter of great interest to our ranking minority member, the gentleman from Texas.

Mr. FIELDS of Texas. Mr. Speaker, I rise in support of H.R. 3664, as amended, which contains a number of bills that have previously been passed by the House of Representatives.

Title I would convey the New London National Fish Hatchery Production Facility to the State of Minnesota, the Fairport National Fish Hatchery to the State of Iowa, and the Corning National Fish Hatchery to the Arkansas Game and Fish Commission.

Title II of the bill includes the text of H.R. 3982, amendments to the Ocean Dumping Act. This legislation was authored by the gentleman from Pennsylvania, CURT WELDON, previously adopted by the House of Representatives, and I support its inclusion in this bill.

Title III authorizes the Fish and Wildlife Service to construct and operate a visitor center at the Edward B. Forsythe National Wildlife Refuge in New Jersey, subject to the availability of appropriations.

Title IV exempts the Secretary of the interior from provisions of the Federal Advisory Committee Act when the Secretary is consulting with State fish and wildlife agency personnel on wildlife conservation matters.

Title V of the bill authorizes the Secretary of the Interior to rename the San Francisco Bay National Wildlife Refuge Visitor Center as the Don Edwards Center for Environmental Education.

Title VI amends the Coastal Barriers Resources System by correcting errors on maps that have previously been placed into the Coastal Barrier System.

Finally, Mr. Speaker, title VII establishes a grant program for the conservation of rhinoceros and tigers. It includes the text of H.R. 4924, a bill previously adopted by the House of Representatives.

Mr. Speaker, I support the bill and ask my colleagues to join me in its adoption.

Mr. MINETA. Mr. Speaker, I rise today in strong support of House Resolution 3664, legislation which includes a provision to name the visitors center at the San Francisco Bay National Wildlife Refuge after our colleague, DON EDWARDS.

Mr. Speaker, I cannot think of a more appropriate way to honor DON EDWARDS for his many years of distinguished service to this body and to his constituents.

The San Francisco Bay National Wildlife Refuge is one of our Nation's most treasured natural resources. Currently measuring more than 23,000 acres, this land is home to numerous plant and wildlife species, and provides critical habitat for species that are threatened and endangered. The refuge also protects thousands of acres of threatened wetlands around the San Francisco Bay.

Further, the refuge will ensure that these vital resources will be preserved and protected for generations to come.

The existence of the San Francisco Bay National Wildlife Refuge is due to the persistent work of one man—DON EDWARDS. From the time he entered Congress, DON EDWARDS has worked tirelessly for the protection of the bay.

In 1972, DON was successful in passing legislation to establish the refuge. That legislation authorized the Federal Government to acquire 20,000 acres around the bay to stop the development that was harming the area's ecological balance.

Since that time, DON has continued to work to secure appropriations for land acquisition for the refuge, and to expand the authorization of the refuge.

In fact, in 1988 DON convinced Congress to double the authorized size of the refuge. And this year, the bill to provide appropriations for the Department of the Interior included $4 million to acquire land for the San Francisco Bay Wildlife Refuge.

His work on behalf of the San Francisco Bay also led DON to introduce the most sweeping wetlands protection bill in memory. That legislation would ensure that this Nation's wetlands, and the vital responsibilities they perform, receive the protection they deserve.

Throughout his time in Congress, DON EDWARDS has maintained a close working relationship with local community and environmental groups in the bay area. I can think of no more fitting tribute to DON's work than to create the Don Edwards Center for Environmental Education at the San Francisco Bay National Wildlife Refuge—a place for DON's constituents to visit and enjoy.

Again Mr. Speaker, I thank DON for his many contributions to this body and to our community, and I urge my colleagues to support this legislation.

Ms. ESHOO. Mr. Speaker, I rise in strong support of H.R. 3664, which contains a provision to name the visitor center at the San Francisco Bay National Wildlife Refugee the

Don Edwards Center for Environmental Education.

This is a fitting tribute to a man who throughout his distinguished tenure in public service has committed himself to protecting the environment. Indeed, he is responsible for the creation and expansion of the 40,000 acre San Francisco Bay Federal Wildlife Refuge and I look forward to the day when the entire refuge will be named in his honor.

Bay area residents and visitors will benefit for decades to come from Mr. EDWARDS' tireless efforts on behalf of the refuge.

The visitor's center will not only stand as a reminder of his efforts on behalf of the refuge, but his efforts on behalf of the environment as a whole.

I have had the pleasure of knowing DON EDWARDS for years and serving with him in the 103d Congress. He has served in this body and represented his San Jose district since 1962.

Although he has stood firmly behind the principles he supports, he has always been a fair and honest legislator. He has not only been a gentleman but he has also been a gentle man.

To me, he has also been a friend and I will sorely miss him.

I am pleased that we can pay tribute to DON EDWARDS with the Don Edwards Center for Environmental Education and I urge my colleagues to join me in support of this legislation.

Mr. FIELDS of Texas. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Massachusetts?

There was no objection.

A motion to reconsider was laid on the table.

REQUEST FOR DISCHARGE OF COMMITTEE ON, AND IMMEDIATE CONSIDERATION OF, H.R. 4852, OCEANS ACT OF 1994

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be discharged from further consideration of the bill (H.R. 4852) to provide congressional approval of a governing international fishery agreement, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. FIELDS of Texas. Mr. Speaker, reserving the right to object, I would ask the gentleman from Massachusetts [Mr. STUDDS], chairman of the Committee on Merchant Marine and Fisheries, for an explanation of this bill.

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. FIELDS of Texas. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Speaker, on dozens of occasions this Congress, the Merchant Marine and Fisheries Committee has brought to this House carefully crafted, bipartisan legislation and asked for your support. JACK FIELDS and I are extraordinarily proud of the fact that we have never been turned down.

Today, we bring before you—in one package—many of these same bills. As is our practice, the contents of this package have been worked out with Members on both sides of the aisle, and in consultation with our sister committee in the Senate.

Suffice it to say that re-passing this legislation is, at this late date, the only way these bills will ever be considered by the Senate and the only way they will ever be enacted into law.

So, while the title of this bill—officially—is providing for congressional approval of a Governing International Fishery Agreement with Lithuania, it contains more. Much, much, more.

At the end of my statement, I will include for the RECORD a list of the bills incorporated into this package and their accompanying reports.

The first six titles deal with fisheries issues. Title I implements an international treaty to require fishing vessels on the high seas to comply with conservation and management measures. Title II authorizes U.S. participation in the Northwest Atlantic Fisheries Organization. Title III is the stated purpose of this bill, approval of a fishing agreement with Lithuania. Title IV takes care of our Atlantic bluefin tuna stocks by amending the Atlantic Tunas Convention Act and directing the U.S. to seek greater international cooperation in conserving bluefin. Title V amends the Fishermen's Protective Act to allow American fishermen to be compensated for an illegal transit fee charged earlier this year by Canada. Title VI is dear to the heart of my friend from Alaska in that it implements a treaty for managing fisheries in the Sea of Okhotsk—otherwise known as the Peanut Hole.

Titles VII through XV embody provisions of the fiscal year 1995 authorization for the U.S. Coast Guard which passed the House on September 22. These include strong recreational boating safety requirements with specific new protections for children, the elimination of burdensome and duplicative Coast Guard regulations, incentives to jump-start a U.S.-flag passenger cruise ship industry and help U.S. shipyards, a stable source of funding for the Coast Guard's state boating safety grant program, and a significant improvement in the safety of our towing industry—including requirements for more rigorous crew licensing and the carriage of navigational equipment.

In addition, we have added in Title XVI provisions sponsored by Mr. TAUZIN which define offshore supply vessel.

Title XVII grants authority to convey ownership of a number of Coast Guard properties.

Title XVIII incorporates a House-passed bill offered by Mr. LIPINSKI to help keep critters like zebra mussels out of our waters.

Title XIX is the fiscal year 1995 authorization for the "wet" programs of the National Oceanic and Atmospheric Administration.

Title XX includes a variety of miscellaneous Coast Guard provisions ranging from the treatment of vegetable oil spills to a study of how to keep ships from hitting endangered right whales.

Title XXI is House-passed legislation to stimulate the promising field of marine biotechnology research. Title XXII would provide a flag and burial benefits for World War II merchant marine veterans.

And last but not least, title XXIII includes a number of coastwise trade endorsements for vessels.

Mr. Speaker, the only thing that much of this package has in common is the shared jurisdiction of the House Merchant Marine and Fisheries Committee and the Senate Commerce, Science, and Transportation Committee. It is diverse, it represents good, sound, public policy, and it deserves the support of this House.

LEGISLATIVE HISTORY OF H.R. 4852

Title I—H.R. 4760, High Seas Fisheries Licensing Act.

Title II—H.R. 3058, Northwest Atlantic Fisheries Convention Act, passed House as part of H.R. 3188, November 2, 1993, House Report 103-316.

Title III—H.R. 4852, Governing International Fishery Agreement with Lithuania.

Title IV—H.R. 779, Amendments to the Atlantic Tunas Convention Act; H. Con. Res. 295, Atlantic Bluefin Tuna Resolution, passed House October 5, 1994.

Title V—H.R. 3817, Amendments to the Fishermen's Protective Act, House Report 103-585, passed House July 12, 1994.

Title VI—H.R. 3188, Fisheries Enforcement in the Sea of Okhotsk, House Report 103-316, passed House November 2, 1993.

Title VII-X—H.R. 4422, Coast Guard Authorization Act for Fiscal Year 1995, House Report 103-706, passed House September 22, 1994; see Congressional Record that date for legislative history of floor amendments beginning at page H9504.

Title XI—H.R. 3786, Recreational Boating Safety Improvement Act, House Report 103-445, passed House March 21, 1994; also incorporated into H.R. 4422.

Title XII—H.R. 4959, Coast Guard Regulatory Reform Act, passed House as part of H.R. 4422.

Title XIII—H.R. 3821, United States Passenger Vessel Development Act, passed House as part of H.R. 4422.

Title XIV—H.R. 4477, Boating Improvement Act, passed House as part of H.R. 4422.

Title XV—H.R. 3282, Towing Vessel Navigational Safety Act, passed House as part of H.R. 4422.

Title XVI—H.R. 5136, Offshore Supply Vessel Construction and Development Act.

Title XVII—Miscellaneous Coast Guard property transfers most of which were included in H.R. 4422.

Title XVIII—H.R. 3360, Ballast Water Control Act, House Report 103-440, passed House March 21, 1994.

Title XIX—H.R. 4008, National Oceanic and Atmospheric Administration Authorization

79-059 O—97 Vol. 140 (Pt. 21) 14

Act, House Report 103-583, passed House September 26, 1994; also included in H.R. 4008: H.R. 3807, Convey the National Marine Fisheries Service Laboratory to Gloucester, MA; H.R. 3886, to amend the boundaries of the Flower Garden Banks National Marine Sanctuary; and, H.R. 4236, National Undersea Research Program Act.

Title XX—Miscellaneous Coast Guard provisions most of which were included in H.R. 4422.

Title XXI—H.R. 1916, Marine Biotechnology Investment Act, House Report 103-170, passed House July 13, 1993.

Title XXII—H.R. 44, Merchant Mariner Benefits, passed House as part of H.R. 4422 and as part of H.R. 2150 on July 30, 1993.

Title XXIII—Miscellaneous waivers of the Jones Act, virtually all of which were included in H.R. 4422.

Mr. FIELDS of Texas. Mr. Speaker, further reserving the right to object, I rise in support of the H.R. 4852, the Oceans Act of 1994, as amended.

Mr. Speaker, this is bipartisan legislation developed by the Merchant Marine and Fisheries Committee. It includes several important international fisheries provisions, which will allow the United States to remain a leader in conservation and management.

We have included in this legislation provisions to: implement the recommendations of the United Nations' Conference of the Food and Agriculture Organization to establish a licensing and reporting system for U.S. fishing vessels which engage in fishing operations on the high seas; implement the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries and allow the United States to participate in the Northwest Atlantic Fisheries Organization; approve the governing international fishery agreement between the United States and the Republic of Lithuania; require a report to Congress on the status of monitoring and research programs to support the conservation and management of Atlantic bluefin tuna and other highly migratory species; reauthorize and expand the ability of the Fishermen's Protective Act to reimburse fishermen for the loss of their vessels and catch if seized illegally by a foreign government or to reimburse them if they are forced to pay an illegal transit fee by a foreign government; and require that the U.S. fishermen comply with international fishery agreements that govern fisheries management in the Central Sea of Okhotsk.

Title VII of this bill authorizes funds for the Coast Guard for fiscal year 1995 at the level requested by the President, plus $13 million to fund the bridge administration program, and an additional $21 million for drug interdiction activities. Title VIII through X contain important provisions to improve vessel and navigation safety and improve Coast Guard personnel management.

Title XI of this bill contains the text of H.R. 3786, the Recreational Boating Safety Improvement Act of 1994. This bill is one of my highest priorities, and I am pleased that the most important requirements of my bill, H.R. 2812, are incorporated into the bill. This legislation will save lives and reduce the number of injuries that occur on America's waterways each year.

Title XII, the Coast Guard Regulatory Reform Act of 1993, is intended to simplify U.S. construction requirements to reduce the regulatory burden on the U.S. maritime industry without compromising safety. These provisions were developed by the Coast Guard, industry representatives, and the Merchant Marine and Fisheries Committee. They will streamline shipbuilding requirements for all the U.S. maritime industry and allow it to become more competitive internationally.

Title XIII, the United States Passenger Vessel Development Act, is designed to promote the construction and operation of domestic passenger ships that will operate out of U.S. ports and cater to Americans.

Title XIV contains the provisions of the Boating Improvement Act of 1994, to establish a reasonable, stable funding method for the State boating safety program. The Boating Improvement Act is supported by all the affected groups, including the National Association of Boating Law Administrators, the American League of Anglers and Boaters, and the Boat Owners Association of the United States.

I also support the remaining titles of this bill, which will improve towing vessel safety and offshore supply vessel shipbuilding opportunities, and address various miscellaneous problems. I am pleased that title XX of this bill contains my amendments to maintain the President's proposed level of Coast Guard drug interdiction and to require a complete cost accounting of Coast Guard expenses related to Haiti.

Title XIX of this bill contains an authorization for the ocean and coastal programs of the National Oceanic and Atmospheric Administration [NOAA] for fiscal years 1995 and 1996. In addition to NOAA's national ocean service programs, ocean and Great Lakes research, selected fisheries programs, and general administrative support, the title also improves the Saltonstall-Kennedy Program; encourages dual use of military oceanographic assets; amends the boundary of the Flower Garden Banks National Marine Sanctuary; improves congressional oversight of NOAA's fleet modernization activities; and authorizes the National Undersea Research Program.

These programs contribute to America's understanding and wise use of the greatest resource of the Earth—our oceans. I note that through the outstanding leadership of Oceanography Subcommittee Chairman SOLOMON ORTIZ that the Gulf of Mexico finally receives its due in this bill. The authorization of a National Undersea Research Program Center for the Gulf, a study using satellites to help pinpoint sea turtles, and the consideration of an offshore platform as a research facility in the only Gulf national marine sanctuary are all a result of his tireless work. Chairman ORTIZ has also been extremely responsive to the views of all members of the Merchant Marine Committee, on NOAA matters.

I also want to commend Oceanography Subcommittee Ranking Republican Member CURT WELDON for his efforts on behalf of NOAA, especially his work on the use of military resources for civilian oceanographic research. This is a new but potentially fruitful avenue for the committee. Finally, Committee Chairman STUDDS has helped steer our course to the floor to ensure NOAA's future.

The Merchant Marine and Fisheries Committee had completed action in a fair, bipartisan manner, on matters that are extremely important to our maritime industry and to the safety of our citizens. Mr. Speaker, I urge my colleagues to overwhelmingly enact H.R. 4852 and express my highest compliments to our distinguished chairman, GERRY STUDDS, for his outstanding leadership on this important legislation.

Mr. Speaker, further reserving the right to object, I yield to my friend, the gentleman from Alaska [Mr. YOUNG].

Mr YOUNG of Alaska. Mr. Speaker, reserving the right to object, and I will not object, I want to take this opportunity to thank the Chairman for his hard work on this bill, and make a few observations about its contents.

This bill contains several measures which have previously passed the House of Representatives, including the Coast Guard authorization, the NOAA authorization, and several miscellaneous fisheries measures. The bill has been thoroughly cleared by both the majority and minority in the House. The bill provides necessary reauthorizations for a number of different programs including fisheries management, enforcement of various laws and treaties, and Coast Guard search and rescue.

There is one item that is not included in the bill because, while it affects commercial vessels under our jurisdiction, it also involves the jurisdiction of the Committee on Ways and Means. This concerns a decision by the U.S. Customs Service to collect a tax on passengers multiple times within a one cruise voyage. This means they will be taxed every time they enter a U.S. port, even if the cruise is from point to point within the United States. The decision was reflected in a letter sent to the chairman of the Ways and Means Committee by the Customs Service.

I believe that this interpretation by the Customs Service is incorrect. Congress has increased the amount of tax

that cruise vessel passengers should pay, but clearly did not intend that they pay the tax multiple times, such as when traveling from Juneau, AK, to Sitka, AK, and then again when traveling from Sitka, AK, to Ketchikan, AK. The clear intent of Congress was to only assess the tax once during each voyage.

My colleague, the distinguished chairman of the Ways and Means Committee, has indicated to me that he is sympathetic to my concerns and will attempt to address these issues in the proper form in the next Congress. I want to thank him for his offer to take a fair look at this issue.

Again, Mr. Speaker, I will not object to this bill. It is a good piece of legislation that represents all of the hard work our committee has done this year and I urge its passage.

□ 1310

Mr. FIELDS of Texas. Mr. Speaker, continuing my reservation of objection, I think this is a good piece of legislation that should be accepted. If it is not accepted at this point, this authorization will not occur this term.

Mr. Speaker, I withdrew my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. TAUZIN. Mr. Speaker, reserving the right to object, I will object, and I want to point out that this bill has been indeed worked out with some Members of this House. It has not been worked out with many Members of this House, including the chairman of the Subcommittee on Coast Guard and Navigation, to which most of the amendments will address.

More important, there are five Members of the Senate prepared to put a hold on this bill the moment it arrives in the Senate for the very reason it contains a bill that has passed this House and rejected repeatedly in the Senate dealing with the documentation of Merchant Mariners.

This bill, which is now contained in this bill, has been rejected by the Senate for a number of reasons, not the least of which is that the Coast Guard opposes it, does not believe it should be required, will not inure to the safety of programs in the Foreign Vessel Navigational Safety Act.

In fact, Mr. Speaker, the provisions of the bill that are contained in this unanimous consent on Merchant Mariner documents surprisingly contains an exemption for one State, the State of Alaska.

Now, I contend and the Coast Guard contends that this is not a necessary safety element within this bill. In fact, it is only paperwork and bureaucracy that should not be imposed upon the industry.

But let us assume for purposes of argument that the proponents of this bill who have been defeated repeatedly in the Senate are correct, that this is some kind of a safety measure. Why on Earth would we want to exempt the State of Alaska, *Exxon-Valdez*, Prince William Sound?

Mr. Speaker, the point is that this provision in the bill will be objected to in the Senate. The Senate is now trying to put together a similar package without these provisions in it.

The chairman of our full committee stated during committee markup of this bill that he did not intend to see this bill sink on this one provision. I hope those words are correct.

When the Senate reports the bill, as I believe it will, without these provisions in it, we will have another opportunity to enact all of these good programs that are otherwise contained in the bill.

Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS of Texas. Mr. Speaker, let me say to my friend, and I mean that with all sincerity, my friend, I take issue with the point that this was not done in a bipartisan fashion. I will be the first to admit not everyone agrees with everything in this bill.

Mr. TAUZIN. Mr. Speaker, continuing my reservation of objection, I did not say that there was not some bipartisan negotiations. Obviously, when the State of Alaska got exempted, there were clearly some bipartisan negotiations. What I am telling the gentleman is that very many of us in this body were not negotiated with personally, although there were staff discussions.

More important, we did not have the kind of Member-to-Member consultation we should have had on this bill.

But even more important, this is not agreed in the Senate, and five Senators are prepared to put a hold on this bill if this provision is insisted upon. And for that reason, this gentleman intends to object to this unanimous consent.

Mr. FIELDS of Texas. Mr. Speaker, if the gentleman will continue to yield, what I was going to say to my friend, just so the House will know, we voted on the merchant mariner document, which is the point of controversy. It passed our full committee 30 to 15. The House of Representatives passed the full bill, which contained that provision, 408 to 7.

I am not aware that the Senate has yet acted upon this provision.

Mr. TAUZIN. Mr. Speaker, when the House passed the bill, it did not contain an exemption for Prince William Sound in Alaska. The committee rejected that exemption. The gentleman and I know what is happening here.

More important, the Senate has refused to take up this bill for many sessions now because it objects to it. Five Members are prepared to reject this whole package on the basis of that. I know that, and the gentleman knows that. It is ridiculous for us to proceed with this bill to the Senate.

My suggestion is that we give the Senate a chance to bring us a bill without this provision in it.

It was my understanding, when this bill began to be worked out through whatever staff consultations occurred, that if there were controversial provisions, those controversial provisions would be dropped.

I had one of those. I had a controversial provision that restated the current law. The Coast Guard is about to build some motorized lifeboats, the kind of boats that can flip over in the surf and save people's lives. That is under a small business contract setaside. But there is one company in this country that used its influence in this House to put a provision in the appropriations bill to change the law and, indeed, open that up to big company bidding.

I included a provision to give the Coast Guard the authority in this bill to follow the small business setaside law. That has been deleted, because some Senators objected to following the current law.

Mr. TAYLOR from our committee had an amendment dealing with cruises to nowhere. A Senator objected. That provision I understand has been deleted because it was controversial.

There is no more controversial provision than these mariner document provisions. It is so controversial that my friend from Alaska has worked day and night, after voting for it, to then exempt his State from it. I understand that. It is so controversial that five Senators on the Senate side are prepared to put a hold on this bill to kill the entire bill over it. And yet it is in this package.

I am confused as to why some controversial provisions are deleted when we support them and other controversial provisions are continued.

Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for yielding to me.

When we say this on the floor many times it is not meant with sincerity, "My good friend," when under our breath we are saying other things.

In this case, the gentleman from Louisiana [Mr. TAUZIN] is a good friend of mine.

He has mentioned two things about the Alaska exemption. The first he knows it does not affect the Prince William Sound. He knows that good and well. This is the waterways, riverways, and his objection has nothing to do with it. Every vessel that goes into the Prince William Sound, every crewman already has documents. So please do not stretch the truth and bring up *Exxon-Valdez*. This is riverways.

Mr. TAUZIN. Mr. Speaker, the gentleman deserves something I am going to extend to him. It does not apply to Prince William Sound, but it applies to the inland waterways, that spill in the Prince William Sound.

Mr. YOUNG of Alaska. Mr. Speaker, if the gentleman will continue to yield, this is riverways, and he and I know that.

Mr. TAUZIN. It applies to towing on inland waterways and inland waterways, to my recollection, do in fact leave waters in the Prince William Sound.

Let me make the point, I am not at all taking umbrage with my good friend from Alaska. He represents his State as well as I have ever seen any State represented in this body. In fact, I am often in awe of his capacities and his abilities to represent his State, certainly in awe of his ability to win this exemption after it was denied him in the committee and denied him on the floor.

I am in awe of his abilities. I am only saying that when one State gets exempted, it kind of tells us that maybe we ought not to have this bill in effect for the entire 49 other States.

I am telling the gentleman that the Senate will not approve it. It is foolish for us to move forward with this provision when we ought to object.

Mr. YOUNG of Alaska. Mr. Speaker, the gentleman has mentioned the Alaska exemption. Would he lift his objection, if I were to move to remove the Alaskan exemption.

Mr. TAUZIN. Mr. Speaker, no. I would not at that point fail to object.

I want to make it clear, the principal reason I object is that it does not belong in this bill, because it is a controversial matter that will sink this bill on the Senate side. It does not belong in the bill. The Senate is prepared to report us a bill that does not contain this controversial provision, but my friend from Alaska knows what I speak when I say, if it is so repugnant to my friend from Alaska and the State of Alaska that they need this special exemption from it, then the whole thing ought to come out for the benefit of the other 49 States and for the benefit of the Coast Guard which opposes it and for an industry which is prepared to indeed live by the very important other safety precautions that the bill contains.

□ 1320

The SPEAKER pro tempore. (Mr. MAZZOLI). Is there objection to the request of the gentleman from Massachusetts?

Mr. TAUZIN. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me. I just wanted to make the point that I understand the gentleman's concerns. I want to point out that there are other concerns. I have found, for instance, that title 19 was placed in this bill. The gentleman from Massachusetts [Mr. STUDDS] did not mention that one of the jurisdictions in this bill is that of the Committee on Science, Space, and Technology. Title 19 is partially within our jurisdiction. We were not consulted with, at least on the minority side, about provisions in that particular part of the bill.

Mr. Speaker, I have deep concerns about some things that were dropped out that we think are important, and I would not want to see this bill go forward as long as title 19 was a part of it, because we have not been given the courtesy of being able to review these matters.

Mr. Speaker, I, too, have some concerns here that there was not the kind of consultation that I think should have taken place with regard to the measures in the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. TAUZIN. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Massachusetts [Mr. STUDDS], chairman of the committee.

Mr. STUDDS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, let me just say to the gentleman from Pennsylvania [Mr. WALKER], he is correct, there are some items in that title which are of joint jurisdiction. I had been advised by staff that it had been cleared with the staff of the committee. If it has not been, I apologize. There is not, I do not think, any major controversy there. If I have the opportunity, and I just have a feeling from what the gentleman from Louisiana [Mr. TAUZIN] has said that I would not, I would ask unanimous consent to strike those provisions which the gentleman feels have been the subject of inadequate consultation. That was not our intention

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. TAUZIN. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Speaker, I want to reiterate what the chairman of the committee has said. I was under the impression that these provisions had been worked out. I hope we can work out something before the end of this session. This is a good bill, and I hope we can work it out.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. TAUZIN. Mr. Speaker, continuing my reservation of objection, I yield to the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I will be very brief. It is not my intention to engage in a lengthy debate with the gentleman from Louisiana.

Mr. Speaker, the matter to which he objects, as he has alluded to quite clearly, is the towing safety provisions; most specifically, the merchant mariner document qualifications. That is the matter that he says is sufficiently controversial to sink the bill in the Senate. That is a matter which was, as the gentleman from Texas [Mr. ORTIZ] has pointed out, debated and voted on overwhelmingly both in the committee and in the House. It is the House position, substantially. It was my information, as of about an hour ago, that as of this moment, miracle of miracles, there were no holds in the Senate. Heaven only knows what will happen between now and when they have the good sense to go away.

However, Mr. Speaker, let me say to the gentleman that certainly it is his prerogative to do this. At this time of year we are acting sort of as a Senate for a time, where any single Member can interpose his or her will against the totality of the House.

If indeed the gentleman is correct, that there are Members of the Senate disposed to sink this bill, I would have preferred that the glory be the Senate's and the credit be the Senate's for having sunk the bill, but the gentleman is certainly within his right.

I hope he does not do it, but he may do as he wishes.

Mr. TAUZIN. Mr. Speaker, continuing my reservation of objection, I thank the gentleman. Let me point out that the chairman of the committee is correct, that there is no hold currently. There can be no hold until this bill gets over there. The Senate uses a system called the hot wire system. When a bill hits, it is not wired to all offices. We have been informed that five Senators are prepared, the moment that hot wire listing occurs on this bill, to put a hold on the bill.

For that reason, Mr. Speaker, I object.

The SPEAKER pro tempore. The Chair hears an objection.

REQUEST FOR DISCHARGE OF COMMITTEE ON, AND IMMEDIATE CONSIDERATION OF, H.R. 5238, AUTHORIZING DOCUMENTATION OF THE VESSEL "R/V ROSS SEAL"

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be discharged from further consideration of the bill (H.R. 5238) to authorize the vessel *R/V Ross Seal* to be documented under the laws of a foreign country during a 3-year period, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. FIELDS of Texas. Mr. Speaker, reserving the right to object, and I will not object, we have had an opportunity to review this matter, but I yield to the gentleman from Texas [Mr. BROOKS] to have an opportunity to explain the legislation.

Mr. BROOKS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, in a nutshell, this is a bill to allow seal craft operators, who are ship operators, to register their ship for a couple of years under some other registry, so they can do some work in the Caspian Sea.

Mr. Speaker, at the conclusion of that, they want to come back into a U.S. Registry. Otherwise, if they do not have that opportunity, their business is in the United States, they are U.S.-registered now, and if they cannot get that assurance that they can come back into the American registry, then they cannot do that job, and that work will go to some other country and not to the United States. We will lose that business.

Mr. FIELDS of Texas. Mr. Speaker, continuing my reservation of objection, I would like to clarify something the chairman of the committee has said. As I understand it, this ship is currently flagged American.

Mr. BROOKS. If the gentleman will yield further, that is correct.

Mr. FIELDS of Texas. Mr. Speaker, that is with all the demanding requirements and inspections required by the Coast Guard and other domestic laws. This is an opportunity for an American business to go abroad and bring dollars back home, jobs for Americans. If this is not done, Mr. Speaker, that opportunity is going to be lost.

I would ask the gentleman if that is a correct statement.

Mr. BROOKS. That is correct, Mr. Speaker. That is all it does.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. FIELDS of Texas. I am glad to yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I would ask a question of either gentleman from Texas. If this bill came up in the regular order, would it be a private bill?

Mr. BROOKS. Mr. Speaker, if the gentleman from Texas [Mr. FIELDS] will continue to yield, possibly.

Mr. SENSENBRENNER. Mr. Speaker, I object.

The SPEAKER pro tempore. The Chair hears an objection.

PAYMENT IN LIEU OF TAXES ACT

The SPEAKER pro tempore. Pursuant to House Resolution 565 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 455.

□ 1325

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 455) to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes, with Mr. LANCASTER in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. Pursuant to the rule, the Senate bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. MILLER] will be recognized for 30 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to S. 455 because I think it extremely unwise for Congress to approve a massive spending increase on the very last day of the session.

This bill provides for $484 million in new spending—a 150-percent increase within 4 years—in the Payment in Lieu of Taxes [PILT] program—as well as an additional $1.3 billion in the next decade thanks to annual cost-of-living escalator that guarantees permanent increases as the years roll along.

Do not let anyone pretend this is a minor bookkeeping bill. The vote on this legislation will be a good test of whether we are serious about controlling government spending, or just spouting campaign rhetoric.

The House Committee on Natural Resources reported this legislation last week with language identical to that contained in the Senate-passed bill. If S. 455 were to be approved by the House in its current form, therefore, the measure would go directly to the President, and the permanent increases will be locked in year and year after year. Any opportunity for real reform will be eliminated because, as we know, Western senators will block any efforts to modify their uncapped spending.

I know that PILT is a highly popular program in Western States that hugely benefit from its largesse—including my own State of California. I know that lobbyists for counties and States have showered you with printouts of how much money you can bring home by voting for this bill. I know that your counties are as hard pressed as mine and could use a little Federal pork.

Those are not sufficient reasons to boost Federal spending by hundreds of millions of dollars on the last day of the Congress.

I appreciate that PILT funding has not increased since the program was created in 1976.

It is not a crime to have kept a program at a fixed authorization level. Let us remember what we have been doing in this House over the past decade and a half: We have cut, frozen and eliminated dozens of programs since 1976. We eliminated General Revenue Sharing, which affected far more districts than PILT; we cut jobs programs, reduced educational programs, cut military programs and closed bases, cut hundreds of millions from farm programs—all affecting more districts and more Americans than PILT.

Why does PILT, unlike all others, deserve an absolute right a 150 percent increase, as well as a permanent cost-of-living escalator?

Before you think that voting for PILT is smart because you will be "bringing home the bacon," read the fine print: PILT money is distributed very disproportionately. Three quarters of the money goes to just a handful of States with a small number of Members of this body.

Of the $99.3 million distributed just last week, for example, Florida received just $1.3 million, Connecticut $25,000, Illinois, $323,279, Indiana $225,433, and Massachusetts $51,554.

By contrast, Alaska received $4.4 million, Arizona $8.7 million, Colorado $6.2 million, Idaho $7.4 million, and Montana $8.2 million.

Michigan received $1.2 million, New Jersey received $48,442, New York $58,121, Ohio $249,079, and Pennsylvania $185,000.

By contrast, Nevada received $6.7 million, New Mexico $10.6 million, and Utah $8.9 million.

To get an increase of a few thousand dollars in your district, do you want to go on record voting for over a billion dollars in new spending and an uncapped authorization in the waning hours of the congressional session? I hope not.

Neither does the National Taxpayers Association which opposes this bill.

This is not a free vote. There is not a lot of excess money packed into the Interior appropriations budget. In fact, major cuts have been made in that budget in recent years. Every dollar spent on a PILT increase is going to come out of one of the already strapped programs of the Department of the Interior: national parks, wilderness, forest programs, historic areas, heritage areas, and many more.

The issue is not whether PILT has increased since 1976, but whether an increase is warranted. Because of the many question and uncertainties about the soundness of this program, a massive, uncapped increase at this time is profoundly unwise.

PILT, as originally proposed by the Public Land Law Review Commission, was supposed to replace streams of Federal funds for local governments derived from timber harvests, grazing, mining and other activities. But instead of replacing the funds, Congress created a formula to add PILT to the existing payments and provided for the PILT payment to reflect some, but not all, of those other receipts.

PILT is also justified as compensation for services provided by local governments on Federal lands. But the PILT formula includes no consideration of whether counties that receive PILT funds actually are performing any services. Nor does it calculate the value of the services rendered or, conversely, the value of Federal services related to the Federal lands, for example, law enforcement, fire protection, that benefit local interests.

Other questions abound:

Why are some Federal lands included among the definition of "entitlement lands" eligible for PILT while others are not?

Why are some Fish and Wildlife Service-managed acres carved from the public domain considered entitlement lands, but those on acquired lands are not?

In the East, mineral receipts from acquired lands are not eligible for PILT payments, but those from the public domain are.

This legislation fails to answer these questions and raises new ones. S. 455 would continue PILT funding for lands that are transferred from Federal ownership to State, or even private, ownership. The whole idea of PILT was to compensate for Federal lands; now we are compensating for State and private lands. Where does the gravy train stop?

I will be offering a reasonable compromise to the House: a 2-year increase, combined with a mandate for a GAO study, that will give States some needed funding, but also provide us with the accounting we need to determine what reforms are required.

My amendment would provide for the first 2 years of increase contained in S. 455. During those 2 years, we would commission a review of PILT's financing mechanism and operations, which would provide the substantive basis for comprehensive PILT oversight and reform during the 2 years of interim funding. This amendment was rejected by my committee which, I must note, is well populated by Members from those small States where PILT's greatest largesse is distributed.

Should that amendment fail, I would urge you to vote for Congressman VENTO's amendment to eliminate the cost-of-living escalator in S. 455. I cannot believe that the Members who have voted against every other COLA are going to acquiesce in an unlimited COLA for PILT that will cost taxpayers hundreds of millions of dollars.

Do not fall prey to the argument that we cannot change a comma in S. 455 because the Senate does not have time to pass an amended bill. Have you been watching the television? Do not tell me they do not have time to pass a bill that saves us the embarrassment of voting for a sky's-in-the-limit spending bonanza for a few small States.

There is virtually no way for additional PILT money to be distributed in fiscal year 1995 in any event, which is the first year of increase under S. 455. Granting a short term increase and initiating reasonable oversight afford us more than enough time to pass a reauthorization bill next year and seek the funding increase allowed under my amendment.

If the Senate wants a PILT bill, they will vote to take our responsible, limited expansion. But no House Member should accept the argument that we must vote uncritically for the precise language sent us by the Senate without expressing our own concerns and preferences about this legislation.

□ 1330

Mr. Chairman, there are many other questions, and I will come back and address other problems with this program, the most glaring of which is that this used to be for Federal lands, and we would provide payments on the theory that those Federal lands were a burden to local communities. But in this legislation, we find out that even if those lands are now transferred into State ownership or to private ownership, we are in fact now going to continue a Federal payment.

Mr. Chairman, I reserve the balance of my time.

Mr. HANSEN. Mr. Chairman, I ask unanimous consent that 15 minutes of my time be given to the gentleman from Montana [Mr. WILLIAMS] for purposes of control.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

The CHAIRMAN. The gentleman from Utah [Mr. HANSEN] will be recognized for 15 minutes, and the gentleman from Montana [Mr. WILLIAMS] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have looked at this PILT thing, payment in lieu of taxes, for a long time. I think we have heard some things that are not exactly correct about this. Let us just look at what this does. True, the majority of this ground is in the States that are owned by the Federal Government. The Federal Government is the owner of this ground. Now we find these little communities strung out all over the West, and in the East, and in the South where they are owned 70, 80, and 90 percent by the Federal Government. They have to take care of their kids, they have to go to school, they have to do their infrastructure, and how do they pay for it? They levy taxes.

If you happen to live in one of these counties that is privately owned, you can levy taxes everywhere. What do you do in Garfield County, UT or Kane County or Sweetwater County, WY? Where do you levy the taxes? Do you say to the Federal Government, "Now we're going to put a levy on you for schools, we're going to put a levy on you for other things"? No, they do not do that.

So in 1976, this Congress wisely passed the payment in lieu of taxes. In the interim period, the folks from the East love to go out to the West. They love to go to our national parks, they love to go to the wilderness areas they create, they love to go to these areas, and what do they do? They put their garbage down and it costs thousands and thousands of dollars out of these poor little counties to take care of it. They go up and they hike in our beautiful mountains and then they fall off a rock and break a leg and who do they call on? They call on these little counties to come and rescue them.

They are careless with their campfires, they put a match out, they are not thinking and all of a sudden they burn a lot of acreage. And who do they call upon? They call upon these little counties to come and pay for it. One case after the other, and the list goes on and on. Yet the owner of the ground, he will not step up to the plate. He will not step up and say, "Hey, I own it. I want to tell you how to take care of your garbage, I want to tell you about wilderness, I want to tell you how to do it, but I won't step up to the plate and pay for it."

What kind of deal is that? That is the most unfair situation I have ever seen.

So 49 states are going to receive PILT payments. In 1976 they passed it with no cost-of-living adjustment. It comes out to about 20 cents an acre. All we are asking is equity, we are asking fairness. We are asking, "Federal Government, you own it, you step up to the plate and you pay it." This will bring it up to about 50 cents is all it will bring it to. I cannot understand why we would not want to go along with this at this particular time.

Have we had a chance to look at this? Of course we had. In committee we have been playing around with this for 5 years. Yet we keep hearing, "Oh, you save it until the last." It is about time we brought it up,

Many, many States receive an awful lot of money in regard to this particular payment in lieu of taxes. Please keep in mind, my colleagues, all we are asking for is some equity to help these people out. If you do not want to do that, why do you not step up to the plate and give it back? They would like to take it over just like New York got theirs, New Jersey got theirs, and other States got theirs. Give it back to them. The Governor of the State of Utah said he would be happy to take it over. And then you do not have to worry about payment in lieu of taxes, do not have to worry about AUM's, you do not have to worry about critical minerals. Just give it back to the States. But you will not do that because you want to control it. Why do

you not then have the courage to at least pay your way? You are the owner. Pay your way.

Mr. Chairman, I reserve the balance of my time.

Mr. WILLIAMS. Madam Chairman, I yield myself such time as I may consume.

The CHAIRMAN pro tempore (Ms. NORTON). The gentleman from Montana is recognized.

Mr. WILLIAMS. My colleagues, your States need this help, your county commissioners need this help, unless you are from Rhodes Island. That is the only State in the United States that does not receive payments in lieu of taxes. This law to help out your county commissioners is about 20 years old. From the day it was first enacted, your counties have not received one penny, count it, not one penny of inflationary increase in PILT payments. Consequently, the program's value because of inflation has not diminished to less than half of what it was when your counties first started receiving payments in lieu of taxes because of Federal land in your State and in your counties.

□ 1340

The bill that is before us today is the companion Senate bill to legislation which I have introduced in the last two or three Congresses. We are finally hearing it on the floor of the House on the last day of the session.

Because this is the last day of the session, the only way that our countries can receive an increase in these PILT payments is if this Senate bill, a companion to mine but different than mine, passes without amendments. A vote for any amendment is a vote to kill PILT, and these increases that our States need in this session of Congress.

This bill phases in, by the way, the increase during 5 years. The inflationary increase phases in in a very moderate way over 5 years beginning in 1995 and ending in 1999.

The bill that is before us was not held at the desk. This bill came through the Committee on Natural Resources, and by the way, came through on a bipartisan vote of 31 to 10. It passed the Senate last April. We have been trying to bring it to the floor of the House since spring. It passed the Senate last April by a vote of 78 to 20, a very bipartisan vote. Why the bipartisanship? Because our county commissions are Republicans and Democrats and independents. This is money to help them for the Federal land that is in their countries, and they use this money for emergency services including search and rescue, and ambulance services that are needed by the people on the Federal land. Often they use it for law enforcement and fire protection, and they use it for the health and social services and solid waste management. And, my colleagues, the States and counties use it for the schools.

This PILT payment is helping to keep property taxes lower than they would be in the counties and in the States without it.

Madam Chairman, I include for the RECORD letters in support of this legislation as follows:

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL–CIO,
Washington, DC, October 4, 1994.

DEAR REPRESENTATIVE: On behalf of the 1.3 million members of the American Federation of State, County and Municipal Employees (AFSCME), I strongly urge you to support S. 455, the Payments in Lieu of Taxes (PILT) legislation when it comes to the floor and oppose all amendments.

PILT was first enacted in 1976 to compensate counties for the taxable revenues they forego by having tax-exempt federal lands within their boundaries. This is excellent legislation except for one problem. The PILT has never been adjusted for inflation and consequently the program is compensating counties in 1976 dollars while the counties' budget is in 1994 dollars. Today the program's value has diminished to less than half of what it was when it was first enacted. This bill corrects that.

S. 455 has garnered bipartisan support this session in the Senate and in the House. The Senate has passed Senator Hatfield's PILT legislation, S. 455, by a vote of 78–20 last April. And, S. 455 was reported out of the House Natural Resources Committee with bipartisan support, 31–10. Now, it is imperative that the House act before it adjourns.

We all know that the demands on local governments have increased enormously in the last 18 years. S. 455 would restore the level of compensation which the more than 1,900 local units of government receive to their 1976 level in current dollars over a five-year period beginning in 1995 and ending in 1999. $105 million was appropriated for PILT in 1994. This could reach $255 million by 1999 only if the legislation is fully appropriated. CBO stated that, "Pay-as-you-go procedures would not apply to the bill."

PILT funds are used for critical services provided by local governments including road repair and maintenance; emergency services; law enforcement and fire protection; education; health and social services; and solid waste management.

In an era when local governments are pressed by budgetary constraints to maintain service levels, I urge you to support S. 455 which restores fairness to federal-local government relations.

Thank you.

Sincerely,

CHARLES M. LOVELESS,
Director of Legislation.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, September 30, 1994.

DEAR MEMBER OF CONGRESS: Within the next few days you will be asked to vote on S. 455, a revision of the Payments in Lieu of Taxes (PILT) program. The National Association of Counties (NACo), representing the Nation's three thousand counties, fully supports this legislation, and opposes any attempt to amend the measure when it reaches the floor.

When PILT was enacted in 1976, it was an expansion of a notion of government partnership between the Federal government and States and local governments that has existed since 1906. Since that time, the Federal government has accepted the obligation to share with local governments a percentage of the revenues it derives from commodity uses of public lands. PILT funds are spent by counties to support services provided to users of public lands: emergency search and rescue, law enforcement, fire and emergency medical services, solid waste management, road maintenance, and health and other human services. In each case, costs have risen while PILT payments monetary value has diminished. The shortfall must come from taxpayers pockets or decreased services.

S. 455, which passed the Senate 78–20 and the House Committee on Natural Resources 31–10, would restore the value of the program and bring authorized payment levels to the 1994 cost of supplying the above mentioned services.

There will be attempts to amend this legislation on the House floor. These amendments, while possibly well intentioned, would be the death knell for this legislation should they pass. NACo and its membership strongly opposes any amendments to S. 455 and asks that you support the basic needs of America's public land counties by voting against amendments and for final passage of the legislation.

On behalf of the Nation's local governments, we thank you for your consideration and willingness to review our concerns.

Sincerely,

LARRY E. NAAKE,
Executive Director.

SERVICE EMPLOYEES INTERNATIONAL UNION, AFL–CIO, CLC,
Washington, DC, October 5, 1994.

DEAR REPRESENTATIVE: On behalf of the one million members of the Service Employees International Union, I urge you to vote for S. 455, Payments in Lieu of Taxes (PILT), and oppose all weakening amendments. Since enactment, PILT has never been adjusted for inflation. Consequently the program's value has diminished to less than half of what it was when enacted. This bill corrects that shortfall.

PILT funds are directed to 49 states, and over 1400 local units of government. The funds provide compensation to states, counties, and local governments which have tax-exempt federal lands within their borders. They are used for essential local services including: 1) road maintenance; 2) emergency services; 3) law enforcement and fire protections; 4) education; and 5) health and social services.

Many of the public employees providing the essential services supported by PILT are SEIU members. Unless S. 455 passes, both the services and their jobs are endangered.

Again, I urge you to support S. 455 without weakening amendment.

Sincerely,

JOHN J. SWEENEY,
International President.

NATIONAL LEAGUE OF CITIES,
Washington, DC, October 4, 1994.

Hon. PAT WILLIAMS,
House of Representatives, Cannon House Office Building, Washington, DC.

DEAR REPRESENTATIVE WILLIAMS: I am writing to urge your positive action on S. 455, Payments in Lieu of Taxes (PILT). The National League of Cities strongly urges you to support this measure and to oppose any amendments. We believe this legislation is essential to support the cost of municipal services in lieu of real property taxes.

PILT funds are spent by local governments to support police, fire and emergency rescue

services provided to users of public lands; environmental compliance; highway construction and maintenance; solid waste management; and health and human services. The cost for these services has risen, while PILT payment' monetary value has diminished. The shortfall has come from either taxpayers' pockets or decreased services.

The current PILT program monetary value has been reduced by 18 years of inflation, to the point where its value today is less than half of its value when it was passed in 1976. The FY 1995 appropriation of $104 million is actually worth about $50 million in FY 1976 dollars. While the Consumer Price Index has skyrocketed 130% since 1976, PILT payments have remained flat. This legislation would rectify this situation.

Amendments to this legislation at this late date could doom this legislation. Congress has had a version of this legislation before it for over five years; there has been plenty of time to make changes to the bill.

Please support S. 455 and oppose any amendments. Passage would help the nation's cities and towns by restoring equity to the Payments in lieu of Taxes program.

Sincerely,

SHARPE JAMES,
President, Mayor of Newark.

STATE OF ARKANSAS,
OFFICE OF THE GOVERNOR,
Little Rock, AR, July 23, 1991.

Hon. ROY ROMER,
Governor of Colorado, State Capitol, Denver, CO.

DEAR ROY: I am in receipt of your correspondence concerning Payments-In-Lieu-of-Taxes (PILT) to Units of Local Government. With over 3.1 million entitlement acres in the State of Arkansas, it is indeed an important issue here as well. The shrinking availability of resources for all levels of local government in this state as well as the nation is of extreme concern. Achieving an appropriate and inflation adjusted level of funding under the PILT program should be a priority among all the states involved.

You can be assure that the Arkansas congressional delegation is being made aware of the significance of House Resolution 1495 and Senate Bill 140.

I appreciate your correspondence concerning this critical issue.

Sincerely,

BILL CLINTON,
Governor.

AMERICAN TRUCKING ASSOCIATIONS,
Alexandria, VA, October 4, 1994.

Hon. PAT WILLIAMS,
U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE WILLIAMS: We are writing in support of S. 455, the Payment in Lieu of Taxes (PILT) legislation recently reported from the Committee on Natural Resources. We support the legislation as reported and would oppose any amendments on the House floor.

PILT funds are spent by counties to support services provided to users of public lands: in some counties primarily for road construction and road maintenance, with other PILT funds used for law enforcement, emergency search and rescue, fire and emergency medical services, solid waste management, and health and human services. For these services, costs have risen while PILT payments' monetary value has diminished. The shortfall must come from taxpayers pockets or decreased road maintenance.

The current PILT program monetary value has been reduced by 18 years of inflation, to the point where its value today is less than half of its value when it was passed in 1976. The FY1994 appropriation (and the FY1995 request) of $104 million is actually worth about $50 million in FY1976 dollars. While the Consumer Price Index has skyrocketed 120% since 1976, PILT payments have remained flat. This legislation would rectify this situation and provide additional funds for needed road improvements.

We urge Members of Congress to support S. 455, without amendments and we appreciate the opportunity to support this legislation.

Sincerely,

TED SCOTT.

NATIONAL ASSOCIATION
OF COUNTY ENGINEERS,
October 4, 1994.

Hon. PAT WILLIAMS,
U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE WILLIAMS: We are writing in support of S. 455, the Payment in Lieu of Taxes (PILT) legislation recently reported from the Committee on Natural Resources. We support the legislation as reported and would oppose any amendments on the House floor.

PILT funds are spent by counties to support services provided to users of public lands: in some counties primarily for road construction and road maintenance, with other PILT funds used for law enforcement, emergency search and rescue, fire and emergency medical services, solid waste management, and health and human services. For these services, costs have risen while PILT payments' monetary value has diminished. The shortfall must come from taxpayers pockets or decreased road maintenance.

The current PILT program monetary value has been reduced by 18 years of inflation, to the point where its value today is less than half of its value when it was passed in 1976. The FY1994 appropriation (and the FY1995 request) of $104 million is actually worth about $50 million in FY1976 dollars. While the Consumer Price Index has skyrocketed 120% since 1976, PILT payments have remained flat. This legislation would rectify this situation and provide additional funds for needed road improvements.

We urge Members of Congress to support S. 455, without amendments and we appreciate the opportunity to support this legislation.

Sincerely,

A.R. GIANCOLA, P.E.,
Executive Director.

AMERICAN ROAD & TRANSPORTATION
BUILDERS ASSOCIATION,
Washington, DC, October 4, 1994.

Hon. PAT WILLIAMS,
U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE WILLIAMS: The American Road & Transportation Builders Association (ARTBA) applauds your initiative in introducing H.R. 1181. As a national federation representing the transportation construction industry, including over 700 public transportation officials and county engineers nationwide, ARTBA strongly supports H.R. 1181 and S. 455 introduced by Senator Hatfield, the Payment in Lieu of Taxes (PILT) legislation. ARTBA would oppose any amendment to S. 455 as currently reported by the House Committee on Natural Resources.

PILT funds are spent by counties to support services provided to users of public lands, and in many counties the funds are used primarily for road construction and road maintenance. While the cost for such services has escalated, the PILT payments' monetary value, due to 18 years of inflation, has diminished. Without the additional funds provided by H.R. 1181/S. 455, road maintenance and other county services will decline or taxpayer dollars will supplement the shortfall in funding.

The monetary value of the current PILT program is less than one-half of its initial value when passed in 1976. Since 1976, the Consumer Price Index has increased 120% while PILT payments have remained constant over the same period. In other words, the FY 1994 appropriation and FY 1995 request of $104 million is actually worth about $50 million in FY 1976 dollars. This legislation would rectify the situation and provide additional funding for county road improvements across the country.

ARTBA fully supports this legislation without amendments and we urge timely consideration of this vital bill.

Sincerely,

T. PETER RUANE,
President & CEO.

NATIONAL ASPHALT
PAVEMENT ASSOCIATION,
Lanham, MD, October 4, 1994.

Hon. PAT WILLIAMS,
U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE WILLIAMS: We are writing in support of S. 455, the Payment in Lieu of Taxes (PILT) legislation recently reported from the Committee on Natural Resources. We support the legislation as reported and would oppose any amendments on the House floor.

PILT funds are spent by counties to support services provided to users of public lands: in some counties primarily for road construction and road maintenance, with other PILT funds used for law enforcement, emergency search and rescue, fire and emergency medical services, solid waste management, and health and human services. For these services, costs have risen while PILT payments' monetary value has diminished. The shortfall must come from taxpayers pockets or decreased road maintenance.

The current PILT program monetary value has been reduced by 18 years of inflation, to the point where its value today is less than half of its value when it was passed in 1976. The FY 1994 appropriation (and the FY1995 request) of $104 million is actually worth about $50 million in FY1976 dollars. While the Consumer Price Index has skyrocketed 120% since 1976, PILT payments have remained flat. This legislation would rectify this situation and provide additional funds for needed road improvements.

We urge Members of Congress to support S. 455, without amendments and we appreciate the opportunity to support this legislation.

Sincerely,

NICK YAKSICH,
Director of Governmental Affairs.

[From the National Association of Counties]

DON'T BE MISLED BY THE MILLER-VENTO "DEAR COLLEAGUE" ON P.I.L.T.—PAYMENT IN LIEU OF TAXES

On October 3, 1994, Representatives George Miller and Bruce Vento sent a "Dear Colleague" to members of the House opposing S. 455, which would modify the Payments in Lieu of Taxes program to provide equity for the Nation's counties. In that letter they make a number of misstatements about the program, its impact and its future. These inaccuracies must be addressed. Also, the "reform" approach advocated in their letter was

rejected by their own committee 28–14, and subsequently, S. 455 was reported from that committee 31–10.

Concern has been raised about the cost of this legislation, and Mr. Miller and Mr. Vento cite this concern in their letter. However, this bill is merely an authorization, fully subject to appropriations. It does not add to federal spending, but redistributes existing revenues to the counties, and to local decisionmakers, to offset costs incurred in supporting federal land ownership. This authorization does not add to the deficit nor is in conflict with deficit reduction efforts.

In their letter, Miller and Vento write that PILT is a "controversial program", yet not one Member of Congress, from either body, testified against the legislation in committee. The only "controversy" are proposed Miller-Vento amendments. They suggest this legislation has proceeded "without adequate review". A version on the legislation has been before the Committee on Natural Resources for over five years, and specifically, S. 455, has been before the Committee since April. The Senate heard the bill last November and passed it in April by a vote of 78–20.

The "Dear Colleague" says this legislation will "eat away at limited funds *currently* [emphasis added] available for national parks, wilderness areas and other national treasures . . .". S. 455 is subject to the appropriations process, and it is too early to second guess allocations that may be made by the next Congress' Budget committees for the Interior appropriations bill. Miller-Vento write of "massive" increases in the program. S. 455 will only restore the PILT program to its original Congressional intent, nothing more. Remember, these payments go to counties for services already provided to the federal government.

The letter goes on to suggest, that if this should pass, there would be "no review whatsoever" for five years. Does this mean the Committee on Natural Resources is going to abrogate its oversight responsibility for the next five years? We think not. They raise concerns about the cost over ten years, yet the Committee on Natural Resources has authorized billions of dollars in programs in the 103rd Congress, including many in recent days without the clarion call for budget restraint. Besides, this is returning hard earned tax money to the local communities for tax dollars already spent to support federal ownership of the land.

Miller and Vento write that PILT was "intended to replace local revenue 'lost' because of the presence of untaxed federal lands". In reality, counties generally spend much more supporting federal lands than they receive from PILT funds. One of the greatest misstatements in the letter refers to the "supplement" local governments receive from "federal services like law enforcement and fire protection." In reality, counties provide the law enforcement on public lands, not the federal government, and in the case of fire protection, it is generally to protect the federal resource, not local county property. Counties also spend millions of dollars fighting fire attributable to federal property.

The "Dear Colleague" states that the PILT program does not, "fully recognize the often significant amounts of funds that go to *states* [emphasis added] from activities such as timber harvests, grazing, mining and other activities." This is just plain WRONG. The PILT formula specifically reduces the counties' PILT payments dollar for dollar for previous year natural resource receipt payments attributable to those counties. Miller and Vento argue a GAO study is needed, yet neither member has moved, in the six years a PILT bill has been pending before their committee, to request such a study, and there is no bar to them asking for one in the future. Indeed, supporters of S. 455 have expressed a willingness to participate in such a study once this legislation has passed.

Mr. Miller and Mr. Vento argue that passing this legislation will "end any serious opportunity for reform" yet the only reform proposed for the PILT program is S. 455. The last minute effort of proposing amendments is nothing more than a thinly-veiled attempt to kill this legislation.

As you can see, Mr. Miller and Mr. Vento are not providing an accurate picture of the PILT program, or the services that nearly eighteen hundred counties in 49 states provide in support of federal land ownership. As committee and subcommittee chairs, they have not pursued these amendments until the eleventh hour, even after having PILT legislation before them for over five years!

We ask you to support S. 455 as reported from the Committee on Natural Resources and oppose the amendments of Mr. Miller and Mr. Vento.

If you have any questions, call Jeff Arnold, NACo Associate Legislative Director at (202) 942–4286.

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 4, 1994.

Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 455, the Payment In Lieu of Taxes Act. This estimates assumes that the bill will be amended to make section 2(b)(2) effective as of October 1, 1998.

Enactment of S. 455 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER.

1. Bill Number: S. 455.
2. Bill Title: Payment In Lieu of Taxes Act.
3. Bill Status.

As ordered reported by the Senate Committee on Energy and Natural Resources on February 2, 1994.

4. Bill Purpose:

S. 455 would change the formula used to calculate payments in lieu of taxes (PILT payments) to local governments and would provide for annual adjustments to these payments based on changes in the Consumer Price Index (CPI). The higher payments would be phased in over a five-year period beginning in 1995. Counties containing certain types of federal land within their borders currently receive PILT payments as compensation for taxes that would be levied on these lands if they were privately owned. The changes in the formula would increase the amount of money authorized for PILT payments, though total payments would still be limited to the amounts provided in appropriation acts. The bill would delete a provision of current law that prevents the federal government from making PILT payments on certain land.

5. Estimated Cost to the Federal Government.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999
Estimated authorization level	25	53	78	109	137
Estimated outlays	25	53	78	109	137

Note: This table does not include an estimate of the impact of a provision in S. 455 that deletes a current prohibition against making PILT payments on certain types of federal lands. While enactment of this provision would further increase the authorization for PILT payments, CBO has no information on the number of acres nationwide that would be affected.

The costs of this bill fall within budget function 800.

Basis of Estimate:

In preparing this estimate, CBO assumed that S. 455 would be enacted during fiscal year 1994 and that appropriations would be provided as estimated beginning in fiscal year 1995. We also assumed that the permanent population caps specified in section 2(b)(2) would be made effective beginning in fiscal year 1999.

The Bureau of Land Management provided CBO with estimates of the total PILT payments that each county would receive over the 1995–1999 period as a result of the formula changes specified in the bill. This information indicates that the payments would total about $132 million in fiscal year 1995 and would reach $255 million by 1999. The 1994 appropriations bill for the Department of the Interior and related agencies provides about $105 million for PILT payments. Under current law, we expect such payments to remain at about this level, adjusted only for inflation, over the 1995–1999 period. The estimated cost of S. 445 is the difference between payments under the formula specified in the bill and the amounts included in CBO's baseline projections.

6. Pay-as-You-Go Considerations:

The Budget Enforcement Act of 1990 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1996. CBO estimates that enactment of S. 455 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

7. Estimated Cost to State and Local Governments:

Assuming appropriation of the necessary funds, county governments would receive additional PILT payments beginning in fiscal year 1995 as specified in the table above.

8. Estimate Comparison: None.
9. Previous CBO Estimate: None.
10. Estimate Prepared by: Theresa Gullo (226–2860).
11. Estimate Approved by:

C.G. NUCKOLS,
Assistant Director for Budget Analysis.

This legislation has the support of the National Association of Counties the National League of Cities, the American Federation of State, County and Municipal Employees [AFSCME], the Service Employees Union [SEIU], the American Federation of Teachers [AFT], the American Trucking Association, the American Road and Transportation Builders Association, the National Sheriffs' Association, the National Asphalt Association, The National Association of County Engineers, and the National Stone Association.

I urge my colleagues to support S. 455 and oppose all amendments.

Madam Chairman, I reserve the balance of my time.

Mr. MILLER of California. Madam Chairman, I yield such time as he may

consume to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Madam Chairman, I strongly favor the Senate bill, S. 455.

I urge Members to vote in favor of S. 455, increasing the authorization for Payments in Lieu of Taxes [PILT]. This legislation is necessary for the sole reason of making an inflation adjustment in the Federal payments now made to counties for the nontaxable Federal lands in their jurisdictions.

S. 455 is a compromise with H.R. 1181, legislation I cosponsored to increase the PILT authorization by 120 percent—the amount of inflation increase since 1976, the year of the original PILT legislation. The Senate bill phases in the authorization increase over 5 years, and I support this as a reasonable compromise.

Current PILT payments are made on a per-acre basis for entitlement lands, which include national parks, national forests, Bureau of Land Management, and Bureau of Reclamation lands. The monetary value of PILT payments to localities has been reduced by 18 years of inflation, to the point where its value today is not even half of its value when first enacted in 1976. The fiscal year 1995 request of $105 million is actually worth about $50 million in fiscal year 1976 dollars. While the consumer price index has increased 120 percent since 1976, PILT payments have remained flat.

S. 455 would correct the current PILT deficiencies. Local governments have the right to be compensated by the Federal Government for untaxable lands within their jurisdictions. Those who use public lands have a right to expect emergency search and rescue services, law enforcement, fire and emergency medical services, solid waste management, road maintenance, and health and other human services. I urge Members to support S. 455.

Mr. MILLER of California. Madam Chairman, I yield 5 minutes to the gentleman from Oregon [Mr. KOPETSKI].

Mr. KOPETSKI. Madam Chairman, I rise in support of the bill, but with, and in strong support of the amendments offered by the chairman of the Committee on Natural Resources [Mr. MILLER]. There is plenty of time if these amendments are adopted this afternoon for the Senate to concur in these amendments, and I think it is vital that we structure the bill with the amendments.

Yes, the PILT program helps my district, and I will not object to helping because I do not object to helping beleaguered counties who have Federal lands in their land services. On the surface, I should be one of the biggest supporters of the PILT program. But I cannot in good conscience support the legislation as it is currently written.

My objection is not with PILT itself, but with the inflation adjustments and the ongoing in perpetuity program, entitlement program which we are creating here today. Certainly additional PILT outlays in the future will have a beneficial impact on my district, but these benefits come at too great a cost; namely, the loss or erosion of other needed programs that benefit my district and others, and the loss of control of our fiscal house. Madam Chairman, that price tag is too expensive.

There has been a lot of talk around here about addressing entitlement programs, that entitlements are the real villain in deficit reduction efforts. The bill before us today, by adding an automatic inflation adjustment, would effectively become an entitlement program and make our budget fight in the 104th Congress that much tougher, and much more difficult in years to come.

As recently as 1962 discretionary spending was a full 70 percent of the total Federal outlays. That has dwindled to less than 40 percent today, and is projected to drop to less than 30 percent in 1999. Entitlements today make up 50 percent of the budget, and combined with all mandatory spending make up over 60 percent of all spending. This total is only going to increase by this bill today. By the end of the decade, entitlements and mandatory spending will top 70 percent of all Federal outlays. When all spending is entitlement spending, we cede the constitutional power of the purse to existing statutes, and we lose our ability to effectively restrain the deficit.

That is the decision we face today, whether to recklessly expand a program, even one I believe to be among the most worthy programs in the Federal Government, at the risk of deepening our already dire fiscal crisis.

Madam Chairman, time and time again Members stand here and say we must balance the budget. Time and time again they say we must not create new entitlement programs. Time and time again they say we will not balance the budget unless all of us, all of the congressional districts share in the deficit reduction. And we must do that in a fair and equitable manner across the board.

By voting in this billion dollar program today we are doing exactly what so many of us promised people back home we would not do. Tomorrow many will go home to the districts and people will ask: "What did you do?" Will my colleagues be willing to forthrightly stand before their constituents and tell them they created a new entitlement program that adds $1 billion in the Federal deficit with an automatic escalator clause in it? That is the question before Members today.

Mr. TAYLOR of Mississippi. Madam Chairman, will the gentleman yield?

Mr. KOPETSKI. I am glad to yield to the gentleman from Mississippi for a question.

Mr. TAYLOR of Mississippi. Madam Chairman, would the gentleman quickly explain to the American public how someone can be entitled to money that we do not have? Will we not have to borrow this $1 billion?

Mr. KOPETSKI. The gentleman from Mississippi raises a valid point. This money does not exist except and unless we go borrow it. That is how we are going to pay for this program, and American people ought to know that. Every Member ought to understand, there are no fees involved where we are going to get this. We are going to get it out of the income tax of hard-working Americans, out of the corporate earnings of corporations to pay for this money.

Mr. TAYLOR of Mississippi. Since we are running a deficit, if we spend an additional $1 billion, we have to go borrow an additional $1 billion, and then pay it back with interest?

Mr. KOPETSKI. The gentleman is correct.

Madam Chairman, the vote on the Miller amendments are a test, a true test of whether Members are sincere in reducing the Federal deficit. It is even a better test than the balanced budget amendment itself, because this bill is about real American taxpaying dollars, real deficit dollars.

I urge Members to put their deficit reduction vote where their deficit reduction rhetoric is. Vote yes on the Miller amendment and send this bill over to the Senate and watch them agree to good legislation.

Mr. HANSEN. Madam Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Madam Chairman, I rise in strong support of S. 455 which increases the payments in lieu of taxes to counties. I think this is a matter of fundamental fairness to counties in Western States where the Federal Government is the largest landlord, the largest owner of land.

We have already heard about how we have already reduced the value of this program by more than 50 percent because we have made no change in this program since 1976. The result has been that in many counties there has been a downsizing of programs, of police forces, or school programs. Even while we add more mandates for those schools from the Federal level, they have had no relief from the same Government on paying its fair share of expenses for the land it holds on a tax-free basis.

Let me just tell Members about one county in my State that is 98-percent owned by the Federal Government. That means 98 percent of the land mass is not available in its tax base. How is that county supposed to function? How is it supposed to continue to carry out its responsibilities? This is a matter of fairness.

I would agree, we can get rid of this. We can abolish these payments altogether. Just let the States own the lands, or let them revert to private ownership. Then let the land be developed, let it be used, let the resources be developed. Then we really could abolish all of these other Federal payments to local governments.

□ 1350

The worst thing we can do is for the Federal Government to continue to own the land and continue to tell the States and the counties what they have to do. We cannot keep imposing these mandates on them, and not give them the resources to do it.

This is not the same as revenue sharing, which is a generalized program. This is a payment specifically because the Federal Government denies these counties the ability to use the resources, denies them the tax base. That is why it is so important that we make this change now. This is a matter of fairness to the counties.

It is going to be up to the Committee on Appropriations that I serve on to actually appropriate the money. But, we cannot do it unless we have the authorization, and we have been locked into the same formula for almost 20 years now. It is time that we change that formula. It is time that we gave this fairness to rural counties where the Federal Government owns so much of their land mass.

Mr. WILLIAMS. Madam Chairman, I yield 1½ minutes to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Madam Chairman, ladies and gentleman, let me give you a specific example. I have what I believe is the most beautiful district in the country, probably in the world, five national parks, three national recreation areas.

But let me share with you one county, Daggett County, almost one-half million acres, 7 percent of it private, under 30,000 acres of private land to carry the tax base of operating this county, 690 residents, over 2 million visitors per year. If you think they are coming as a destination and staying there and bringing all kinds of tourist revenue, wrong—150 hotel rooms in the county. Their budget has to pay all of the costs that my colleagues have outlined for fire protection, garbage collection, search and rescue, law enforcement, public safety, on and on and on.

Garfield County, all of the same problems, 3 percent private, 3,900 residents, almost 6 million visitors, and not only do they have all of those problems, they also have 35 students living in Bullfrog, UT, in the national recreation area. These are children of the Park Service employees. Not only do the private residents of Garfield County have to pay the costs of their education, but the Federal Government will not even allow Garfield County to put an education facility on the public land. They have got to bus these students onto private land and pay the costs of educating these students.

Ladies and gentlemen, there is something wrong with this picture, something dreadfully wrong.

An increase in PILT will help correct it, but it is only the beginning.

I urge you to support the payment in lieu of taxes.

Mr. Speaker, I rise today in support of S. 455, a bill designed to increase the payments in lieu of taxes [PILT] to local governments. This legislation is urgently needed to narrow the increasingly wide gap between what local governments should be paid by the Federal Government due to the ownership of Federal property in that jurisdiction and what little they have been receiving over the last 18 years. When all is said and done, it comes down to a simple question of fairness—are we as a nation going to further penalize these residents by not properly compensating their local government for the vast amounts of untaxable Federal property within their jurisdictions.

The increase in the PILT payments that will occur in this legislation is only the first increase in this payment since PILT was first passed by Congress, way back in 1976. It is unimaginable that it has taken the Federal Government this long to recognize such a glaring oversight, but I am pleased that Congress is finally recognizing this shortcoming with legislation that will provide a much more realistic and fair reimbursement.

As the debate in Congress over unfunded mandates has grown to a fevered pitch, the residents of my district have let me know in no uncertain terms that a fair PILT payment from the Federal Government is one of their very top priorities. The lack of a fair and just PILT payment may be one of the most extreme unfunded mandates that my constituents must face. While the vast majorities of the rural counties in my district are owned by the Federal Government, and thus unable to generate tax revenue, the residents of these counties are still forced to pay for the police and fire protection, the solid waste removal, and search and rescue teams, to name only a few.

Many of my colleagues from areas other than the West may not fully understand the undue hardship that Federal property ownership can play on our local jurisdictions in the West. A lack of a fair PILT payment puts the rural residents of my district at a distinct disadvantage because they are unable to develop or tax vast portions of their jurisdictions due to so much Federal ownership. In fact, I have one county in my district, Daggett County, that has only 7 percent private ownership of the land in the entire county. You can just imagine what kind of hardships that places on the Daggett County government who has to perform a very difficult task every year in just coming up with a budget to serve its citizens in a safe and responsible manner. With only 690 full-time tax paying residents in Daggett County, and a national recreation area in the county that generates approximately 2 million visitors per year, these few residents are being forced to pay for the services of the many. In my opinion, this is blatantly unfair.

Some Members of this body are supposedly opposing this legislation for budgetary reasons, and some have even asked me, an outspoken deficit hawk, how I could support this legislation. The answer is simple, when budget questions arise, I believe we need to address questions of priorities and fairness when these decisions are made. This legislation does not represent runaway spending, rather it represents a promise that Congress has made to the American people, and particularly westerners. For the supporters of Washington, DC in this House, this legislation also represents a question of fairness. Much like the direct Federal payment that is made to our Nation's Capital each year, PILT is intended to compensate local jurisdictions for the presence of untaxable and undevelopable Federal property within that jurisdiction.

I find it just a little ironic and disingenuous when Members of Congress who are opposed to this legislation try and camouflage their true position by raising a red herring about budgetary concerns. Clearly, this legislation is fair and equitable, and in terms of priorities this funding should be near the top of Congress' agenda. We cannot continue to always make the pain-free decision by simply pushing the costs of our initiatives off on local jurisdictions. PILT should be a top priority for several important reasons. First of all, Congress has ignored this issue for almost the last 20 years and needs to address how inflation has wreaked havoc on the PILT payments. You cannot stretch 1976 dollars very far in 1994. Second, this funding should be a priority for those Americans who like to travel through the West viewing our beautiful landscape and visiting our national parks. It has to be remembered that the residents of these communities are being forced to provide the plethora of services for these visitors, but are increasingly unable to keep up with the rapidly growing pace of visitors who come to view Utah's natural wonders.

Mr. Speaker, these are just a few examples of how an inadequate PILT payment has wreaked havoc in my district over the last decade and a half. The majority of small rural communities throughout the West have all been faced with this problem and have been screaming at Washington to fix the problem. I am glad that Congress is finally addressing this inadequacy and I urge my colleagues to accept the Senate language and pass this legislation today.

Mr. MILLER of California. Madam Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. HOKE].

Mr. HOKE. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, the gentleman from Utah is absolutely right. There is something wrong with this picture, dreadfully wrong, and that is the Federal Government owns too much land in this country. The way to solve this problem is by selling that land off.

PILT is a wonderful acronym, as my good friend from Ohio has called it, not payment in lieu of taxes but pork in lieu of taxes. Maybe it is pork, maybe it is not, but the fact is that what we have got to do to change the policy with respect to Federal ownership of land is to put some pressure on the people that would not change it, and the best way to put that pressure on those people is from the grassroots, from those counties that will, if it is true or if it is not, be disadvantaged by not getting this increase from the 1976 formula, on the U.S. Congress, because that is what is wrong with this picture.

Ninety percent of the land? For what? Why on Earth should the Federal Government be the owner of 90

percent of the lands in some parts of the West? It makes absolutely no sense. It is unjustifiable.

If you think that the Federal Government is ever going to be a better steward of land ownership than private citizens who care about it, who use it, who farm on it, who use it for ranching, you have completely missed the point.

You are absolutely right when you say that there is something wrong with the picture, but throwing more money on an automatic, regular basis with automatic cost increases to county commissioners all across the West will never, never solve that problem. The way to solve it is to divest, have an auction, sell it off over time slowly, but surely, and get out of the land business.

Mr. HANSEN. Madam Chairman, I yield 2 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Madam Chairman, I rise in strong support of S. 455, a bill to reform the payments-in-lieu-of-taxes program established nearly 20 years ago. Payments to local governments under this Act, Public Law 94-565, have not increased during this period despite years of inflation. Consequently, the buying power of these funds, which are provided as compensation for real estate taxes not paid by the Federal Government as landowner, has greatly diminished.

S. 455 would correct the inequity by changing the PILT formula to increase the authorized per-acre payment over the next 5 years and then annually index the payment for inflation. Madam Chairman, this is only fair. County governments in my State are strapped and the ability to raise revenues from the local tax base is quite limited in most of them because we are awash in Federal lands, and Uncle Sam will not waive sovereign immunity to pay his annual property tax bill.

Of course, there is another way to solve this problem—start putting the public range and forest lands into private ownership, by one means or another, so that taxes will be paid. But that appears not to be the sense of this Congress. Oh no, public lands must be retained in Federal ownership at all costs say many Members from nonpublic land States. And so we find many counties in western States—but also in many eastern States with large national forest or park holdings—unable to expand their tax bases, left begging for Federal crumbs such as PILT.

I can hear some critics say already "Barbara Vucanovich, avowed fiscal conservative, supports an increase in an entitlement program. For shame!" Well, Madam Chairman, I'm not ashamed to support S. 455. The formula is old, it does not reflect reality, and most of all Congress has only itself to blame for the problem. Shortly after PILT passed in 1976, the 94th Congress enacted the Federal Land Policy and Management Act codifying a general retention policy for public lands. Now we must face the consequences of this policy and pay up. I urge a "no" vote on the weakening amendments to this bill and an "aye" on final passage.

Mr. WILLIAMS. Madam Chairman, I yield 1½ minutes to the gentleman from Idaho [Mr. LAROCCO], an original cosponsor of my PILT legislation and a great assist in this effort.

Mr. LAROCCO. Madam Chairman, I thank the gentleman for yielding me this time.

I also thank the gentleman from Montana for his leadership, and the gentleman from Utah as well for helping us move to this point on the floor now.

Now, let me speak directly to my colleagues whether they are here on the floor or watching the debate back in their offices, we have to keep this bill clean. Let us be very clear about this. We have to defeat any weakening amendments, and we have to get this bill out of here.

We can do a lot to end gridlock today by passing this bill exactly as it has come over. It is not the bill my colleague from Montana originally sponsored. It is a compromise bill. But what it does is it is fair.

The reason I am an original cosponsor of this bill is because it is fair.

My colleagues, we have not raised the PILT payments in 18 years. My State is owned 64 percent by the Federal Government. Every one of the 19 counties in my district has a large Federal presence, and they have not had a cost-of-living increase.

Across this country we are going to be able to say to the American people we are fair and the Federal Government is treating them fairly.

Let me make an important point about this legislation. It is an authorizing piece of legislation. Some of the people who have come to the well of the House to talk about the high cost had no problem voting for other authorizing pieces of legislation, the California Desert Protection Act which comes to mind, and that, too, is an authorizing piece of legislation. We will deal with the appropriations, but let us get this train on the track. Let us get it out of here in the closing days. Let us put an end to gridlock, and let us be fair to the counties in America, and let us be fair to the schoolkids. Let us be fair to the kids in the education systems back home that have been shouldering the burden because we have not done our work here and been able to get anything passed. Today we can remedy that for the schoolkids, the highway districts, the counties, and the property taxes back home, those individuals who have seen their private property taxes go up because we have not done this.

Let us get this out of here. Let us defeat the amendments. Let us get this bill out of here exactly as is.

So I urge the passage of this legislation.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. First of all, let me thank the gentleman from California for yielding me this time.

I was quite surprised when I saw this bill noticed earlier in the week that at the closing tail end of the session we are going to address a bill which has such severe fiscal implications.

□ 1400

It is very ironic that on the last day of the regular session we are possibly going to pass this bill which, over the short run, will cost $400 million; putting payments on automatic pilot, it is going to cost well over $1 billion.

We are going to pass this today, we are all going to fly home to our districts tonight and tomorrow we are going to end up in your back yards telling you how we are going to cut Federal spending, how we are going to balance the Federal deficit, how we are going to rein in entitlement programs and programs that are on an automatic cost increase.

What we are doing today, my friends, is ludicrous. If in fact the payments to these communities had not been raised since 1972, let us look at it and raise them. But to raise them and then put into the Federal statutes the fact that every year, without anyone looking at it, they are going on automatic pilot, if we have not learned anything in this Congress or the Federal Government, that is the thing we should not do.

Long before I got here, the Federal pensions were on automatic pilot, other social program payment increases on automatic pilot.

Whether or not we come to Washington, whether or not do anything, the costs continue to go up.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. KLECZKA. I yield to the chairman of the full committee, the gentleman from California [Mr. MILLER].

Mr. MILLER of California. I thank the gentleman for yielding to me.

Mr. Chairman, the gentleman makes a very important point. You know, part of the budget negotiations last year where we had an entitlement review commission, the gentleman from Utah on this side of the aisle who just spoke is championing entitlement review. Yet here we are, we have fully indexed open-ended entitlement that has nothing to do with whether or not Garfield County needs the money more than another county, whether they have more needs or not, more burdens because of Federal lands.

We are not channeling the money to the areas that need it. It is simply like, in fact, throwing it out of an airplane, we just throw $99.3 million out of an airplane across these United States and

nobody has to show how they use it, how they account for it, what are the benefits they are getting from Federal lands in those States from mining activities or budget for it, whatever, for mining activities or what have you.

You know, the formula was rigged from the beginning. All we are asking for is the right—not denying them an increase—but the right to get a handle on this and get a chance to review it. Yet that is resisted because the Senate says it is take it or leave it. We have tried to do the reform bills; in the Senate they will not entertain it, they will not entertain reform discussions, they will not entertain legislation from this House. They will only entertain a fee increase.

So the gentleman is right, that is how we end up here on the last day of the session.

I thank the gentleman for his point.

Mr. KLECZKA. The gentleman from California is exactly right. The payment involves so much per acre, and if that community had no fires, no extra police cost or anything, they get a fat check from the Federal Government.

So let us look at the formula: If you have these costs, I think the responsibility of the Federal Government is let us offset some of those costs with the local taxpayers. But just to send you a blank check, one that will increase every year, is the wrong thing to do.

What is really ironic about this legislation is that the people who are supporting it today are the very same people who signed the A–to–Z petition, on the A–to–Z legislation. The same people who are coming to the well today to support this boondoggle are the members of Porkbusters caucus.

So after this rollcall today, I am going to make those comparisons and we will send those back to those fellows' and ladies' districts, show the taxpayer that, yes, they are a Porkbuster but that is for the program in my district, not in their district.

So let us put our voting card where our mouth is. Let us vote for the Miller amendment. If it is not adopted, vote against this boondoggle.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. I thank the gentleman for yielding this time to me.

Mr. Chairman, I have another suggestion, we might put the rhetoric where the facts are. This is not an entitlement. This is an authorization. This has to go to Appropriations every year.

The fact that the gentleman stands up here and says this is entitlement is not true, is not true, and I do not think the gentleman ought to be doing that, he or the chairman, either one. This is not an entitlement. It is an authorization. The COLA the gentleman talks about simply raises the authorization. The money is not there, and the gentleman knows it is not there.

It is sort of interesting that he invokes the National Taxpayers Union. They argue there ought to be a review, there should have been a review. How long has it been since we had a review?

We have had plenty of time to do this.

Talk about bringing it up at the last day, that is why it is here, because we have not talked about it in the committee. That is why it is here. But it is not a entitlement, it is an authorization. You have to go to the Appropriations Committee to get any of the funds that come forward.

It is sort of interesting that the people who are promoting it using the National Taxpayers Union, they have an F on the National Taxpayers Union. I do not know why they invoke this all of a sudden.

Let me talk about some of the people that are for it: National League of Cities, American Federation of State and County Employees, National Association of Counties, American Federation of Teachers, Service Employees International, Sierra Club, National Asphalt Association, and others.

This is a fairness question.

The gentleman talks about a windfall to western States. How about having 50 percent of Wisconsin being in Federal ownership, where there is no activity, no tax? How about that? My counties, 98 percent on some of them, down to 80 percent. But we are expected to provide services, we are expected to have an economy, we are expected to have some kind of a trade-off. We have asked, let the clients go back to the States; they have not had these costs. We are not talking about parks, we are not talking about wilderness; we are talking about the lands that were left there, the BLM lands, these are the lands we are talking about.

If there is any kind of fairness doctrine, there ought to be some sort of a trade-off.

I urge support for this bill and opposition to the amendments.

Mr. WILLIAMS. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, cost is not to be a concern of the Members. If this bill was fully appropriated next year, it would cost $130 million nationwide. It could cost as much as $255 million in 1999.

Now this year, authorized out of the Committee Natural Resources has been $5 billion, $5 billion.

The people who are complaining about $132 million authorized out of the Committee on Natural Resources this Congress, $5 billion.

Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. DEAL].

Mr. DEAL. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of this bill which increases the authorization for the Payment in Lieu of Taxes Program. I realize that this program has some problems with it. And I will be right beside other Members of the House asking for a review of this program. However, if we do not pass this bill as passed out of both the committee and the other body, then our local governments will not get the much-needed support that they need.

Mr. Chairman, there is a perception that the PILT Program only benefits Western States. As a Member who represents one of the Original Thirteen Colonies, I want to say that this is not true. Currently, 1,700 counties in 49 States benefit from this program. In my district alone, 19 out of 20 counties depend on PILT. In fact, Federal land covers more than 65 percent of Rabun County, GA. To my fellow southerners I would say this: If your district includes national parks, forests, wildlife refuges or BLM land, then a vote in support of this bill is a vote in support of your local governments.

Once again, I urge a "yes" vote on this bill and a "no" vote on all amendments.

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

I see the gentleman from the Subcommittee on Interior Appropriations, the ranking member, Mr. REGULA, in the room, and I would like to take this opportunity to engage in a dialog, ask a couple of questions.

Mr. REGULA. Mr. Chairman, would the gentleman yield to me in order to ask some questions?

Mr. MILLER of California. I yield to the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding.

Mr. Chairman, do the counties in question get any other funding other than the PILT payment in lieu of taxes from the Federal Treasury?

Mr. MILLER of California. Yes, they do, they do.

Mr. REGULA. Is it correct that out of revenues from timber, mining, recreational use, that 25 percent of those revenues go to the counties?

Mr. MILLER of California. The gentleman is correct. As he knows, that is because of his involvement in those programs during his service on the Subcommittee on Appropriations, those are shared; not only is the revenue shared, but obviously then the wage base and others credited for those activities are generated in that area.

Mr. REGULA. I heard some testimony earlier about the fact that the counties have to provide funds to rescue people and so on. But in the case of firefighting, is the cost of firefighting paid out of the Federal Treasury?

Mr. MILLER of California. The cost of firefighting is paid out of a revolving fund within the jurisdiction of the gentleman's committee. As the gentleman knows, we have seen now more and more the cost of firefighting is going

up higher and higher because we are trying to protect lands where the private people built right up alongside the national forests, along the BLM lands. That is causing more and more expensive fire suppression to take place. This is a burden that all Federal taxpayers pay for the benefit, again, of private and locally owned lands.

Mr. REGULA. Is there any form of means testing? In other words, would a wealthy county on a per capita basis get the same amount as a very poor county?

Mr. MILLER of California. That is exactly the problem with this program and this formula. It is an entitlement for an acre of land, whether that acre of land generates a burden or a benefit. You simply, by the status of that acre of land being in Federal ownership, money is given to these counties.

As I said, we do not try to target the money. We have spent the last decade in this Congress trying to target resources to those most in need, whether it is industries, families on public assistance, school children, or people on school lunch.

□ 1410

We tried to target it to keep down the cost to the Federal Government, but in this one we do not do that. We simply give the money on the fact that this acre is in Federal ownership, and there is no processing, there is no prioritizing of that effort, and I appreciate the question from the gentleman.

Mr. REGULA. I notice one of the amendments is a proposed review of the program. It went in place, I think, in 1976. Has there been any review or analysis by GAO since that time to determine the financial impact, as well as the financial need?

Mr. MILLER of California. There has been. The gentleman from Minnesota [Mr. VENTO] has held hearings on this program. There has been a whole series of questions raised about how these moneys are appropriated to individual lands, why some lands are included, why other lands are not included, why are minerals counted one way in some areas and not counted in others, and again there is no relationship to any burden generated by these lands and the payments that are given either to the States or not and whether or not the States are even using these lands, I mean these moneys received, that are related to either the burdens or the losses in property taxes. In some instances we know that the revenue that we send to the States far exceeds what would be generated if those lands were private land holdings. They would not generate hardly any property taxes at all. It far exceeds that, and that is why we are asking for the opportunity to have a review of this program and have a chance to reform it. But the Senate, just as the gentleman knows from his experience in the grazing legislation and mining, the Senate refuses to let us engage in the discussion of reform, and so we are left with the program that has lost all rhyme and reason as to its existence.

Mr. REGULA. Two more questions:

To the gentleman's knowledge is there any other discretionary program that is indexed? It seems like we have been moving away from indexing.

Mr. MILLER of California. No. I cannot currently recall any other discretionary spending. As the gentleman knows, most discretionary programs have to go in. There is a cap on their authorization level. They have to come back to the authorizing committees, go through a periodic review every 2 years, or every 5 years, to find out if this program is being run wisely or not, is the taxpayer still getting the benefit that they sought. This indexing in this program means that they never again have to come around and seek that kind of renewed authorization because they then have a fully indexed entitlement that we cannot get at again.

Mr. REGULA. If this is an authorization and therefore the money that would be appropriated for this program would have to be done so at the expense of other park or forest activities, would that be correct?

Mr. MILLER of California. No question, and the problem we have here, and why this is different than a park, or a wilderness area, or historical site, is they very often have an advocate over here in the House or what have you. But here we have a program, as we have already seen, where we have a large bloc of Senators that think that it comes to them as a matter of their birthright, and so that means that in fact this spending will in political reality, in terms of the gentleman's committee and the Senate Appropriations Committee, will come out of those other programs. There is no question about it at all because there is no other coalition or group that can defend those budgetary decisions against this increase in PILT. In fact the only thing that has kept that from happening is the cap on the authorization.

Mr. REGULA. One last question, and that is has the gentleman's committee given any consideration to turning some of these lands that do not have unique recreational values back to the States either through a purchase or some type of arrangement? It seems like some of the States have an inordinate amount of Federal land.

Mr. MILLER of California. Those discussions are going on all of the time. As a matter of fact, there is legislation that is trapped in the Senate now dealing with the trades of Federal lands for private lands for State lands. That is almost an ongoing process that happens all the time in the interaction between States, and municipalities, and private parties engaged in swaps and trades of lands, and clearly I am one who believes that. I think we ought to have a wholesale review of the status of Federal lands. I do not think we necessarily should be locked into that pattern, but I will tell the gentleman, "The more money you push behind these Federal lands, more likely you are to be locked into those patterns."

Mr. Chairman, I thank the gentleman from Ohio [Mr. REGULA].

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Utah for a question.

Mr. HANSEN. Mr. Speaker, I ask the gentleman, "Isn't the same question that you referred to the gentleman from California regarding will it come out of other areas, wouldn't that also apply to the Presidio? Wouldn't that also apply on California desert? Wouldn't that also apply on the headwaters, all of those? Doesn't that also apply in the same way that the chairman has——"

Mr. MILLER of California. Mr. Chairman, if the gentleman would yield, the answer is quite clearly yes. The difference is that here we have built up an open-ended entitlement with enough Senators that can match this, the political power of this program, against anything else. So it really takes a second class, those other programs take a second class, out. That is the political reality of what is going to happen in the Committee on Appropriations when we set down a $1,300,000,000 program in their lap over the next decade.

Mr. Chairman, I reserve the balance of my time.

Mr. HANSEN. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I am going to yield to the gentleman from Ohio [Mr. REGULA], and I say to him, "You were here, I think, when this went in in 1976."

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, the gentleman is correct.

Mr. HANSEN. I ask the gentleman, "Isn't it clear this was here to replace property taxes? As I go back and read this thing, that is what I read. I didn't read anything in here about other things that they would bring in. Realizing that many of these counties have 2 and 3 percent of their county that are in private property, and all the rest is in Federal Government, of course they can pick up a little bit here and there, but I would like to point out that they have such an infinitesimal amount coming in that they almost have to have gone, but isn't that a true statement, it was there to replace property taxes?"

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I think the gentleman is correct, and I think we really need to look at the whole package of the land transfers, the land swaps, the means testing. The wealthy counties may need less, and the poor ones more, and I do not think we have really evaluated all those things, and the gentleman is correct that in 1976 it was just what the title says, payment in lieu of taxes.

Mr. HANSEN. Mr. Chairman, I appreciate that and also would like to add something to what the gentleman from California [Mr. MILLER] pointed out on the idea of land transfer. Fourteen years on the committee; land transfers do not happen. I do agree that maybe we should take an overall look at it and try to come up with some way to adjudicate the land either to the local or the private.

Mr. WILLIAMS. Mr. Chairman, I yield 1½ minutes to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman from Montana [Mr. WILLIAMS] for yielding this time to me.

Mr. Chairman, I was part of the original effort to create payment in lieu of taxes over 20 years ago: I drafted the original legislation for my predecessor, John Blatnik—for whom I was administrative assistant—in 1972, and it was enacted in my first term in Congress.

The idea of payment in lieu of taxes is a matter of fairness, a gesture of fairness, to local governments, to the people who live near areas of huge public land tracts. If we are going to maintain trust in the public compact under which we reserve lands for use by all the people and the respect for public lands, then I think we have to make a payment to local governments to compensate them for the costs they must incur in service to those who use public lands, from which no revenues are derived to the benefit of local government.

Take Cook County in my northeastern Minnesota district. That is the area that juts out into Lake Superior. Its population: 3,600 people. Its land surface: some 900,000 acres, 94 percent of it in public ownership. Six percent of the land has to generate the tax revenue needed to sustain all the economic activity of 3,600 people in the winter, and about 15,000 people who come up there at one time or another during the summer. When there is an accident involving someone, for example, who comes up from my good friend Mr. VENTO's district in St. Paul, it is the Cook County commissioners who have to maintain the ambulance to scrape the victims off the highway, and bring them into the Cook County hospital. The county board and the hospital do not get any additional funding to provide those services or any of the other services they are called upon to perform on behalf of the non-Cook County residents who are traveling to public lands within the county.

□ 1420

We have not adjusted this formula in 20 years. I think it is time to do so, and it is long overdue time to include a cost-of-living escalator in the formula. We ought to proceed with this legislation, which is not an entitlement, it is subject to the appropriations process. Most importantly, this is a matter of simple, basic fairness to people whose livelihoods are affected by lands that are not available for private development and who still have to perform public services for all those who come to enjoy those public lands.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Chairman, the PILT reform bill, before us today, will simply compensate counties for the taxable revenues they forego by having tax-exempt Federal lands within their boundaries. The authorization of PILT has been at the same level since 1976. These payments are now worth less than half of their original value when adjusted to inflation.

This PILT money goes a long way toward helping distressed communities cope with Federal mandates and inflationary losses. New Mexico is heavily reliant on PILT funds to make up the lost taxable values of Federal lands. They rely on PILT payment to provide the basic necessities such as law enforcement, fire and emergency medical service, as well as road maintenance.

I believe that it is the Federal Government's responsibility to make full restitution to these communities. But for those of you who do not agree, I have an answer.

Why don't we just transfer the public lands to the States. This would once and for all solve the complaints about so-called wasted taxpayer money and fat subsidies to ranchers, miners, and the timber industries. It also would save the American taxpayers millions of dollars by decreasing the public expenditures for bureaucratic management and the need to provide PILT payments each year.

At the same time, giving these lands to the States addresses our concerns that the Federal Government is not sympathetic to our local needs. These lands could go on the tax rolls so local communities could support their own education, transportation, law enforcement, and other economic development needs.

Over 60 percent of New Mexico is owned by the Federal Government. We should be treated like every other State east of the 30-inch rainfall belt.

Until Congress allows this transfer to occur, we should, at the very least, provide adequate PILT compensation and pass S. 455.

Mr. Chairman, I include for the RECORD the following tabular information:

SUMMARY OF APPROPRIATIONS AND RECEIPTS FOR THE BUREAU OF LAND MANAGEMENT ON A STATE-BY-STATE BASIS

[For fiscal years 1991–93]

State	Fiscal year 1991		Fiscal year 1992		Fiscal year 1993	
	Cost	Receipts	Cost	Receipts	Cost	Receipts
Alabama	$122,000	$363,175	$139,000	$2,046,504	$166,000	$1,617,663
Alaska	67,773,000	1,171,830	73,836,000	8,972,740	88,102,000	8,387,603
Arizona	40,640,000	1,871,741	48,130,000	2,004,133	57,429,000	2,026,364
Arkansas	1,013,000	1,867,719	972,000	3,213,498	1,160,000	4,331,281
California	61,529,000	66,575,118	63,392,000	58,164,234	75,640,000	54,784,855
Colorado	78,728,000	113,459,230	84,804,000	95,966,587	101,189,000	84,741,025
Connecticut	18,000		17,000		20,000	
Delaware	10,000		10,000		12,000	
District of Columbia	92,799,000		93,925,000		112,072,000	
Florida	1,087,000	153,273	1,080,000	153,105	1,289,000	477,710
Georgia	789,000		822,000	437	981,000	218
Hawaii	38,000		38,000		45,000	
Idaho	52,951,000	6,680,792	61,184,000	7,230,068	73,005,000	7,243,439
Illinois	332,000	82,194	317,000	108,816	378,000	354,653
Indiana	165,000		220,000		263,000	30
Iowa	133,000		133,000	415	159,000	1,118
Kansas	352,000	3,980,851	613,000	4,316,051	731,000	6,552,657
Kentucky	623,000	588,463	618,000	952,238	737,000	439,748
Louisiana	168,000	8,317,630	165,000	8,392,841	197,000	7,811,596
Maine	91,000		98,000		117,000	
Maryland	41,000	202	45,000	25,281	54,000	29,688
Massachusetts	55,000		56,000		67,000	
Michigan	1,169,000	2,138,047	1,184,000	2,843,767	1,413,000	2,388,422
Minnesota	850,000	32,494	713,000	119,209	851,000	74,783
Mississippi	2,223,000	3,169,638	2,484,000	2,169,844	2,964,000	3,690,904
Missouri	890,000	4,420,618	895,000	2,714,318	1,068,000	2,197,423
Montana	37,545,000	51,065,757	39,386,000	48,175,162	46,996,000	54,915,490

SUMMARY OF APPROPRIATIONS AND RECEIPTS FOR THE BUREAU OF LAND MANAGEMENT ON A STATE-BY-STATE BASIS—Continued

[For fiscal years 1991–93]

State	Fiscal year 1991		Fiscal year 1992		Fiscal year 1993	
	Cost	Receipts	Cost	Receipts	Cost	Receipts
Nebraska	355,000	346,792	347,000	317,976	414,000	264,056
Nevada	47,761,000	16,205,889	50,622,000	18,169,840	60,403,000	26,833,274
New Hampshire	223,000		93,000		111,000	
New Jersey	42,000		44,000		53,000	
New Mexico	49,831,000	231,136,274	48,069,000	228 301,735	57,357,000	305,486,571
New York	43,000	2,194	42,000	7,131	50,000	20,744
North Carolina	1,324,000		1,318,000	1,783	1,573,000	5,469
North Dakota	1,821,000	28,377,713	1,835,000	22,967,223	2,190,000	18,359,344
Ohio	175,000	348,330	216,000	474,110	258,000	493,614
Oklahoma	7,595,000	6,899,039	12,972,000	5,204,055	15,478,000	10,545,846
Oregon	130,935,000	161,139,265	140,042,000	18,263,808	167,100,000	20,666,075
Pennsylvania	218,000	26,506	220,000	52,532	263,000	55,313
South Carolina	136,000		176,000		210,000	2,067
South Dakota	1,391,000	1,136,116	1,352,000	1,095,852	1,613,000	1,162,677
Tennessee	477,000		483,000	253	576,000	3,246
Texas	1,408,000	3,963,221	2,019,000	3,112,393	2,409,000	4,408,300
Utah	38,930,000	68,678,136	43,771,000	61,241,011	52,228,000	74,557,527
Vermont	241,000		246,000		294,000	
Virginia	9,407,000	83,418	11,705,000	218,715	13,967,000	454,119
Washington	4,150,000	537,923	7,239,000	1,990,683	8,638,000	592,747
West Virginia	963,000	595,628	808,000	872,169	964,000	965,510
Wisconsin	2,078,000	360	2,440,000	14,277	2,911,000	7,456
Wyoming	45,593,000	407,148,111	48,407,000	376,882,975	57,760,000	416,628,383
Totals	787,231,691	1,192,563,778	849,742,092	986,748,861	1,013,925,093	1,123,579,201

Mr. WILLIAMS. Mr. Chairman, I yield 1½ minutes to the gentleman from Oregon [Mr. DEFAZIO], former county commissioner.

Mr. DEFAZIO. Mr. Chairman, yes, I have been a county commissioner representing a county more than half owned by the Federal Government. But that is not as material to this debate, because my counties in total get about 3/100ths of 1 percent of this money. So I am not here to argue that this is going to be a tremendous windfall for my counties. But I am here to argue the equity of this issue.

We heard this is an entitlement. Here is what CBO says:

The Budget Enforcement Act of 1990 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enactment of S. 455 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If it was an entitlement, they would apply. This is not an entitlement. This has to be appropriated.

Let us look at Harding County in eastern Oregon. I am really puzzled by the remarks about all these mineral receipts that flow to the county. Harding County gets no mineral receipts. It gets no timber receipts. It is a county that is owned 76 percent by the Federal Government. It has to maintain 2,000 miles of roads and because of the problems with our mining law, a huge heap leach mine is being built there, which is going to more than triple the population in one part of that county with no money coming from the Federal Government, no sharing of receipts from the Federal Government, nothing, zero.

We are saying that people of Harding County should just eat that so the Federal Government can give away the land to a Canadian mining company to extract public resources.

This is great, but we cannot give Harding County a few more pennies per acre under this bill. We cannot afford that. I believe we can afford it. Equity calls for it, and we should move this bill without amendment, because an amendment is simply a killer. Any amendment and this is dead for this Congress.

If we want to adjust the formulas later, let us address that in the next Congress.

Mr. WILLIAMS. Mr. Chairman, I yield 1½ minutes to the gentleman from California [Mr. HAMBURG].

Mr. HAMBURG. Mr. Chairman, I rise in support of S. 455 to adjust Federal payments made to counties in lieu of property taxes, for federally owned lands.

These payments are critical for paying the costs of providing public services in many rural counties across the county and in my district in which significant properties are federally owned.

There is no question that the public interest is well served by Federal ownership of property. Our Federal forests, wilderness areas, and national parks all promote important public interests which are not achieved through private ownership.

We must not forfeit those benefits.

But there is no reason that the counties in which these lands are located should bear the burden of meeting public expenses with Federal payments in lieu of taxes without the adjustment for inflation authorized by this legislation.

Payments in lieu of taxes are subject to appropriation each year. This is not an entitlement program which will lock us into increased deficit.

I urge my colleagues to support S. 455 without amendment.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. FOLEY], the Speaker of the House.

Mr. FOLEY. Mr. Chairman, I hope that Members will recognize the importance of this legislation to so many Members on both sides of the aisle and to people in every part of our country. This legislation that has an immediate opportunity to consider, to consider, not necessarily to provide, some adjustments in the payment in lieu of taxes position.

I have great respect for the gentleman from Minnesota [Mr. VENTO] and, of course, the chairman, the gentleman from California [Mr. MILLER], but I believe that the reality is that any amendments, any amendments adopted to this bill doom it.

There is no practical possibility for this legislation to go to conference at this stage, and be reported back to this House for further consideration. So the practical consequence, I know it is not the intention, but the practical consequence of adopting any amendment, is to kill the legislation. And since it is authorization legislation only and it involves the interests of so many districts in this country where there are large Federal holdings, I hope that Members of Congress in both parties will reject amendments of any kind and adopt this language as it comes to the House.

Mr. WILLIAMS. Mr. Chairman, I thank the Speaker for his support of this legislation and for recognizing that acceptance of any amendments would "doom," in his words, the legislation, because this is, after all, the final day of this session of Congress.

May I inquire of the Chair how much time each of the three of us have remaining?

The CHAIRMAN. The gentleman from Utah [Mr. HANSEN] has no time remaining, the gentleman from California [Mr. MILLER] has 5 minutes remaining, and the gentleman from Montana [Mr. WILLIAMS] has 3 minutes remaining.

Mr. WILLIAMS. Mr. Chairman, I yield 1 minute to the gentleman from Utah [Mr. HANSEN].

□ 1430

Mr. Chairman, I yield myself 1 minute, and ask to be informed when that minute has expired.

Mr. Chairman, this legislation has the support of not just westerners. The mayor of Newark, NJ, has written in support of this legislation on behalf of all of the urban mayors on all of the National League of Cities.

This legislation is supported by the National Association of Counties, the American Federation of State, County and Municipal Employees, the Service Employees' Union, the American Trucking Association, the American Road and Transportation Builders Association, the National Sheriffs Association, the National Asphalt Association, the National Association of County Engineers, the National Stone Association, the Service Employees Union, the American Federation of Teachers, all of whom recognize that if this legislation is amended this afternoon, it is, in the words of the Speaker of the House, doomed.

If Members support 20 cents an acre, plus, as a payment to your counties for the Federal land, because that is what they now get, two dimes an acre, if Members would like to see that increased, please support this legislation without amendment.

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the comments of the Speaker of the House, pointing out how important it is that no one amends this. That clock is running. We will not have a chance to do it. This is the last good chance we have.

The counties rely upon this PILT payment to provide services to help the Federal Government manage the Park Service, the national forests, the Corps of Engineers, recreation, fish and wildlife. I really believe, Mr. Chairman, and those of us who come from States that are largely owned by the Federal Government, we all realize that local governments are efficient providers of services on Federal land. They do a good job. Combined with their very small, infinitesimal tax base, they do a tremendous job to all the rest of us who go out and visit those areas.

Mr. Chairman, it makes no sense at all to destroy this partnership. The way we are stuck together, we are destroying this partnership. What we want to do is enhance it so those from the east can come and enjoy our areas, so we can all enjoy them together. Now we have a chance to enhance that great partnership between the local small, rural areas of the West. Let us not cut them off at the knees at this point. Let us stay with them.

The CHAIRMAN. The gentleman from Montana [Mr. WILLIAMS] is recognized for his remaining 1 minute.

Mr. WILLIAMS. Mr. Chairman, the companion bill to this in the House is my bill, cosponsored by so many Members on both sides.

I want to say first, Mr. Chairman, that this is a compromise on my legislation, but I am willing to accept it. However, if we compromise it further, it is dead, because this is the final day.

Mr. Chairman, this is not, as has been said, an entitlement. The people that say that, I think, recognize it is not an entitlement. The money is not on automatic pilot. It has to be appropriated. The Committee on Appropriations will have to make the choice.

Mr. Chairman, I do not disagree with my colleagues, the subcommittee and full committee chairman, that we ought to have a review of how money goes out from the Federal Government for these land payments, but I have had a bill in three Congresses. The Committee on Natural Resources had a chance to amend the bill in three Congresses. We have only had two hearings and one mark-up in all that time.

Here we are on the final day, finally trying to take a compromise so we can move our counties from the two dimes, the 20 cents per acre they get in payments, to a little more. They have not gotten any more for the 20 years of the life of this program.

Help your local property taxpayers. Help your counties. Help your State. Support this legislation with no amendments.

The CHAIRMAN. The time of the gentleman from Montana [Mr. WILLIAMS] has expired.

Mr. MILLER of California. Mr. Chairman, I yield my remaining time to the gentleman from Minnesota [Mr. VENTO].

The CHAIRMAN. The gentleman from Minnesota [Mr. VENTO] is recognized for 5 minutes.

Mr. VENTO. Mr. Chairman, I rise in opposition to this bill and in defense of reason and judgment.

Mr. Chairman, I want to, at the outset, say that I regret that in committee we did not spend more time working on this. I think most Members are aware that our committee, the Committee on Natural Resources, probably holds more hearings and processes more bills than most of the committees in the Congress.

We tried to resolve this issue at the hearings we had. We pointed out that there are 11 different programs that fund local governments, 11 programs that deliver money, revenue from the Federal Government, to the State and local governments that come from that public land that surrounds these communities within such States.

In fact, Mr. Chairman, there has been a suggestion here that there has been no increase for inflation since 1976 with regard to PILT in 18 years, but the sharing of revenue since 1976 from the Federal lands has gone from $103 to $230 million estimated in this year, 1994, so there has been over a doubling of the revenue being produced from the land.

My colleagues talk about the fact that they have to provide various services. My colleague, the gentleman from Minnesota, my friend Mr. OBERSTAR, referred to my constituents visiting the Boundary Waters Canoe Area and other areas in northern Minnesota and the services they receive. This is nothing different than the same type services which translate into municipal overburden that other urban areas face, the same sort of thing, providing services in turn for many others.

Mr. Chairman, back in the 1970's when this program was conceived and put forward, there were programs like revenue sharing. There were programs that helped local government. I think my colleagues know about the demise of those programs, the withdrawal of those programs, because we did not have the revenue to fund them.

Now, of course, the suggestion is, do not amend this bill, do not modify it. I would suggest to my colleagues that almost every measure that comes from the Senate is not perfect. In fact, the fact is, that very often we do modify those programs and try to send them back and come to an agreement.

They say in this case we cannot do that, we have to suspend good judgment, we have to suspend reason, we have to give in to the Senate. The Senate is portrayed here as being unwilling. The guardians of gridlock want what they want and they are not going to accept any change.

The fact is that the amendments that will be offered will offer the opportunity to give exactly the same number of dollars for 2 years, but will not put this authorization in the law permanently, will not lock in an automatic cost of living increase which will not be possible to change. There is no incentive to make any changes beyond that.

Mr. Chairman, the fact of the matter is that we will have no leverage. Mr. Chairman, we have sought a lot of reform. There are a lot of bills that need reform. This Congress has attempted, through the Committee on Natural Resources, to reform them.

How about the 1872 mining law? It has been 122 years since that's been changed. We made a valiant effort this term that would need to be in place without the type of substantive reform that is necessary. The special interests said no. The grazing reform law under PRIA has been in place for 16 years, and of course by Executive order. We tried to reform that in this Congress and the Senate said no.

The Senate said no to mining reform. We tried to reform the BLM reauthorization process. It has been 14 years since that has been reformed, and the Senate said no. We tried to reform the Engle Act, and the withdrawal with regard to military lands, since 1958, that

has been 36 years, and the Senate said no.

We tried to reform the Communications Act to try to raise more money. To raise money for all of these programs, incidentally, would have helped to reform and improve the type of revenues that can be raised from those that are using the public lands, and returned to the counties and States. They would have been beneficiaries from all of these programs and the changes that we are talking about in terms of sharing dollars, yet the Senate has said no. Here we are in the last week of the session and the Senate is saying "We want this, we want you to pass it, but we are not going to accept any changes to it."

Mr. Chairman, I would submit to my colleagues that that is unfair, that is unreasonable. We need to have an opportunity to, yes, address this in a fair manner, to provide for some substantial adjustment, and relief, but to come back to be certain, to deal with a sound policy. Counties that do not receive the types of revenues that we have discussed today, the oil revenues, mineral revenues, the other types of mining and timber revenues and so forth, should have an opportunity to achieve this reform.

There are some poor counties that receive little revenue. The fact is that some counties are so poor that the money they get from PILT even today, even today the money they get is greater than the property taxes that they can collect from adjacent lands.

There are many flaws in this particular bill, Mr. Chairman. This bill goes forward to, for instance, provide for and maintain such flaws. There is no possibility to amend or change those today. Say the proponents, send this to the President. This bill goes forward without a comma change.

When we transfer Federal, public lands to the State, and perhaps even to private hands, eventually, it would continue to pay payment in lieu of taxes to those that would be paying private taxes on those same lands. In other words, it personifies and creates new loopholes. There is not a single correction in this bill of any of the defects that exist today. In fact new inconsistencies are established.

□ 1440

Were these problems pointed out? Were they debated? Were they discussed in the hearings?

Yes. The administration, in fact, came out opposed to the increase in PILT. Past administrations have sought to completely zero fund it in the 1980's. And the House resisted that. I shared it continuing the funding for PILT. I am not an absolute opposed opponent of PILT, but I do want fairness and equity. I want us to represent the taxpayers. That is why we need to defeat this bill or amend it today.

Mr. Chairman, unless it is amended, I will continue to oppose S. 455, a bill to increase the authorization for appropriations for the so-called Payments in Lieu of Taxes Program, or PILT.

Under the PILT program counties and other local units of government receive payments with respect to certain types of Federal lands located within the jurisdiction of the local governments. These include national parks, national forests, public lands managed by the BLM, Bureau of Reclamation lands, and some others. Other Federal lands, such as military bases and some National Wildlife Refuge lands, don't count for PILT purposes.

Under current law, full funding for these payments means appropriations of about $100 million annually. But, this Senate bill would phase in an authorization increase to more than $250 million annually. A quarter billion dollars a year permanently. After that, it would index the payments to the Consumer Price Index, so that before too long they might well be closing in on a half-billion dollars every year.

History shows that full appropriations are always provided for PILT, so this is more than just an empty authorization.

The second year of the increases in this bill would take PILT to over $150 million annually.

By comparison, in just that first year of authorization $150 million is more than 80 percent of the National Park Service construction budget and 14 percent of its operating budget.

It is over 75 percent of the forest research budget, over 90 percent of the Forest Service's State and private forestry program, and almost 75 percent of the Forest Service construction budget.

So, under the bill, PILT would equal 90 percent of the budget of the National Biological Survey, 100 percent of the budget of the Bureau of Mines, 136 percent of the budget of the Office of Surface Mining, and over 80 percent of the Abandoned Mine Reclamation Fund. It would be more than 64 percent of the entire land acquisition budget of the four Federal land managing agencies combined.

Remember, all of these other programs are funded from the same appropriation bill—so they will be in direct competition with PILT for the scarce money available under the budget caps.

In short, this is a big-money, big-spending bill. It is not one that the House should be rushing to rubber-stamp a defective Senate work product in the final days of the session.

Like Chairman MILLER, I oppose the bill as it now stands, and I think it is very important that other Members who oppose such a massive, permanent, and open-ended increase have the chance to offer amendments to the bill. There will be little opportunity for any change in policy once signed into law and the defective policy would change the way the money is allocated. Even the $100 million being expended today would be spent in the future on a perverted basis. State and even private lands would count toward PILT payments.

It is true that because the PILT authorization level has not been increased since 1976, inflation has had the effect of considerably diminishing the purchasing power of the payments the local governments receive under this program.

At the same time, however, we have to keep in mind the realities of the Federal deficit and the importance of holding down spending.

Also, since the PILT program has not been thoroughly reviewed since 1976, I strongly believe that we need to step back and view the PILT program in a broader perspective.

I am not unalterably opposed to PILT. I recognize its virtues, especially its relative stability and predictability. In fact, when previous administrations tried to zero fund the program, I stood with my colleagues to fund the program.

Because the PILT payments are related to entitlement land acreages, which don't fluctuate very much, they have a higher degree of stability than other payment programs based on how Federal lands are used, such as stumpage fees, mineral receipts, grazing receipts, and the like.

Often, the linkage in other programs between land uses and payments has the effect of thrusting local governments into the midst of debates about how the Federal lands are to be managed.

In my view, it would be better, if possible, to combine changes in PILT and other laws that would bring greater financial stability to local governments and at the same time keep them from being hostages in fights over management decisions such as timber sales, mineral leases, and the like.

Furthermore, while updating the PILT formulas to reflect the effects of inflation is important, other changes in the PILT Act may well be in order as well.

For example, under the current law, there are few if any restrictions on how PILT payments can be used. The law merely says that they must be used for governmental purposes.

What a governmental purpose might be is pretty much left up to the local governments that gets the money. I expect that some of them have used PILT funds to lobby Congress in favor of increasing PILT payments. Yes money is fungible—but whereever the money is from, its paying big dividends.

In fact, there is one county in New Mexico that, in the last few weeks, adopted an ordinance claiming that all the Federal lands in the county really belong not to the people of the United States, but to the State or maybe to the county in that State. According to the press accounts, the purpose of that ordinance is to lay the foundation for a lawsuit aimed at moving those lands into State or county ownership.

I expect that the county will claim that bringing that lawsuit—and forcing the taxpayers of the whole Nation to bear the costs of responding to it—is a governmental purpose, for which they can use their PILT payments.

I can see why they would want to, since on September 27—just last month, Mr. Chairman—the taxpayers of the Nation sent that same county—a single New Mexico county—a nice PILT check: A check for $927,731, as a matter of fact—nearly $1 million. That certainly will help them with their legal costs! Yes money is fungible.

Incidentally, Mr. Chairman, that payment of nearly a million dollars to a New Mexico county was more than received by several entire States, including my own State of Minnesota.

It seems to me that this question of just how PILT payments can be used is something that

deserves careful scrutiny. There is no requirement in law other than any government purpose. The advocate may paint a warm fuzzy portrait as to the uses but the law in no shape, form, or manner limits the use of the money.

Because of our concerns about the cost of the bill and the need for more scrutiny of the PILT program, in the committee, Chairman MILLER and I supported a substitute to combine a temporary increase in the authorization level for the PILT program with a requirement for a study of PILT and related programs. It needs review, it needs attention. PILT shouldn't be placed on auto pilot. The temporary increases would be the same as the first two increases provided for in the Senate bill and provide us with the responsibility to react and rewrite sound PILT policy.

While the committee didn't adopt that substitute, I still believe it represents a reasonable compromise, and I strongly urge the House to adopt it when it is offered later today.

I am confident that the House will see the virtue and wisdom of the compromise contained in the substitute, and vote to adopt it. There also may be an amendment to delete the indexing of future PILT payments.

There are also other amendments that while not provided for by the rule would nonetheless make necessary improvements in the bill. The Senate bill would also, for the first time, authorize PILT payments for formerly Federal lands exchanged to a State. The effect of that would be that the Federal Government would pay PILT not only for the lands the United States gets from a State, but also would pay PILT for the lands that the State gets—and those PILT payments would continue even if the State later transfers the land and the land goes onto the tax rolls.

Furthermore, since the provision I've just described is not clearly limited to future exchanges, we can expect the States to argue that it applies to all the lands that have been exchanged to a State since PILT was enacted in 1976.

Obviously, this part of the bill has serious shortcomings, in terms of simple fairness and equity for the Nation's taxpayers.

Mr. Chairman, some will argue that the House should not consider amending this S. 455 because the little time remaining in this session means the Senate will not be able to consider any House amendments this year.

Of course, now that the Senate has decided to return after the elections, that argument should no longer have any weight.

But, anyway, we should be careful and we have the time to be careful. PILT payments for fiscal 1994 have already been made. The money for the fiscal 1995 payments has been appropriated. My substitute would provide for increases in fiscal 1996 and fiscal 1997, and there will be plenty of time next year to consider PILT levels for the years after 1997.

Mr. Chairman, I urge all Members to listen carefully to this debate, and to join me in seeking to improve this badly flawed bill—or, if it is not improved, in voting to kill it so the House can reconsider this matter in a more thorough, deliberative way next year.

Mr. LEHMAN. Mr. Chairman, this is a simple issue of fairness—fairness to rural counties with large amounts of Federal land. A collection of laws provide counties revenues from their Federal lands, but since these laws are mostly based on extractive uses of those lands, contributions to counties can fluctuate widely from one year to the next. Payments in lieu of taxes serve to balance these fluctuations and make consistent the revenues counties derive from these Federal lands. As well, it makes counties less dependent from one year to the next on revenues from the extractive use of those lands.

This legislation is supported by a broad array of groups and, at this late date, nothing short of the precise text included in S. 455 will give us a law this Congress. I and many of my colleagues have for years examined the issue of how to provide mechanisms that will allow our rural counties to gain their fair share from the Federal lands within their boundaries. Admittedly, this payment should not be the foundation upon which most counties balance their budgets—there need to be other mechanisms that provide revenue to benefit county services. But, it must be recognized, these counties are not able to derive direct tax benefits from these lands because they cannot be taxed as private lands would be.

My district contains significant acreage managed by the Bureau of Land Management, the U.S. Forest Service and the National Park Service. There has been no change in the formula that provides these counties with revenues for 20 years. The legislations supported by Mr. WILLIAMS and Mr. HANSEN would simply update the formula to reflect changes in inflation over that period of time. The Federal Government cannot deny its part in the prosperity of these counties. Grants and loans counties receive from the Department of Education, the Department of Housing and Urban Development, or the Department of Health and Human Services benefit these counties tremendously. It is this cooperative relationship that enables us to educate our children, provide affordable housing for our citizens, and provide valuable health services to our elderly. We have an obligation.

I am not alone in my view of this legislation—the Sierra Club and the Nature Conservancy share the view of many of our rural counties and many in this body. The Sierra Club in its testimony before the Senate cited its importance to rural counties. "We do not at the Sierra Club think that local governments should be punished for the presence of Federal lands * * * and that is in fact what is happening today." And it continues, "S. 455 begins to address a chronic shortfall of funding, particularly for areas where Federal holdings make up a large part of the land base."

In closing, this is a fairness issue. Bringing current value to Federal lands is not an entitlement, it is just compensation. These funds are all subject to appropriation and do not obligate Federal spending. This is why this bill does not violate our Budget Acts. The substitute offered by the gentlemen from California is not a significant change from the bill we have before us. However, it would mean that changes to the Federal payment in lieu of taxes formula would once again not happen. This response from the chairman amounts to too little, too late and should be rejected.

I urge passage of S. 455 without change.

Mr. RAHALL. Mr. Chairman, as a proponent of increasing the PILT authorization, I rise in support of the substitute amendment offered by the distinguished chairman of the Committee on Natural Resources, GEORGE MILLER.

Let there be no mistake about. I support increasing the amount authorized for PILT. Just last week, the Interior Department released $433,096 in PILT payments to 11 southern West Virginia counties that have Forest Service, National Park Service, and U.S. Army Corps of Engineers lands located within their jurisdictions.

However, this amount of compensation may or may not be equivalent to the tax rate for private property in those counties because it is difficult to make comparisons. In West Virginia, each county uses a different figure per $100 of appraised value of timberlands in devising its property tax rate. In addition, the appraised value depends on the class as well as the grade of the timber. These factors are not part of how PILT payments are calculated.

This is one reason why I support the Miller substitute. It provides for the same increase in the PILT authorization for the next 2 years as does the pending legislation. In the meantime, the General Accounting Office would review the program to provide the Congress with the type of information we do not currently possess to make an informed determination as to what other changes are necessary in the program.

In other words, I believe we should examine whether PILT payments should reflect the different values of timber on Federal lands, where timber exists on those lands, in the same manner as are private property tax rates in West Virginia. If they did, perhaps the counties in my area, as well as others, would see an increase in PILT payments.

Today, this is not the case. Under the existing program, over 75 percent of the total PILT payments go to 10 Western States. And, under the existing program, the same value is placed on an acre of desert land located in the West as is on rich hardwood timberlands located in West Virginia. This does not seem fair.

Another reason why I support the study approach in the Miller substitute again relates to what I see as the overall need to review all types Federal landownership-based payments to the States and counties. Let me be specific.

For Federal onshore oil and gas leases on public domain lands, after the deduction of certain administrative expenses, 50 percent of all receipts collected from rents and royalties are returned on a monthly basis to those States where the leases are located. As such, the Federal Government returns to these States almost 50 cents on every dollar paid in rents and royalties collected from oil and gas operations located on Federal lands.

However, for the same type of leases on acquired Federal lands, such as those purchased pursuant to the Weeks Act of 1911 and the Bankhead-Jones Act of 1937, the State or local share of receipts is only 25 percent. These are the types of Federal lands we have in the East. In effect, the local share of a Federal oil and gas lease in the East is only 25 cents on every dollar paid in rents and royalties.

These Eastern Federal lands are known as federally acquired lands, rather than what are

known as public domain lands which are located in the Western States. This nomenclature overall has no meaning except with respect to mineral activities. And, in this regard, this antiquated quirk in Federal law favors the West over the East. In my view, this discrepancy should be reviewed and remedied, and that is something that the GAO would look at as part of its study under the Miller substitute.

The final reason that I support the Miller substitute again has to do with equity and fairness. Today, the American taxpayer subsidizes a number of activities that take place on Federal lands for which the taxpayer receives nothing in return. The taxpayer, the owner of our public lands, gets nothing in return from the extraction of gold and silver on these lands under the mining law of 1872. The law does not allow for royalty payments to be made. And certain Western interests continue to stymie the enactment of reasonable mining law reform legislation.

My colleagues, the question begs an answer. Can we continue to award 75 percent of all PILT payments to just 10 Western States when they are, for the most part the very same Western States that want to continue to deprive the public from receiving 1 red cent in return for the production of billions of dollars worth of federally owned gold and silver?

Let us vote for fairness, for equity. I urge a vote for MILLER and VENTO.

Mr. RICHARDSON. Mr. Chairman, PILT payments, or payments in lieu of taxes are of significant importance in my State of New Mexico.

Because of a strong Federal land ownership presence in New Mexico, we have the distinction of being the No. 1 recipient of PILT payments in the Nation.

PILT payments to New Mexico counties total approximately $10 million per year.

While these payments provide a critical source of revenue for the local communities into which they are sent, the authorization levels for PILT payments have not changed since the program was begun in 1976.

Inflation, economic growth, and consumer prices have changed in the last 18 years. The level of services constituents expect from their county governments has certainly increased.

However, the same, small, insufficient payment structure has remained unchanged.

In the past several months, I have received letters from county officials in nearly every county in New Mexico. Every single letter highlights the same point: We must pass PILT legislation this year to provide relief to counties staggering under the weight of a high demand for services with an insufficient tax base and Federal PILT payments to meet their needs.

As Mr. WILLIAMS and others have so ably explained, the only option for doing that this year is to pass S. 455 without amendments so that we can send it back to the Senate and then to the President before time runs out for this session of Congress.

But PILT is about more than economics: It is about basic fairness.

Many counties in New Mexico and other States across the country contain only small percentages of private land from which local tax revenue can be collected.

For counties with 60, 70, even 80 or 90 percent public land, PILT payments represent one of the only means of securing the necessary funding for the provision of the local services their constituents expect.

Without this funding, many counties would simply not be able to provide even the most basic services.

S. 455 is supported by the National Association of Counties, the Nature Conservancy, and the Sierra Club, among others.

I urge my colleagues to join me in supporting this basic fairness legislation by passing S. 455 today and ensuring that it becomes law this year.

Mr. SMITH of Oregon. Mr. Chairman, I rise in support of both of S. 455, a bill that is going to bring some equity back to local units of government.

Like many of my colleagues from the West, my district is 75 percent Federal land, all of which is immune from taxes, depriving county governments of a viable tax base. This places an unfair burden on counties that provide vital services on Federal lands such as road maintenance, law enforcement, solid waste and search and rescue operations.

Let me give few reasons in my district why we need to increase the PILT authorization. Grant County in my district is 60 percent federally owned. In 1976, PILT was 22 percent of the county budget. Today, PILT payments have fallen to a paltry 9 percent of the county budget.

Or how about Klamath County, which is 50 percent Federal land. Since 1976, the cost of police protection in the county has risen 454 percent. Or Lake County, with 76 percent Federal land—they have trimmed 20 teachers from their schools in the last several years. Students cannot even get a foreign language or even a calculus course. Lake County would like to use PILT funds to supplement their educational system so their students will be able to compete.

Another example is Harney County, which happens to be where I am from. Harney County is 76 percent owned by the Federal Government and has over 2,000 miles of county roads to maintain. PILT pays the county a meager 6.4 cents per acre.

It's been 16 years since our counties have had a cost-of-living increase. It's time we give them a raise. This House has voted itself several pay raises in the 16 years our counties have waited for a simple COLA.

I urge my colleagues to support S. 455 and oppose any weakening amendments.

Mr. DOOLITTLE. Mr. Chairman, I rise today in strong support of S. 455, the Payments in Lieu of Taxes Act, otherwise known as PILT, and in opposition to amendments aimed at gutting this essential legislation.

I represent several mountain counties in the Sierra-Nevada mountain range in northern California. Federal land ownership in these counties is pervasive. For example, 97 percent of the county of Alpine is owned by the Federal Government.

I would submit, as their representative, that the residents of these counties would gladly welcome these lands back into private ownership and say goodbye to the intrusive bureaucrats who run our land management agencies.

Unfortunately, Mr. Chairman, those who are working against this legislation, disguised as budget hawks, are the same members who continue to vote to authorize more land grabs by the Federal Government and who are ranked among the biggest spenders in Congress. Furthermore, Congress not only continues to purchase more land, but at the same time tighten restrictions on the use of both private and Federal lands.

The American people have had enough of unaccountable bureaucrats running over their constitutional rights. A majority of Congress, responding to these concerns, has been seeking to gain more authority over land management bureaucrats and validate the rights of private property owners. This bill represents another important milestone in bringing sense and fairness to our public land policy.

S. 455, simply says that if Congress thinks it is in the public interest to own vast amounts of land, it has to pay for it. Why should the residents of counties like Tuolumne or Calaveras shoulder the cost of road maintenance, emergency services, law enforcement, and waste disposal for the millions of visitors to the Federal lands in the Sierras each year?

It is only fair that the Federal Government reimburse the loss of revenue a county sustains when land is taken from private hands, and taxes are no longer collected.

In the long run, Mr. Chairman, I hope that passage of PILT will result in Members of the House taking a closer look at land acquisitions in the future and carefully assessing their consequences. Currently, these acquisitions merely amount to unfunded mandates.

I urge my colleagues to support this legislation, and to reject all gutting amendments.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule.

The text of S. 455 is as follows:

S. 455

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Payments In Lieu of Taxes Act".

SEC. 2. INCREASE IN PAYMENTS FOR ENTITLEMENT LANDS.

(a) INCREASE BASED ON CONSUMER PRICE INDEX.—Section 6903(b)(1) of title 31, United States Code, is amended—

(1) in subparagraph (A), by striking "75 cents for each acre of entitlement land" and inserting "93 cents during fiscal year 1995, $1.11 during fiscal year 1996, $1.29 during fiscal year 1997, $1.47 during fiscal year 1998, and $1.65 during fiscal year 1999 and thereafter, for each acre of entitlement land"; and

(2) in subparagraph (B), by striking "10 cents for each acre of entitlement land" and inserting "12 cents during fiscal year 1995, 15 cents during fiscal year 1996, 17 cents during fiscal year 1997, 20 cents during fiscal year 1998, and 22 cents during fiscal year 1999 and thereafter, for each acre of entitlement land".

(b) INCREASE IN POPULATION CAP.—Section 6903(c) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking "$50 times the population" and inserting "the highest dollar amount specified in paragraph (2)"; and

(2) in paragraph (2), by amending the table at the end to read as follows:

"If population equals—	the limitation is equal to the population times—
5,000	$110.00
6,000	103.00
7,000	97.00
8,000	90.00
9,000	84.00
10,000	77.00
11,000	75.00
12,000	73.00
13,000	70.00
14,000	68.00
15,000	66.00
16,000	65.00
17,000	64.00
18,000	63.00
19,000	62.00
20,000	61.00
21,000	60.00
22,000	59.00
23,000	59.00
24,000	58.00
25,000	57.00
26,000	56.00
27,000	56.00
28,000	56.00
29,000	55.00
30,000	55.00
31,000	54.00
32,000	54.00
33,000	53.00
34,000	53.00
35,000	52.00
36,000	52.00
37,000	51.00
38,000	51.00
39,000	50.00
40,000	50.00
41,000	49.00
42,000	48.00
43,000	48.00
44,000	47.00
45,000	47.00
46,000	46.00
47,000	46.00
48,000	45.00
49,000	45.00
50,000	44.00.".

SEC. 3. INDEXING OF PILT PAYMENTS FOR INFLATION; INSTALLMENT PAYMENTS.

Section 6903 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) On October 1 of each year after the date of enactment of the Payment in Lieu of Taxes Act, the Secretary of the Interior shall adjust each dollar amount specified in subsections (b) and (c) to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor, for the 12 months ending the preceding June 30.".

SEC. 4. LAND EXCHANGES.

Section 6902 of title 31, United States Code, is amended to read as follows:

§ 6902. Authority and Eligibility.

"(a) The Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located, as set forth in this chapter. A unit of general local government may use the payment for any governmental purpose.

"(b) A unit of general local government may not receive a payment for land for which payment under this Act otherwise may be received if the land was owned or administered by a State or unit of general local government and was exempt from real estate taxes when the land was conveyed to the United States except that a unit of general local government may receive a payment for—

"(1) land a State or unit of general local government acquires from a private party to donate to the United States within 8 years of acquisition;

"(2) land acquired by a State through an exchange with the United States if such land was entitlement land as defined by this chapter; or

"(3) land in Utah acquired by the United States for Federal land, royalties, or other assets if, at the time of such acquisition, a unit of general local government was entitled under applicable State law to receive payments in lieu of taxes from the State of Utah for such land: *Provided, however,* That no payment under this paragraph shall exceed the payment that would have been made under State law if such land had not been acquired.".

SEC. 5. EFFECTIVE DATE; TRANSITION PROVISIONS.

(a) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), this Act and the amendments made by this Act shall become effective on October 1, 1994.

(2) LIMITATION.—The amendment made by section 2(b)(2) shall become effective on October 1, 1998.

(b) TRANSITION PROVISIONS.—

(1) FISCAL YEAR 1995.—During fiscal year 1995, the table at the end of section 6903(c)(2) of title 31, United States Code, is amended to read as follows:

"If population equals—	the limitation is equal to the population times—
5,000	$62.00
6,000	58.00
7,000	54.50
8,000	51.00
9,000	47.00
10,000	43.50
11,000	42.00
12,000	41.00
13,000	40.00
14,000	38.50
15,000	37.00
16,000	36.50
17,000	36.00
18,000	35.50
19,000	34.50
20,000	34.00
21,000	33.75
22,000	33.50
23,000	33.00
24,000	32.50
25,000	32.25
26,000	32.00
27,000	31.75
28,000	31.50
29,000	31.25
30,000	31.00
31,000	30.75
32,000	30.50
33,000	30.00
34,000	29.75
35,000	29.50
36,000	29.25
37,000	28.75
38,000	28.50
39,000	28.25
40,000	28.00
41,000	27.50
42,000	27.25
43,000	27.00
44,000	26.50
45,000	26.25
46,000	26.00
47,000	25.75
48,000	25.50
49,000	25.00
50,000	24.75.".

(2) FISCAL YEAR 1996.—During fiscal year 1996, the table at the end of section 6903(c)(2) of title 31, United States Code, is amended to read as follows:

"If population equals—	the limitation is equal to the population times—
5,000	$74.00
6,000	69.50
7,000	65.00
8,000	61.00
9,000	56.00
10,000	52.00
11,000	50.50
12,000	49.00
13,000	47.50
14,000	46.00
15,000	44.50
16,000	43.50
17,000	43.00
18,000	42.00
19,000	41.50
20,000	41.00
21,000	40.25
22,000	40.00
23,000	39.50
24,000	39.00
25,000	38.50
26,000	38.25
27,000	38.00
28,000	37.50
29,000	37.25
30,000	37.00
31,000	36.75
32,000	36.25
33,000	36.00
34,000	35.50
35,000	35.00
36,000	34.75
37,000	34.50
38,000	34.00
39,000	33.75
40,000	33.25
41,000	33.00
42,000	32.50
43,000	32.25
44,000	32.00
45,000	31.50
46,000	31.00
47,000	30.75
48,000	30.50
49,000	30.00
50,000	29.50.".

(3) FISCAL YEAR 1997.—During fiscal year 1997, the table at the end of section 6903(c)(2) of title 31, United States Code, is amended to read as follows:

"If population equals—	the limitation is equal to the population times—
5,000	$86.00
6,000	81.00
7,000	76.00
8,000	71.00
9,000	65.50
10,000	60.00
11,000	58.50
12,000	57.00
13,000	55.00
14,000	53.50
15,000	51.50
16,000	51.00
17,000	50.00
18,000	49.00
19,000	48.00
20,000	47.50
21,000	47.25
22,000	46.25
23,000	46.00
24,000	45.25
25,000	45.00
26,000	44.50

27,000	44.00
28,000	43.75
29,000	43.50
30,000	43.00
31,000	42.50
32,000	42.00
33,000	41.75
34,000	41.25
35,000	1.00
36,000	40.50
37,000	40.00
38,000	39.50
39,000	39.00
40,000	38.75
41,000	38.25
42,000	38.00
43,000	37.50
44,000	37.00
45,000	36.50
46,000	36.00
47,000	35.75
48,000	35.25
49,000	35.00
50,000	34.50.".

(4) FISCAL YEAR 1998.—During fiscal year 1998, the table at the end of section 6903(c)(2) of title 31, United States Code, is amended to read as follows:

"If population equals—	the limitation is equal to the population times—
5,000	$98.00
6,000	92.00
7,000	86.00
8,000	80.50
9,000	74.50
10,000	68.50
11,000	66.50
12,000	64.50
13,000	63.00
14,000	61.00
15,000	59.00
16,000	58.00
17,000	57.00
18,000	56.00
19,000	55.00
20,000	54.00
21,000	53.50
22,000	52.75
23,000	52.00
24,000	51.50
25,000	51.00
26,000	50.50
27,000	50.25
28,000	50.00
29,000	49.50
30,000	49.00
31,000	48.50
32,000	48.00
33,000	47.50
34,000	47.00
35,000	46.50
36,000	46.00
37,000	45.50
38,000	45.00
39,000	44.50
40,000	44.00
41,000	43.50
42,000	43.00
43,000	42.75
44,000	42.25
45,000	41.75
46,000	41.25
47,000	40.75
48,000	40.25
49,000	39.75
50,000	39.25.".

The CHAIRMAN. No amendment shall be in order except those amendments printed in House Report 103–830. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 103–830.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment in the nature of a substitute made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. MILLER of California:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE, FINDINGS, AND PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Supplemental Payments in Lieu of Taxes Act of 1994".

(b) FINDINGS.—The Congress finds that—

(1) since 1907, Congress has enacted a variety of laws under which the United States makes payments to States and local governments based in various ways on the location, management, or use of Federal lands;

(2) in 1970, the Public Land Law Review Commission found that "existing revenue-sharing programs do not meet a standard of equity and fair treatment either to State and local governments nor to the Federal taxpayers" and recommended that these programs be replaced with a system of payments-in-lieu-of-taxes ("PILT");

(3) in 1976, Congress enacted a PILT program, based primarily on the location rather than the management or use of Federal lands, in addition to, but not as a replacement for, other payment programs;

(4) local governmental units eligible for payments under the PILT program vary considerably in terms of the rates of taxation of non-Federal lands, the services provided to and received from the United States because of the location of Federal lands, and the level of payments received from the United States under programs other than the PILT program;

(5) since 1976, inflation has eroded the purchasing power of PILT payments, while other developments have greatly affected the other payments to States and local governments that are related to the management and use of Federal lands; and

(6) under the circumstances described in these findings, it is appropriate to authorize temporary increases in payments under the PILT program, and to provide for later consideration of a restructuring of both the PILT program and other payment programs, along lines suggested by the Public Land Law Review Commission.

(c) PURPOSE.—The purpose of this Act is to authorize a temporary increase in PILT payments, while requiring a review of payment programs and the submission of recommendations as to whether the PILT program and other payment programs should be revised to more fully achieve the goals of equitable treatment of both payment recipients and the Federal taxpayers.

SEC. 2. DEFINITIONS AND ADDITIONAL PAYMENTS.

(a) DEFINITIONS.—As used in this Act—

(1) the term "PILT Act" means chapter 69 of title 31, United States Code;

(2) the term "unit of general local government" has the same meaning as in the PILT Act; and

(3) the term "supplemental PILT payments" means payments made under this Act.

(b) SUPPLEMENTAL PAYMENTS IN FISCAL YEARS 1996 AND 1997.—(1) There are hereby authorized to be appropriated such sums as may be necessary for supplemental PILT payments pursuant to this Act to be made for fiscal years 1996 and 1997 to units of general local government qualified to receive payments under the PILT Act.

(2) Payments authorized by this Act shall be calculated in the same manner as payments under the PILT Act, except that solely for the purpose of calculating payments authorized by this Act—

(A) the phrase "93 cents for each acre of entitlement land for fiscal year 1996, and $1.11 for fiscal year 1997," shall be substituted in subparagraph (A) of section 6903(b)(1) of title 31, United States Code, in lieu of "75 cents per each acre of entitlement land"; and

(B) the following tables shall be substituted for the table at the end of section 6903(c)(2) of title 31, United States Code—

(i) for fiscal year 1996:

If population equals—	the limitation is equal to the population times—
5,000	$62.00
6,000	58.00
7,000	54.50
8,000	51.00
9,000	47.00
10,000	43.50
11,000	42.00
12,000	41.00
13,000	40.00
14,000	38.50
15,000	37.00
16,000	36.50
17,000	36.00
18,000	35.50
19,000	34.50
20,000	34.00
21,000	33.75
22,000	33.50
23,000	33.00
24,000	32.50
25,000	32.25
26,000	32.00
27,000	31.75
28,000	31.50
29,000	31.25
30,000	31.00
31,000	30.75
32,000	30.50
33,000	30.00
34,000	29.75
35,000	29.50
36,000	29.25
37,000	28.75
38,000	28.50
39,000	28.25
40,000	28.00
41,000	27.50
42,000	27.25
43,000	27.00
44,000	26.50
45,000	26.25

If population equals—	the limitation is equal to the population times—
46,000	26.00
47,000	25.75
48,000	25.50
49,000	25.00
50,000	24.75

(ii) for fiscal year 1997:

If population equals—	the limitation is equal to the population times—
5,000	$74.00
6,000	68.50
7,000	65.00
8,000	61.00
9,000	56.00
10,000	52.00
11,000	50.50
12,000	49.00
13,000	47.50
14,000	46.00
15,000	44.50
16,000	43.50
17,000	43.00
18,000	42.00
19,000	41.50
20,000	41.00
21,000	40.25
22,000	40.00
23,000	39.50
24,000	39.00
25,000	38.50
26,000	38.25
27,000	38.00
28,000	37.50
29,000	37.25
30,000	37.00
31,000	36.75
32,000	36.25
33,000	36.00
34,000	35.50
35,000	35.00
36,000	34.75
37,000	34.50
38,000	34.00
39,000	33.75
40,000	33.25
41,000	33.00
42,000	32.50
43,000	32.25
44,000	32.00
45,000	31.50
46,000	31.00
47,000	30.75
48,000	30.50
49,000	30.00
50,000	29.50

SEC. 3. STUDY AND REPORT.

(a) DEADLINE AND RECOMMENDATIONS.—(1) No later than January 1, 1996, the Comptroller General of the United States shall submit to the Congress a report concerning the results of the study described in subsection (b) of this section.

(2) The report required by paragraph (1) shall include recommendations for revisions of the PILT Act and other laws that would—

(A) provide reasonably predictable payments that are at least as stable as receipts from taxes on non-Federal lands; and

(B) provide an equitable payment system to compensate units of local government for the net costs incurred by such governments as a result of the presence of Federal lands that are not within the local tax base.

(b) STUDY.—In preparing the report required by this section, the Comptroller General shall—

(1) review the authorities and resulting payments under the PILT Act and other laws providing payments to States and units of local government related to the presence of Federal lands within the jurisdiction of recipient units of government, including the extent to which such payments differ because of disparate treatment of lands classed as public domain and those classed as acquired lands;

(2) assess the adequacy of agency auditing and monitoring, and of the funding for such auditing and monitoring, of the reports required by section 6903(b)(2) of title 31, United States Code;

(3) compare the payments under the PILT Act and other studied laws with—

(A) the net costs imposed on recipient units of local governments by the presence of Federal lands;

(B) the tax payments private landowners would likely have paid to recipient units during the same period; and

(C) services provided to local units of government by Federal land-managing agencies;

(4) examine how payments under the PILT Act and other studied laws affect and interact with the rates of taxation imposed by local units of government on non-Federal lands, including the extent to which total Federal payments are affected by State laws providing for the distribution to independent entities (other than units of general local government);

(5) assess the cost and equity of expanding the categories of lands that would be included in the "entitlement lands", as such term is used in the PILT Act, including (but not limited) to Indian trust lands and acquired lands included in the National Wildlife Refuge System;

(6) identify the extent to which the States make payments to their political subdivisions that are related to the presence within such subdivisions of State-owned lands; and

(7) examine alternatives to the current system of payments under the PILT Act and other laws, including (but not limited to) methods used by States to make payments to their political subdivisions related to the location of State-owned lands within such subdivisions.

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. MILLER] will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would hope that the House would accept this amendment in the spirit in which it is offered, and, that is, to provide, recognizing as the gentleman have said, that this program has not been raised since 1976, that this amendment would allow them the same amount of funding over the next 2 years as they receive under legislation reported by the Committee on Natural Resources. But in that 2 years' time, what we are asking is that GAO do a study and we get an opportunity on a comprehensive basis to review this program. Why do we need that 2-year timeframe? Because if we do not stop the funding at that time, if we do not put some financial barrier at that time, we will simply be going on as we have in the past, and, that is, with the Senate's complete and total unwillingness to allow reforms to be considered in the legislative dialog back and forth between the Senate and the House.

What we have seen and the reason we are here today is because every time we have tried to initiate a discussion about the reform of this program with the Senate, there has been no discussion, only an increase in fees that they have talked to us about. So we are here because again the Senate, the Senate is saying no reform, send us the money. We are saying under my substitute, "We are prepared to send you the money for 2 years. If we have not achieved the reforms, then in fact the money stays at that level and does not continue to escalate up as it does under the committee bill."

We think this is fair, we think this provides an increase. It also provides the taxpayers an opportunity to see how their moneys are being used. This is the only indexed discretionary spending program we have in the Federal Government. I appreciate that the mayor of Newark is for it. But the mayor of Newark ought to know that when we underwent the comprehensive review of the nutrition programs in his school districts that we had to because of a lack of Federal funding try to target that spending to the most vulnerable children, to those where we could have the best opportunity at having a positive impact, we could not give everybody a school lunch, we could not give everybody school milk, we had to focus on the vulnerable populations. And I hope that the mayor of Newark understands that when we redid the Elementary and Secondary Education Act, we had to try to refocus the dollars we have on the areas most in need, because we did not have an open-ended entitlement, we did not have an indexed program. We had 5 years. And we will be back again to review that program. That is how we do it in the Congress. Except for PILT.

PILT, with no review of the program, no changes in the program, no seeing whether or not the benefits match the burdens, no seeing whether or not this is equal to the property taxes that the States collect or the counties collect in the local region. We just send them the money.

With this program being indexed as it is today, we preclude the opportunity to have the kind of discussion that this Congress should have about this kind of a program, whether or not this program that was conceived in 1976 still makes sense in the 1990's. Can we still talk about those lands that do not receive it compared to those that do? Can we have a discussion about the increased revenues that the Federal Government shares with these counties now, that have doubled in the time that this program has been in existence? But we do not get to take back PILT moneys because we are helping to make the counties whole with these

other revenues. No, they want it both. They want to double dip. They want to double dip out of the Federal treasury.

I appreciate the people for this program. We owe it to the people that we represent to have that kind of review. But as the gentleman from Minnesota pointed out, you could not get that kind of review in the mining law, you could not get that kind of review in the grazing reform laws. Why? Because the Senate will not allow it. And after 120 years, the Senate just killed again the mining review. What did we want for the public? We wanted a 3-percent royalty. But some of the richest corporations in America said, "No, you get nothing. We get the gold and the taxpayer gets the shaft."

That is what PILT is continuing, that same mentality, and it is not fair to the taxpayers.

Mr. Chairman, I reserve the balance of my time.

Mr. HANSEN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Utah [Mr. HANSEN] is recognized for 10 minutes.

Mr. HANSEN. Mr. Chairman, I ask unanimous consent that half of my time be allocated to the gentleman from Montana [Mr. WILLIAMS].

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

The CHAIRMAN. The gentleman from Utah [Mr. HANSEN] will be recognized for 5 minutes, and the gentleman from Montana [Mr. WILLIAMS] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr Chairman, the Miller amendment we are just seeing come up was defeated before in committee 28 to 14. This amendment only gives a temporary increase and then the PILT payment goes right back to the current levels. Let us get this over with. This is a very small band-aid approach to a very large program.

The gentleman from California [Mr. MILLER] implies that the PILT program is controversial and needs serious review. No Federal agency or private organization has suggested that the PILT program is flawed or needs changing. This is a simple program based on a formula of Federal acres and population that is designed to compensate for lost property tax. We have got it so confused with everything else. Keep in mind, it was to compensate property tax. That is all. The Miller amendment will effectively kill PILT reform for this Congress and I hope everyone realizes that. Counties, Governors, and many other national groups strongly oppose this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I yield 3 minutes to the gentlewoman from Washington [Mrs. UNSOELD], who has worked along with me for several sessions of Congress to try to improve these PILT payments.

Mrs. UNSOELD. Mr. Chairman, I thank the gentleman from Montana [Mr. WILLIAMS] for yielding me the time.

Mr. Chairman, I rise in support of the bill and in opposition to the amendments restricting PILT payments to counties.

The payment in lieu of taxes program, or PILT, was designed to compensate local government for lost tax revenue due to Federal ownership in land. While costs to operate rural counties have continued to rise, the PILT program has not been adjusted for inflation in the 18 years it has existed. This is unacceptable and what this legislation is merely about.

I want to give my colleagues an example of what the PILT program represents. In Skamania County, one of the counties that I represent in Washington State, the Federal Government owns nearly 80 percent of the land. This means 80 percent of the county's land base is outside its tax base. As a county commissioner, how do you provide services for the people when most of your tax base is exempt? Now, once you figure that one out, tell me how you would provide the additional services from search and rescue to road maintenance and construction needed to handle all of those invading your county to use the Federal lands.

I would submit to the gentleman from California who spoke of the need to remember the children, that in these same counties where unemployment has officially hit 26 percent, 27 percent, the domestic abuse rate has risen enormously and the PILT payments are an essential part of protecting those children and those families.

□ 1450

PILT program funds help county government meet those needs. They are an extremely important source of revenue for counties which are continually asked to provide increased services despite diminishing budgets.

Without adequate PILT payments, the Federal Government is not just failing its responsibility to ensure that counties are not penalized for having Federal land, but imposing another unfunded Federal mandate on local governments.

When PILT was enacted it was based on a partnership between Federal and local governments. This concept is as valid today as when it was passed in 1976. But the lag of payments behind inflation has produced a hardship on the local communities, the same communities that are struggling to respond to new Federal timber policies.

I urge my colleagues to support this bill, oppose the amendments being offered, and if changes are needed in the underlying structure of this concept, let us tackle them next year earlier in the session so that we do not run the risk of killing this very valid assistance to the families and the children and the counties and local governments.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, I rise in strong opposition to the Miller substitute which effectively kills S. 455, the Payment in Lieu of Taxes Act.

Make no mistake about it, the only way a PILT increase can become law this session is to pass this bill without amendment today. Amending this bill is nothing more than a vote against PILT, rural communities, and for unfunded mandates.

PILT payments simply compensate local communities throughout the country for property taxes lost due to Federal land ownership which is nontaxable.

This money goes to local communities for emergency law enforcement, medical assistance, waste disposal, and countless other services for local communities and the thousands of visitors who come to our public lands every year.

Since enactment, PILT has never been adjusted for inflation. The program's value has diminished to less than half of what it was. This hardly makes up for the millions of dollars of foregone property tax revenues that are supposed to go to these counties.

PILT in its current form simply cannot supply our local counties with the resources to comply with the unfunded mandates this Congress hands down to them every year.

If the proponents of this substitute really want to do something fiscally responsible for a change, they should help us stop the Federal Government from consuming more private property which is costly and bad for rural America.

Mr. Chairman, I urge a no vote on this substitute and an aye vote for an unamended S. 455.

Mr. MILLER of California. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. KOPETSKI].

Mr. KOPETSKI. Mr. Chairman, I support the PILT program. The issue before us is how much of an increase and for how long.

If this were a bill to give automatic increases forever to monies for public health programs for the counties, Members would say no, we cannot afford it. If it was for moneys forever for Chapter 1 reading programs for local school districts, Members would say no, we cannot afford it. If the moneys were for local government water treatment facilities forever, Members would say no, we cannot afford it.

All the Miller amendment says is that in the next 2 years we ought to review the program, see how much of an

increase and in what form it ought to come. Next session, the 104th Congress is going to have to deal with deficit reduction. This program, like every other program ought to be on the table for discussion and review in terms of how to best reduce the deficit and put monies out there in the local governments where they are richly deserved.

Mr. HANSEN. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Chairman, I rise in opposition to this amendment. It is the same old deal that we have seen before by the same people who believe that grazing fees are not high enough, that we are not paying enough for mineral leases and so forth. But these were all contract deals that were set by the Federal Government in the beginning, and right now, once again to use my own State as an example, my State is now affording the Federal Government $200 million more in revenues from grazing fees, from mining leases, from forest trees and some of the rest of that than they are getting in PILT payments, which is about $20 million. So there is no equity insofar as what the value of production on these lands would return to local government institutions.

That is what PILT was designed to do. It was to level the playing field. But we are subsidizing operations all over the rest of the United States that have and own most of their lands because when they came into the Union every State got its private lands or got its lands and was able to privatize them. But in the West, because of the lack of 30 inches of rain, we have huge public lands, and it is going to go on forever until we get somebody who can really understand what it is all about rather than to put us all in reform school every week.

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of the amendment in the nature of a substitute.

In considering this substitute, Members should remember two important points—

First, a vote for this substitute is a vote for PILT increases. The substitute provides for exactly the same increases in the next 2 years as would be authorized by the Senate bill. So, if you agree with the proponents of the bill that PILT increases should be authorized—this substitute authorizes them.

Second, however, a vote for this substitute is a vote for a careful, measured approach instead of the massive, permanent, and open-ended spending increase that would come with the bill as passed by the Senate.

The substitute combines a 2-year increase in PILT payments with a provision for a thorough study of the PILT Program and related programs by the General Account Office, to lay the foundation for a comprehensive review of the program by the Natural Resources Committee next year.

Mr. Chairman, this is the careful approach. It is the responsible approach.

The PILT Program has not been thoroughly reviewed since 1976, and I strongly believe that we need to step back and view the PILT Program in a broader perspective.

This substitute is not an attack on PILT. As I have said before, the PILT Program has a number of virtues, especially its relative stability and predictability as compared with other programs under which the Nation shares with the States and local governments the receipts from stumpage fees, mineral receipts, grazing receipts, and the like.

In fact, I think we should seriously consider making changes not only in PILT but these other laws that could mean greater stability for local governments and at the same time keep them from being hostages in fights over such management decisions as timber sales, mineral leases, and the like.

Ths study required by this substitute will give us the information we need to decide whether those kinds of changes, or other changes, should be seriously consider next year.

Mr. Chairman, I know that the argument will be made that the House cannot vote for any amendment to this Senate bill because that will kill PILT increase.

Of course, the substitute provides for PILT increases. But the claim will be that with so little time remaining in this session, the Senate will not be able to consider any House amendments this year.

Of course, now that the Senate has decided to return after the elections, that argument should no longer have any weight, assuming that it should ever have any weight.

But, anyway, we should always take the time to be careful. And, there is no hurry, because the PILT payments for fiscal 1994 have already been made and the money for the fiscal 1995 payments has been appropriated.

We will not be making more PILT payments until 1996, and the substitute provides for increasing those payments in both fiscal 1996 and fiscal 1997. There will be plenty of time next year to consider PILT levels for the years after 1997.

Mr. Chairman, I urge a vote for the careful approach and the responsible approach—which means a vote for the substitute.

□ 1500

Mr. WILLIAMS. Mr. Chairman, I yield myself 2 minutes, the remainder of my time.

Mr. Chairman, I appreciate the chairman of the subcommittee, our good friend, the gentleman from Minnesota [Mr. VENTO], in his words admitting that he has not been as attentive and admitting his transgressions on this.

You see, this is the problem, my friends, for three Congresses we have tried to do this, and now here we are in the final hours of the last session of this Congress, and now they offer their amendments. It kills the bill. No wonder they waited until the end. This is the same amendment that we are about to vote on, by the way, that was offered in the Committee on Natural Resources and lost 2 to 1, exactly 2 to 1, 28 to 14 on a bipartisan vote.

Here is what the amendment would do: It would give your counties a 20-percent increase in PILT payments this year, a 20-percent increase in payments the next year. What the bill would do is provide those 20-percent, approximately 20-percent, increases for 5 years. But there is another critical difference, my colleagues. After the second 20-percent increase under the Miller-Vento amendment, they then cut your counties 40 percent. They take 40 percent. They take the entire increase back.

Now, you are going to be sitting maybe in this Congress, in 1997, and your county commissioners are going to be calling and writing and saying, "Wait a minute, the Federal Government just took 40 percent of our money back." If this amendment passes, that is what is going to happen.

Do not vote to create that kind of fiscal instability for your counties and for your States.

Now, should there be a review, as both the chairman of the full committee and chairman of the subcommittee are asking for, with regard to all of this type of money that is going out, absolutely, and the gentleman from Utah [Mr. HANSEN] and I suggested, recommended to the chairman, the gentleman from California [Mr. MILLER], and the chairman, the gentleman from Minnesota [Mr. VENTO], in the committee that we were prepared that day to sign a letter to GAO to ask for the review that they now mandate in this amendment.

My colleagues, we think there ought to be a review, and the gentleman from Utah [Mr. HANSEN] and I stand ready right now to sign the letter asking GAO to make this review. So that part of the amendment is OK. The part we will not accept is cutting your county commissioners' money by 40 percent in the year 1997.

Please, vote against this amendment. It kills this bill.

Mr. MILLER of California. Mr. Chairman, I yield myself 2½ minutes, the balance of my time.

Mr. Chairman, if we do not accept this amendment, what we have done is we have, in fact, created an entitlement program, because if you look at the history of this program, while

many, many other programs dealing with the West, dealing with natural resources and elsewhere, have not been fully funded as authorizations have been approved, it is true in education, it is true in health, true in housing, this program has always been fully funded.

As we went through the 1970's and 1980's and reforming government, we went through cuts, and we had 2-percent cuts, 3-percent cuts, and the fact is this program has been fully funded.

If you do not take the Miller amendment, you are setting it on automatic pilot with no reviews, with no checks, with no reforms. You are empowering the guardians of gridlock in the Senate. You are saying to those Senators who have invested their careers in killing reform as they did this morning with the lobbying reform, as they did yesterday with lobbying reform, as they did last week with campaign reform, as they have with concessions reform, as they have with grazing reform, as they have 120 years in mining reform, as they have with concessions reform in the national parks over the last 30 years, you are telling the guardians of gridlock in the Senate they can have the money and none of the reform. It is not fair to the taxpayers. It is not fair to the taxpayers, whether they live in the West or they live in the East.

You cannot take a program like this and simply put it on automatic pilot for a 150-percent increase at a time when Members are here on discharge petitions over A to Z, they are sitting on entitlement-reform panels, beating the hell out of the Congress for not meeting its responsibilities, but in the last day of this session, they have decided that they will increase the spending on this automatically 150 percent to a $1.3 billion program, and they cannot tell you where the money goes, they cannot tell you if it goes to needy counties, poor counties, counties that are overburdened. They cannot tell you if it is equal to the property taxes that they say it replaces. It does not. And in other places, it more than does. They cannot tell you why some lands are increased and some lands are not. And they cannot tell you why this bill now as the Federal taxpayers are going to have to pay for even those lands that are put into private ownership and into State ownership. They now have an entitlement to the Federal Treasury.

It is not fair. You ought to accept this amendment so we can have some reform, because if you want the public's money, you ought to take a little bit of the public interest along with it.

I ask for an "aye" vote on the amendment.

The CHAIRMAN. The Chair would remind the Members of the body that they should refrain from making reference to, and characterizing the actions of, the other body.

PARLIAMENTARY INQUIRY

Mr. VENTO. Mr. Chairman. I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. VENTO. Mr. Chairman, was that comment talking about the "guardians of gridlock"?

The CHAIRMAN. It was indeed.

Mr. HANSEN. Mr. Chairman, I yield 1 minute, the remainder of my time, to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, the bottom line, of course, is that if we move toward fairness, if we move toward equity, if we move toward moving this bill, then this amendment and the second amendment must be defeated. There is clearly no way that this will function otherwise.

It is sort of interesting, the gentleman who just spoke, worked up about expenditures, over there on the floor on the card is $3 billion authorized for California. The gentleman seemed to think that is all right.

Now, we have 49 States to participate in it, but it is not California, so it does not matter; $3 billion you have over there, but that is fair though, is it not, Mr. Chairman?

You know, if the subcommittee chairman's argument would have come a year ago, it probably would have been useful. I recognize what the chairman is saying, but it is not useful now. It is simply a delaying tactic. We went through this in the committee.

It is a little too bad that the leadership does not represent the committee; 28 to 14 voted on this.

So we need to take a look at what we are doing here in terms of obligations. This is simply not just a spending measure. It is a fairness measure. It is an equity measure, and it is one we ought to pass without amendment.

I urge my associates to vote against the amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from California [Mr. MILLER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MILLER of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 160, noes 262, not voting 18, as follows:

[Roll No. 502]

AYES—160

Abercrombie	Berman	Castle
Andrews (TX)	Bonior	Collins (GA)
Armey	Boucher	Collins (IL)
Barca	Brown (OH)	Collins (MI)
Barrett (WI)	Bryant	Combest
Becerra	Cardin	Condit
Beilenson	Carr	Conyers
Cox	Kaptur	Petri
Crane	Kasich	Pickle
de Lugo (VI)	Kildee	Porter
Dellums	Kleczka	Portman
Deutsch	Klein	Pryce (OH)
Diaz-Balart	Klink	Quinn
Dreier	Klug	Rahall
Duncan	Kopetski	Rangel
Durbin	Kreidler	Reed
Edwards (CA)	LaFalce	Regula
Ehlers	Lambert	Reynolds
Engel	Leach	Roemer
Ewing	Levin	Rohrabacher
Faleomavaega (AS)	Lewis (GA)	Ros-Lehtinen
	Lipinski	Roukema
Fawell	Lowey	Royce
Fields (LA)	Maloney	Rush
Filner	Mann	Sabo
Fingerhut	Manzullo	Santorum
Frank (MA)	Margolies-Mezvinsky	Sarpalius
Franks (CT)		Sawyer
Franks (NJ)	Markey	Saxton
Frost	McCrery	Schumer
Gejdenson	McHale	Sensenbrenner
Gephardt	McHugh	Sharp
Gilchrest	Meehan	Shays
Gillmor	Meyers	Shuster
Glickman	Mfume	Slaughter
Gordon	Michel	Smith (NJ)
Grams	Miller (CA)	Stark
Green	Miller (FL)	Studds
Greenwood	Mineta	Synar
Gutierrez	Minge	Torricelli
Hall (OH)	Mink	Traficant
Hamilton	Mollohan	Underwood (GU)
Hancock	Moorhead	Upton
Hastert	Moran	Velazquez
Hinchey	Morella	Vento
Hobson	Murphy	Visclosky
Hoke	Nadler	Volkmer
Holden	Neal (MA)	Walsh
Inglis	Neal (NC)	Watt
Jacobs	Olver	Waxman
Jefferson	Owens	Weldon
Johnson, Sam	Pallone	Woolsey
Johnston	Pelosi	Yates
Kanjorski	Penny	Zimmer

NOES—262

Ackerman	Clyburn	Gilman
Allard	Coble	Gingrich
Andrews (ME)	Coleman	Gonzalez
Andrews (NJ)	Cooper	Goodlatte
Archer	Coppersmith	Goodling
Bacchus (FL)	Costello	Goss
Bachus (AL)	Coyne	Grandy
Baesler	Cramer	Gunderson
Baker (CA)	Crapo	Hall (TX)
Baker (LA)	Cunningham	Hamburg
Ballenger	Danner	Hansen
Barcia	Darden	Harman
Barlow	de la Garza	Hastings
Barrett (NE)	Deal	Hayes
Bartlett	DeFazio	Hefley
Bateman	DeLauro	Hefner
Bentley	Derrick	Herger
Bereuter	Dickey	Hilliard
Bevill	Dicks	Hoagland
Bilbray	Dingell	Hochbrueckner
Bishop	Dixon	Hoekstra
Blackwell	Dooley	Horn
Bliley	Doolittle	Houghton
Blute	Dornan	Hoyer
Boehlert	Dunn	Huffington
Boehner	Edwards (TX)	Hughes
Bonilla	Emerson	Hunter
Borski	English	Hutchinson
Brewster	Eshoo	Hutto
Brooks	Evans	Hyde
Browder	Everett	Inslee
Brown (CA)	Farr	Johnson (CT)
Brown (FL)	Fazio	Johnson (GA)
Bunning	Fields (TX)	Johnson (SD)
Burton	Fish	Johnson, E. B.
Buyer	Flake	Kennedy
Byrne	Foglietta	Kennelly
Callahan	Foley	Kim
Calvert	Ford (MI)	King
Camp	Ford (TN)	Kingston
Canady	Fowler	Knollenberg
Cantwell	Furse	Kolbe
Clay	Gallegly	Kyl
Clayton	Gekas	Lancaster
Clement	Geren	Lantos
Clinger	Gibbons	LaRocco

Laughlin	Parker	Solomon
Lazio	Pastor	Spence
Lehman	Paxon	Spratt
Lewis (CA)	Payne (NJ)	Stearns
Lewis (KY)	Payne (VA)	Stenholm
Lightfoot	Peterson (FL)	Stokes
Linder	Peterson (MN)	Strickland
Livingston	Pickett	Stump
Lloyd	Pombo	Stupak
Long	Pomeroy	Swett
Lucas	Poshard	Swift
Machtley	Price (NC)	Talent
Manton	Quillen	Tanner
Martinez	Ramstad	Tauzin
Matsui	Richardson	Taylor (MS)
Mazzoli	Ridge	Taylor (NC)
McCandless	Roberts	Tejeda
McCloskey	Rogers	Thomas (CA)
McCollum	Rose	Thomas (WY)
McDade	Rostenkowski	Thompson
McDermott	Roth	Thornton
McInnis	Rowland	Thurman
McKeon	Roybal-Allard	Torkildsen
McKinney	Sanders	Torres
McMillan	Sangmeister	Towns
McNulty	Schaefer	Unsoeld
Meek	Schenk	Valentine
Menendez	Schiff	Vucanovich
Mica	Schroeder	Walker
Moakley	Scott	Waters
Molinari	Serrano	Wheat
Montgomery	Shaw	Williams
Murtha	Shepherd	Wilson
Myers	Sisisky	Wise
Norton (DC)	Skaggs	Wolf
Nussle	Skeen	Wyden
Oberstar	Skelton	Wynn
Obey	Smith (IA)	Young (AK)
Ortiz	Smith (MI)	Young (FL)
Orton	Smith (OR)	Zeliff
Oxley	Smith (TX)	
Packard	Snowe	

NOT VOTING—18

Applegate	Istook	Slattery
Barton	Levy	Sundquist
Bilirakis	Lewis (FL)	Tucker
Chapman	McCurdy	Washington
DeLay	Ravenel	Whitten
Gallo	Romero-Barcelo (PR)	
Inhofe		

□ 1529

The Clerk announced the following pair:

On this vote:

Mr. Tucker for, with Mr. DeLay against.

Ms. ESHOO, and Messrs. PETERSON of Minnesota, FARR of California, TAYLOR of Mississippi, SWETT, and ORTON changed their vote from "aye" to "no."

Mr. MILLER of Florida, Mr. YATES, Mrs. COLLINS of Illinois, Mrs. LOWEY, Mr. HOKE, Ms. VELÁZQUEZ, Mr. FIELDS of Louisiana, Mr. NADLER, and Ms. KAPTUR changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

□ 1530

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 103–380.

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. VENTO: Page 4, strike lines 1 through 12 and renumber subsequent sections accordingly.

The CHAIRMAN. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the amendment is very simple. It would delete from the bill a provision that would link future PILT authorizations to future changes in the prices of goods and services, as shown by the Consumer Price Index.

Mr. Chairman, the PILT authorization that we have before us will increase by $468 million in 5 years. Based on inflation, it will increase beyond that to $1.3 billion in the next 10 years.

I would remind my colleagues, this is at a time when we are committed to a policy path of reducing the deficit over that time by cutting domestic discretionary spending. These authorization levels that are anticipated in this bill, as had been pointed out earlier, are not just any old authorization.

Mr. Chairman, these authorizations have been consistently fulfilled. This is a situation where the authorization process works, where it actually has limited the amount of spending under PILT.

The authors of the amendment are right in the sense there needs to be an adjustment. There has been no adjustments since 1976. Of course, I point out that there have been many other programs that we have offered as reform this year that have had a life much longer than that affecting public lands that have been summarily dismissed by the Congress and especially by the other body.

The fact is that this PILT program is not a perfect program. There are many problems with it. The public lands commission that met pointed out that the stream of revenues coming from the public lands should be used, and I think logically would be used, to offset the PILT payments so that we would have a maintenance of a constant source of income for those counties that have and those States that have lower receipts from public lands.

That is not part of the PILT package that we have before us. The only chance that we have to revisit this issue is if there is some leverage, if there is some force to, in fact, recall or bring this issue back before the Congress.

Certainly, one further impediment is the fact that we don't limit the cost-of-living adjustment. If we don't change or stop the cost-of-living adjustment in this PILT program it will be very, very difficult to change in the PILT program in the future.

I think the Members know that. The argument is not so much against this amendment. It is against the fact that the other body, the Senate will resist all change, we have to suspend reason. We have to suspend judgment because the other body is not capable of dealing with even one amendment from the House.

Repeatedly we have been faced with measures that are before the House and before the other body where they are not able to make any modifications. It is sort of a slam dunk legislative process. Bring it over here and we have to take what we get. We cannot make any modifications.

I am appealing to my colleagues, I think this issue is important enough, even in the U.S. Senate, for them to take one small, one small adjustment. That adjustment is to reduce or to eliminate the cost-of-living adjustments so that we have some real chance of revisiting this issue in the years ahead and dealing with a policy that is admittedly flawed and, I think, recognized by many that are fair-minded in this body.

Mr. Chairman, I would appeal to my colleagues to support this Vento amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. HANSEN. Mr. Chairman, I ask unanimous consent that I may divide my time with the gentleman from Montana [Mr. WILLIAMS].

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

The CHAIRMAN. The gentleman from Montana [Mr. WILLIAMS] will be recognized for 5 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 5 minutes.

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I find it interesting that this particular amendment was not offered in committee, when there was ample time to do it. It was not offered. It is kind of like the 5 years we have had to do some reform on PILT, and we have not done it. I say to my colleagues on both sides of the aisle, this is the chance to get this job done. This is a killer amendment.

If we want to kill PILT, vote for this. If we want to see it go on and accomplish what we have been working for, this is an amendment to be carefully looked at and to kill this amendment so we do not kill the bill.

I have a hard time with this, as I look at it. The fiscal concerns that we see coming from some of our friends are the same folks that, as the gentleman from Idaho pointed out, have authorized $5 billion in new spending in this same area.

The purpose of S. 455 is to update PILT payments for inflationary increases. The index provision affects the authorization only and for some reason all through this debate things other than authorizations have been brought up and will prevent this problem from recurring.

This is a compromise, and I would ask that the Members defeat this amendment and vote for the bill.

Mr. Chairman, I reserve the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I yield 1 minute to the gentlewoman from Arkansas [Ms. LAMBERT].

Ms. LAMBERT. Mr. Chairman, I would just like to speak in support of the bill today. We have heard an awful lot of east-west argument. It is not an east-west argument. There are many areas out in rural America, such as my district in Arkansas, that would stand to benefit a tremendous amount from this bill. We have seen these areas. Since 1976, they have seen no inflationary increases. The price of bread has certainly gone up since 1976.

□ 1540

As I was stating, Mr. Chairman, it is not an East-West issue. We have many of the small counties in the Nation, just like I represent in my district in Arkansas, surrounded by Federal lands, who are still having to maintain school systems, county roads and other programs that are in vital need of the resources that they no longer get from the limited tax base that they have.

Mr. Chairman, it is an important issue. It is one we need to resolve at this point. We need to move ahead with this issue. I encourage my colleagues to vote in support of this bill, so we can move on it this year. These counties have suffered long enough. It is time that we come to the point where we can help them out and give them the necessary resources that they need.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. BARRETT], a member of the Committee on Natural Resources.

Mr. BARRETT of Wisconsin. Mr. Chairman, this is an excellent amendment. I urge my colleagues to support it.

Mr. Chairman, what this bill does is, it sets into automatic pilot indexing after 5 years. That would be a great idea if we had billions of dollars to spend in this country, but we do not have it.

It would be a great idea to have permanent indexing for things like minimum wage increases for the working men and women in this country, but we cannot afford to do that. It would be great to have indexes built in for payments for medical care. We do not have those built into our law. It would be great if we were able to fund the crime bill that we just passed for more than 5 years, but we were responsible, because we know we cannot stick those costs on future taxpayers.

Mr. Chairman, somehow we are saying in this area, in this area only, we are going to bind future Congresses and we are going to require them to keep this authorization in law. That is irresponsible and it is something we should not do.

This is a reasonable amendment and it is one that I hope my colleagues will support.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. BARRETT of Wisconsin. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, the legislation permanently indexes these payments. Where else do we have permanent indexing in a discretionary program? In Social Security, with a funding source. Where is the funding source for this particular program? It is the other discretionary programs which we are already committed to cut. That is why this indexing amendment is important to pass, and to eliminate it from this program.

Mr. HANSEN. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. TAYLOR].

Mr. TAYLOR of North Carolina. Mr. Chairman, I am not a big spender. I am also not from the West, as the gentlewoman from Arkansas [Ms. LAMBERT] pointed out.

Mr. Chairman, this is not a western issue, as we pointed out. About a third of my district is owned by the Federal Government, over 50 percent of the western half of the district. Two counties are 65 percent and 85 percent owned. These have some of the lowest per capita income in the Southeast. It is park, parkway, National Forest, and so forth. All the funds they have to derive, most of the money has to come from ad valorem taxes.

This body has placed on these counties a series of mandates in this Congress alone. We have the motor-voter bill that is going to pass about $50 million onto the States and counties. We have EPA regulations in the areas of landfills, we have OSHA, that is doing such things in the area of roofing as saying you cannot chew gum on a roof, so that is going to put a cost on any county building, any school, or any facility. We have the Americans With Disabilities Act.

Everywhere we look there is an additional mandate being placed on the counties. Yet we are saying that because the Federal Government owns most of those counties, we are not going to give them the extra dollars they need to meet these mandates. The ad valorem tax is the only thing they have left, essentially, to pay for schools, pay for health care, to do any of the improvements and charges that we put on the counties.

Mr. Chairman, we have taken their other revenue. We have said in national forests that they cannot harvest timber. We are saying they cannot mine, they cannot graze. In fact, there is a big sign on our public lands that says, "Thou shall not do anything with these publicly-owned lands." Consequently, they are deprived of the revenue that usually comes into the county governments to go to the educational programs.

Mr. Chairman, unless we allow the increase we are talking about, we are mandating costs to these counties and sending them further and further behind. We are condemning those counties with Federal lands to obscurity, poverty, and the inability to carry out any public services on the basis of the locality.

I think that is wrong. That is why I support S. 455 as it is now. As the gentleman from Utah [Mr. HANSEN] pointed out, this is a killer amendment. It comes down to whether or not Members want the counties to get these PILT funds and the increases or Members do not.

Mr. Chairman, I offer the top 10 reasons to support S. 455:

10. It's good policy. PILT was established in 1976 to provide an appropriate payment to local governments based on the presence of tax exempt Federal lands in their jurisdiction.

9. It has broad, bipartisan support. The Natural Resources Committee reported the bill 31–10. It passed the Senate last spring 79–20. PILT is supported by the National Association of Counties, and other organizations supporting law enforcement, education, and local construction. Conservation organizations like the Nature Conservancy and Sierra Club support PILT, understanding the inherent fairness of a local payment on the basis of Federal land holdings. 49 of the 50 States receive payments under PILT.

8. It's a sound program. Since its inception, no independent or governmental organization has suggested that PILT is either inefficient or ineffective in filling its basic purpose. No organization has suggested that the policy of PILT is in any way inappropriate or misdirected in accomplishing its goal.

7. It will actually happen. By passing the Senate bill—without amendment—we assure that this legislation goes directly to the President, marking an important accomplishment of the 103d Congress in appropriate support of local governments.

6. It's a compromise. We are cosponsors of H.R. 1181, legislation which would have provided the full 120 percent increased authorization in the first year of the bill. S. 455, the Senate passed bill, phases in this increase over 5 years.

5. It's moderate legislation which complies with the budget rules. The original PILT bill had no trigger for inflation; this bill retains the existing PILT formula while adjusting for the increase in inflation—120 percent—since 1976. The Congressional Budget Office scores the bill as increasing the authorization in $25 million increments in years 1995 through 1999, and states that the bill does not affect pay as you go requirements since these funds are subject to annual appropriations.

4. It's needed. PILT funds are the Federal fair share to help fund local

services—services which benefit the public users and managers of Federal lands. These services include law enforcement, road maintenance, search and rescue, and education. The problem is that PILT iunds buy less than half the public services of the level in 1976.

3. It's simple. PILT provides a reasonable payment in lieu of the property taxes which would otherwise have been generated by federally owned lands. A county's PILT payment is determined by the total acreage of federal land; adjusted on the basis of the county population—more people, higher PILT—and adjusted on the basis of receipts from the sale of Federal natural resources—if a county's receipts are high, it's PILT is low.

2. PILT is the single major Federal program that has had no adjustment for inflation.

And the No. 1 reason to pass S. 455 is—it's fair. It's appropriate that the Federal Government make a fair share payment in lieu of taxes on the basis of Federal land holdings; it's also fair that this program be adjusted for inflation.

Mr. WILLIAMS. Mr. Chairman, I yield 1 minute to the gentleman from South Dakota [Mr. JOHNSON], a great assist in our efforts.

Mr. JOHNSON of South Dakota. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, three very quick points, besides the fact that I have great respect for the chairman of the committee. Nonetheless, we are faced with a critical problem all across America with our counties being under enormous pressure as a result of the Federal holdings east and west across this country, and in creating a tremendous real estate tax burden in my State of South Dakota.

A point that needs to be made here, this underlying bill does not guarantee assent to any county anywhere in America. There is no entitlement to it. This has no pay-go implications. It simply allows the county to go to the Committee on Appropriations in future years to ask that their PILT formula be funded. It allows them to make the arguments on the merits. I think that is only fair, again.

Lastly, of course, the argument that has been made here repeatedly is that regardless of the merits of the amendment that is pending, the fact is that whether we like it or not, it is a killer amendment. If the amendment passes, it means that our counties all across this country will not have an opportunity to make an argument on the merits to the appropriators for an equitable share of financial resources to account for their lost tax base.

Mr. VENTO. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. BARCA].

Mr. BARCA of Wisconsin. Mr. Chairman, I believe this is a very important amendment. The reason why I believe it is an important amendment is because we have been talking about, throughout this Congress, looking for ways to rein in automatic increases in spending. What we will be doing is ending our Congress by putting into place an automatic adjustment in spending.

As far as I know, Mr. Chairman, and as far as our staff has been able to determine, this would be the only area of discretionary spending that would have an automatic COLA increase built into it. Do we want to set this precedent at the end of the 103d Congress, that we should then look to other areas to have automatic COLA increases?

Mr. Chairman, this is in fact a very important amendment. If this amendment does not pass, then I do not think the bill should pass, because I believe this would be a very bad precedent to set at any time in the Congress, but especially to end the 103d Congress with an automatic escalator clause.

I think that is irresponsible. The National Taxpayers Union has spoken out loudly against this, and rightfully so.

Mr. Chairman, I would ask my colleagues to please join us in this effort, so we are not just adding to the statutes an automatic increase for the first time in discretionary spending.

Mr. HANSEN. Mr. Chairman, might I inquire as to the amount of time we have remaining?

The CHAIRMAN. The gentleman from Utah [Mr. HANSEN] has 1 minute remaining, the gentleman from Montana [Mr. WILLIAMS] has 3 minutes remaining, and the gentleman from Minnesota [Mr. VENTO] has 5 minutes remaining.

Mr. HANSEN. Mr. Chairman, I yield my remaining time to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I yield briefly to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I just need to make the point, the previous speaker talks about built-in spending increases. That is not the case. That is not a fact. That is not true. There are built-in increases in authorization, not in spending.

Mr. KOLBE. Mr. Chairman, I appreciate gentleman's contribution.

Mr. Chairman, Let us be clear about this amendment. This is a red herring. This is an attempt simply to kill the idea that we should have payments in lieu of taxes to our countries, or any change in the formula to index it, to allow for an increase that we have not had for the last 20 years.

We know we cannot go to conference today. We know this kills it. This is a bill that is long overdue. This is not something where we are talking about States that are taking money.

This is not a handout. This is not an entitlement. This is because the Federal Government retains the ownership for more than 100 years of these lands and requires the countries to maintain basic services. This is a payment for those services.

We have a responsibility as a Federal Government to pay our fair share. That is why this amendment should be defeated, and we should allow this indexing of the authorization, not the appropriation, not the appropriation, but only of the authorization.

Mr. WILLIAMS. Mr. Chairman, I yield 1 minute to the gentleman from the Sixth District of Ohio [Mr. STRICKLAND].

□ 1550

Mr. STRICKLAND. Mr. Chairman, I strongly support the passage of S. 455 to increase Federal payments in lieu of taxes to local governments and schools. Some critics make the absurd claim that this legislation is an entitlement. PILT is not welfare. It is plain fair. This bill will increase the PILT formula to give local governments more fair compensation for the lost tax revenue caused by federally owned, tax-exempt land like the Wayne National Forest in my poor southern Ohio district. S. 455 will increase payments in my district from just over $47,000 to more than $200,000 in 5 years, and local governments, including my schools, will be assured that their payments from Washington will keep up with inflation. Amendments that would cut PILT payments after 2 years or say that the Frontier Local School District and others do not deserve to keep up with inflation are just plain wrong.

I urge my colleagues to reject the amendments and pass the bill to ensure fair compensation to our governments and our schools.

Mr. VENTO. Mr. Chairman, I reserve the balance of my time.

Mr. WILLIAMS. Mr. Chairman, I yield 1 minute to gentleman from the Third District of California [Mr. FAZIO].

Mr. FAZIO. Mr. Chairman, first of all, I want to pay tribute to my friend, the gentleman from the First District of Montana [Mr. WILLIAMS], the Representative from Montana, for leading the fight that has brought us to this point.

I think it is evident to everybody here that if we do not act on this measure without amendment, it is dead, and we have one more time failed to keep faith with the communities across this country that have allowed Federal participation in their communities through Federal land ownership. We have not been keeping faith with them. Inflation has eroded the value of our payments. Communities—often small rural communities, counties, and cities—are suffering because we have been taking and not giving back.

This is the essence of the whole fight we have had here on mandates. This is

even in my view worse, because instead of not paying for something we have mandated, in this case we have taken the land and we have not compensated the communities that have it no longer on the tax rolls.

We have an opportunity here to allow the authorization to move forward, but in no sense do we tell the subcommittee of the gentleman from Illinois [Mr. YATES] what it must appropriate.

So, for all the discussion about automatic increases, that is a red herring. The Committee on Appropriations will continue to struggle with whatever is required. We know it has never been what was authorized. But at least it is an effort here to give our communities what they deserve.

Please put aside all the rhetoric. Keep faith with our local communities that have contributed to public participation and enjoyment of our environment across this land.

Mr. VENTO. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, my colleague from Minnesota is absolutely correct. While it is understandable for advocates for payments in lieu of taxes to ask for an increase after an 18-year freeze on the funding level for this worthwhile program, it is not reasonable in my judgment to ask that we automatically index this payment for future years. Indexing is what got us in trouble with so much of our Federal budget today. Automatic increases should not be expanded to cover additional programs regardless how valuable.

We ought to analyze what the budget can afford and analyze what is fair in comparison to other priorities within the budget. An automatic increase should not be slated. Bear in mind, as well, this is not an entitlement program, this is a discretionary program, an annually appropriated program, which means an expected increase in this program each year would naturally come at the expense of other programs in the same part of the budget.

Let us not put further pressure on the valuable programs. Let us be reasonable, take this more slowly. At the very least, we ought to deny a COLA as part of this legislation. I urge support for the Vento-Miller amendment.

Mr. VENTO. Mr. Chairman, I yield the remainder of my time to the gentleman from California [Mr. MILLER], the chairman of the committee.

The CHAIRMAN. The gentleman from California [Mr. MILLER] is recognized for 4 minutes.

Mr. MILLER of California. Mr. Chairman, I would hope that Members would give very strong consideration to the passage of this amendment.

This amendment does no harm to this legislation. What this amendment does is it says we will treat this legislation the same as we treat every other piece of legislation in this Congress of discretionary spending.

If you do not support this amendment, what you are doing is taking this program that is scheduled to go up over 150 percent for the next 5 years and automatically indexing it into the future. No other discretionary spending program in the entire Federal Government is treated this way.

We just passed the authorization for the Elementary and Secondary Education Act that affects millions of school children. They got a 5-year authorization. Next year we are going to authorize the farm bill that affects millions of farmers and families. They get a 5-year authorization. We authorize the housing programs. They get a 5-year authorization. None of them get their programs indexed into the future so they can escape the review of the policy committees. And why are we going to do that? Not on the merits. We are going to do that because the Senate, the same Senate that has held program after program after program of Member after Member after Member of this body hostage, says that they do not want to discuss reforms. They do not want legislation with reform on it. They only want the money.

Your choice here is whether or not you are going to be responsible to your taxpayers. One of the speakers earlier today said, "You know, there hasn't been an increase in this program since 1976. But the price of bread has gone up since 1976." That is right.

But what has not gone up since 1976? The wages of middle-class working people in this country who go to work every day. Their real wages have fallen. But you are going to index this program. You are going to index this program that has no constraints on it, has no priorities, goes out simply based upon the amount of acreage, not based upon the burden, not based upon the benefit, not based upon offsets of other Federal dollars that we give to these exact same counties, to these exact same cities. we do not index the minimum wages of workers in this country. We do not index education dollars. We do not index WIC dollars for at-risk infants. We do not index crime money for troubled communities because of crime. But somehow we can index this money that so disproportionately goes to States with very few people and relatively few problems that people from other States who get chunk change, chunk change.

You get $48,000 in the State of New Jersey, and you think you have to support the effort because you might get $52,000. And Nevada is walking away with $8 million and New Mexico $10 million and California $10 million. You are playing for chunk change but you are giving away the principles here of automatic indexed Federal spending and you should not do it. Support this amendment.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair reminds the Members again that they are not to characterize the actions of the other body in their debate.

The gentleman from Montana [Mr. WILLIAMS] is recognized for 1 minute to conclude the debate on this amendment.

Mr. WILLIAMS. Mr. Chairman, a Presidential candidate not so long ago used to say this: "Now here's the deal."

Well, here's the deal, my colleagues. You vote for this amendment, the bill dies. It is the last day of the session. So if you want PILT payments to be increased, vote no on this amendment, vote for the bill. That is the deal. It is that simple.

There is no automatic appropriation increase in this bill, none.

□ 1600

What is in this bill is the right for your county commissioners for the first time in almost 20 years to come and ask you to go to the appropriators and say, "Will you give us a little more," to your county commissioner than you got 18 years ago. If this amendment passes, the day comes again when that choice is taken away from you and your county commissioners and they are going to be stuck with no inflationary increase.

So here is the deal: Oppose this amendment. Let the appropriators have the choice. Give your counties a break and give your property tax payers a break. Every single State in this country with the exception of one, Rhode Island, benefits from PILT payments.

Vote against this amendment. Help those other States. Vote for this bill. Help your State, help your counties.

I also want to thank Mr. HANSEN for the cooperation we received from him and his staff, Mr. Alan Freemeyer and Mr. David Dye, and for the help of Mr. Jon Weintraub and Mr. David Blair of my staff.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MILLER of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 195, noes 223, not voting 22, as follows:

[Roll No. 503]

AYES—195

Abercrombie	Barcia	Boehlert
Andrews (TX)	Barrett (WI)	Borski
Armey	Beilenson	Bryant
Baesler	Bereuter	Buyer
Ballenger	Berman	Cardin
Barca	Blute	Carr

Castle
Coble
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Cox
Coyne
Crane
Danner
de Lugo (VI)
Dellums
Deutsch
Diaz-Balart
Dingell
Duncan
Durbin
Edwards (CA)
Ehlers
Engel
Ewing
Fawell
Fields (LA)
Filner
Fingerhut
Foglietta
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gonzalez
Goodling
Gordon
Grams
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Hastert
Hinchey
Hobson
Hoekstra
Hoke
Holden
Hughes
Hutto
Inglis
Jacobs
Jefferson
Johnson (GA)
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kildee
King
Kleczka
Klein
Klink
Klug
Kopetski
Kreidler
Lambert
Leach
Levin
Lewis (GA)
Lipinski
Lowey
Maloney
Mann
Manzullo
Margolies-Mezvinsky
Markey
McCloskey
McCollum
McCrery
McHale
McHugh
McKinney
McMillan
McNulty
Meehan
Meyers
Mfume
Michel
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Mollohan
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Olver
Owens
Oxley
Pallone
Payne (VA)
Pelosi
Penny
Petri
Pickle
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Reed
Regula
Reynolds
Roemer
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roukema
Royce
Rush
Sabo
Santorum
Sawyer
Saxton
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Shuster
Sisisky
Skaggs
Slaughter
Smith (NJ)
Smith (TX)
Solomon
Spence
Spratt
Stark
Stearns
Swett
Synar
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Walker
Walsh
Waters
Watt
Waxman
Weldon
Woolsey
Wynn
Yates
Young (FL)
Zeliff
Zimmer

NOES—223

Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Archer
Bacchus (FL)
Bachus (AL)
Baker (CA)
Baker (LA)
Barlow
Barrett (NE)
Bartlett
Bateman
Becerra
Bentley
Bevill
Bilbray
Bishop
Blackwell
Bliley
Boehner
Bonilla
Bonior
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bunning
Burton
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Conyers
Cooper
Coppersmith
Costello
Cramer
Crapo
Cunningham
Darden
de la Garza
Deal
DeFazio
DeLauro
Derrick
Dickey
Dicks
Dixon
Dooley
Doolittle
Dornan
Dreier
Dunn
Edwards (TX)
Emerson
English
Eshoo
Evans
Everett
Farr
Fazio
Fields (TX)
Fish
Flake
Foley
Ford (MI)
Frost
Furse
Gallegly
Gibbons
Gilman
Gingrich
Glickman
Goodlatte
Goss
Grandy
Gunderson
Hall (TX)
Hamburg
Hancock
Hansen
Harman
Hastings
Hayes
Hefley
Hefner
Herger
Hilliard
Hoagland
Hochbrueckner
Horn
Hoyer
Huffington
Hunter
Hutchinson
Hyde
Inslee
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Kennelly
Kim
Kingston
Knollenberg
Kolbe
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Lehman
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
Lloyd
Long
Lucas
Machtley
Manton
Martinez
Matsui
Mazzoli
McDade
McDermott
McInnis
McKeon
Meek
Menendez
Mica
Moakley
Molinari
Montgomery
Moorhead
Moran
Myers
Norton (DC)
Nussle
Oberstar
Obey
Ortiz
Orton
Packard
Parker
Pastor
Paxon
Payne (NJ)
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Pomeroy
Poshard
Quillen
Rangel
Richardson
Ridge
Roberts
Rogers
Rose
Roth
Rowland
Roybal-Allard
Sanders
Sangmeister
Sarpalius
Schaefer
Schenk
Schiff
Scott
Shaw
Shepherd
Skeen
Skelton
Smith (IA)
Smith (MI)
Smith (OR)
Snowe
Stenholm
Stokes
Strickland
Stump
Stupak
Swift
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Underwood (GU)
Unsoeld
Valentine
Vucanovich
Wheat
Williams
Wilson
Wise
Wolf
Wyden
Young (AK)

NOT VOTING—22

Applegate
Barton
Bilirakis
DeLay
Faleomavaega (AS)
Ford (TN)
Gallo
Houghton
Inhofe
Istook
Levy
Lewis (FL)
McCandless
McCurdy
Ravenel
Romero-Barcelo (PR)
Slattery
Studds
Sundquist
Tucker
Washington
Whitten

□ 1620

The Clerk announced the following pairs:

On this vote:

Mr. Tucker for, with Mr. Barton against.

Mrs. MEEK of Florida, Messrs. HEFLEY, BACHUS of Alabama, SMITH of Michigan, DICKEY, and THOMPSON of Mississippi changed their vote from "aye" to "no."

Messrs. CRANE, SERRANO, SMITH of Texas, ROSTENKOWSKI, and BRYANT changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

□ 1620

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. SHARP] having assumed the chair, Mr. LANCASTER, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 455) to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes, pursuant to House Resolution 565, he reported the Senate bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on passage of the Senate bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KLECZKA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR ACT OF 1993

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1348) to establish the Quinebaug and Shetucket Rivers Valley National Heritage Corridor in the State of Connecticut, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment: Strike all after the enacting clause and insert the following:

TITLE I—QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR

SECTION 101. SHORT TITLE.

This title may be cited as the "Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994".

SEC. 102. FINDINGS.

The Congress finds that—

(1) the Quinebaug and Shetucket Rivers Valley in the State of Connecticut is one of the last unspoiled and undeveloped areas in the Northeastern United States and has remained largely intact, including important aboriginal archaeological sites, excellent water quality, beautiful rural landscapes, architecturally significant mill structures and mill villages, and large acreages of parks and other permanent open space;

(2) the State of Connecticut ranks last among the 50 States in the amount of federally protected park and open space lands within its borders and lags far behind the other Northeastern States in the amount of land set-aside for public recreation;

(3) the beautiful rural landscapes, scenic vistas and excellent water quality of the

Quinebaug and Shetucket Rivers contain significant undeveloped recreational opportunities for people throughout the United States;

(4) the Quinebaug and Shetucket Rivers Valley is within a two-hour drive of the major metropolitan areas of New York City, Hartford, Providence, Worcester, Springfield, and Boston. With the President's Commission on Americans Outdoors reporting that Americans are taking shorter "closer-to-home" vacations, the Quinebaug and Shetucket Rivers Valley represents important close-by recreational opportunities for significant population;

(5) the existing mill sites and other structures throughout the Quinebaug and Shetucket Rivers Valley were instrumental in the development of the industrial revolution;

(6) the Quinebaug and Shetucket Rivers Valley contains a vast number of discovered and unrecovered Native American and colonial archaeological sites significant to the history of North America and the United States;

(7) the Quinebaug and Shetucket Rivers Valley represents one of the last traditional upland farming and mill village communities in the Northeastern United States;

(8) the Quinebaug and Shetucket Rivers Valley played a nationally significant role in the cultural evolution of the prewar colonial period, leading the transformation from Puritan to Yankee, the "Great Awakening" religious revival and early political development leading up to and during the War of Independence; and

(9) many local, regional and State 'agencies businesses, and private citizens and the New England Governors' Conference have expressed an overwhelming desire to combine forces: to work cooperatively to preserve and enhance resources region-wide and better plan for the future.

SEC. 103. ESTABLISHMENT OF QUINEBAUG AND SHETUCKET RIVERS VALLEY NATIONAL HERITAGE CORRIDOR; PURPOSE.

(a) ESTABLISHMENT.—There is hereby established in the State of Connecticut the Quinebaug and Shetucket Rivers Valley National Heritage Corridor.

(b) PURPOSE.—It is the purpose of this title to provide assistance to the State of Connecticut, its units of local and regional government and citizens in the development and implementation of integrated cultural, historical, and recreational land resource management programs in order to retain, enhance, and interpret the significant features of the lands, water, and structures of the Quinebaug and Shetucket Rivers Valley.

SEC. 104. BOUNDARIES AND ADMINISTRATION.

(a) BOUNDARIES.—The boundaries of the Corridor shall include the towns of Ashford, Brooklyn, Canterbury, Chaplin, Coventry, Eastford, Franklin, Griswold, Hampton, Killingly, Lebanon, Lisbon, Mansfield, Norwich, Plainfield, Pomfret, Preston, Putnam, Scotland, Sprague, Sterling, Thompson, Voluntown, Windham, and Woodstock. As soon as practical after the date of enactment of this Act, the Secretary shall publish in the Federal Register a detailed description and map of boundaries established under this subsection.

SEC. 105. STATE CORRIDOR PLAN.

(a) PREPARATION OF PLAN.—Within two years after the date of enactment of this title, the Governor of the State of Connecticut is encouraged to develop a Cultural Heritage and Corridor Management Plan. The plan shall be based on existing Federal, State, and local plans, but shall coordinate those plans and present a comprehensive historic preservation, interpretation, and recreational plan for the Corridor. The plan shall—

(1) recommend non-binding advisory standards and criteria pertaining to the construction, preservation, restoration, alteration and use of properties within the Corridor, including an inventory of such properties which potentially could be preserved, restored, managed, developed, maintained, or acquired based upon their historic, cultural or recreational significance;

(2) develop an historic interpretation plan to interpret the history of the Corridor;

(3) develop an inventory of existing and potential recreational sites which are developed or which could be developed within the Corridor;

(4) recommend policies for resource management which consider and detail application of appropriate land and water management techniques, including but not limited to, the development of intergovernmental cooperative agreements to protect the Corridor's historical, cultural, recreational, scenic, and natural resources in a manner consistent with supporting appropriate and compatible economic revitalization efforts;

(5) detail ways in which local, State, and Federal programs may best be coordinated to promote the purposes of this title; and

(6) contain a program for implementation of the plan by the State and its political subdivisions.

(b) PUBLIC INVOLVEMENT IN PLAN DEVELOPMENT.—During development of the Plan, the Governor is encouraged to include:

(1) the participation of at least the following:

(A) local elected officials in the communities defined in section 104;

(B) representatives of the three Regional Planning Agencies defined in section 108;

(C) representatives of Northeast Connecticut Visitors District and Southeastern Connecticut Tourism District;

(D) the Commissioners, or their designees, of the Connecticut Department of Environmental Protection and the Connecticut Department of Economic Development;

(E) Director, or his designee of the Connecticut State Historical Commission; and

(F) residents of the communities within the Corridor as defined in section 104.

(2) hold at least one public hearing in each of the following counties: Windham; Tolland; and New London; and

(3) consider, to the maximum extent practicable, the recommendations, comments, proposals and other information submitted at the public hearings when developing the final version of the plan. The Governor is encouraged to publish notice of hearings discussed in subparagraph (2) of this paragraph in newspapers of general circulation at least 30 days prior to the hearing date. The Governor is encouraged to use any other means authorized by Connecticut law to gather public input and/or involve members of the public in the development of the plan.

(c) IMPLEMENTATION OF PLAN.—After review of the plan by the Secretary as provided for in section 106, the Governor shall implement the plan. Upon the request of the Governor, the Secretary may take appropriate steps to assist in the preservation and interpretation of historic resources, and to assist in the development of recreational resources within the Corridor. These steps may include, but need not be limited to—

(1) assisting the State and local governmental entities or regional planning organizations, and non-profit organizations in preserving the Corridor and ensuring appropriate use of lands and structures throughout the Corridor;

(2) assisting the State and local governmental entities or regional planning organizations, and non-profit organizations in establishing and maintaining visitor centers and other interpretive exhibits in the Corridor;

(3) assisting the State and local governmental entities or regional planning organizations, and nonprofit organizations in developing recreational programs and resources in the Corridor;

(4) assisting the State and local governmental entities or regional planning organizations, and nonprofit organizations in increasing public awareness of and appreciation for the historical and architectural resources and sites in the Corridor;

(5) assisting the State and local governmental or regional planning organizations and nonprofit organizations in the restoration of historic building within the Corridor identified pursuant to the inventory required in section 5(a)(1);

(6) encouraging by appropriate means enhanced economic and industrial development in the Corridor consistent with the goals of the plan;

(7) encouraging local governments to adopt land use policies consistent with the management of the Corridor and the goals of the plan; and

(8) assisting the State and local governmental entities or regional planning organizations to ensure that clear, consistent signs identifying access points and sites of interest are put in place throughout the Corridor.

SEC. 106. DUTIES OF THE SECRETARY.

(a) ASSITANCE.—The Secretary and the heads of other Federal Agencies shall, upon request of the Governor assist the Governor in the preparation and implementation of the plan.

(b) COMPLETION.—Upon completion of the plan the Governor shall submit such plan to the Secretary for review and comment. The Secretary shall complete such review and comment within 60 days. The Governor shall make such changes in the plan as he deems appropriate based on the Secretary's review and comment.

SEC. 107. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the Corridor shall consult with the Secretary and the Governor with respect to such activities to minimize any adverse effect on the Corridor.

SEC. 108. DEFINITIONS.

For the purposes of this title.

(1) The term "State" means the State of Connecticut.

(2) The term "Corridor" means the Quinebaug and Shetucket Rivers Valley National Heritage Corridor under section 3.

(3) The term "Governor" means the Governor of the State of Connecticut.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "regional planning organization" means each of the three regional planning organizations established by Connecticut State statute chapter 127 and chapter 50 (the Northeastern Connecticut Council of Governments, the Windham Regional Planning Agency or its successor, and the Southeastern Connecticut Regional Planning Agency or its successor).

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this title: Provided, That not more than

$200,000 shall be appropriated for fiscal year 1995, and not more Secretary to carry out this duties under this title for a period not to exceed seven years; *Provided further*, That the Federal funding for the Corridor shall not exceed 50 percent of the total annual costs for the Corridor.

SEC. 110. NATIONAL PARK SERVICE.

The Corridor shall not be deemed to be a unit of the National Park System.

TITLE II—WEIR FARM NATIONAL HISTORIC SITE ADDITIONS

SEC. 201. SHORT TITLE.

This title may be cited as the 'Weir Farm National Historic Site Expansion Act of 1994'.

SEC. 202. PURPOSE.

The purpose of this title is to preserve the last remaining undeveloped parcels of the historic Weir Farm that remain in private ownership by including the parcels within the boundary of the Weir Farm National Historic Site.

SEC. 203. BOUNDARY ADJUSTMENT.

(a) ADJUSTMENT.—Section 4(b) of the Weir Farm National Historic Site Establishment Act of 1990 (Public Law 101-485; 104 Stat. 1171) is amended—

(1) by striking out 'and' at the end of paragraph (1);

(2) by striking out the flush material below paragraph (2); and

(3) by adding at the end the following:

'(3) the approximately 2-acre parcel of land situated in the town of Wilton, Connecticut, designated as lot 18 on a map entitled 'Revised Map of Section I, Thunder Lake at Wilton, Connecticut, Scale 1"=100', October 27, 1978, Ryan and Faulds Land Surveyors, Wilton, Connecticut', that is on file in the office of the town clerk of the town of Wilton, and therein numbered 3673; and

'(4) the approximately 0.9-acre western portion of a parcel of land situated in the town of Wilton, Connecticut, designated as Tall Oaks Road on the map referred to in paragraph (3).'.

(b) GENERAL DEPICITION.—Section 4 of such Act, as amended by subsection (a), is further amended by adding at the end the following:

'(c) GENERAL DEPICTION.—The parcels referred to in paragraphs (1) through (4) of subsection (b) are all as generally depicted on a map entitled 'Boundary Map, Weir Farm National Historic Site, Fairfield County Connecticut', dated June, 1994. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.'.

TITLE III—CANE RIVER CREOLE NATIONAL HISTORICAL PARK

SECTION 301. SHORT TITLE.

Titles III and IV of this Act may be cited as the "Cane River Creole National Historical Park and National Heritage Area Act".

SEC. 302. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Natchitoches area along Cane River, established in 1714, is the oldest permanent settlement in the Louisiana Purchase territory;

(2) the Cane River area is the locale of the development of Creole culture, from French-Spanish interactions of the early 18th century to today's living communities;

(3) the Cane River, historically a segment of the Red River, provided the focal point for early settlement, serving as a transportation route upon which commerce and communication reached all parts of the colony;

(4) although a number of Creole structures, sites, and landscapes exist in Louisiana and elsewhere, unlike the Cane River area, most are isolated examples, and lack original outbuilding complexes or integrity;

(5) the Cane River area includes a great variety of historical features with original elements in both rural and urban settings and a cultural landscape that represents various aspects of Creole culture, providing the base for a holistic approach to understanding the broad continuum of history within the region;

(6) the Cane River region includes the Natchitoches National Historic Landmark District, composed of approximately 300 publicly and privately owned properties, four other national historic landmarks, and other structures and sites that may meet criteria for landmark significance following further study;

(7) historic preservation within the Cane River area has greatly benefited from individuals and organizations that have strived to protect their heritage and educate others about their rich history; and

(8) because of the complexity and magnitude of preservation needs in the Cane River area, and the vital need for a culturally sensitive approach, a partnership approach is desirable for addressing the many preservation and educational needs.

(b) PURPOSES.—The purposes of titles III and IV of this Act are to—

(1) recognize the importance of the Cane River Creole culture as a nationally significant element of the cultural heritage of the United States;

(2) establish a Cane River Creole National Historical Park to serve as the focus of interpretive and educational programs on the history of the Cane River area and to assist in the preservation of certain historic sites along the river; and

(3) establish a Cane River National Heritage Area and Commission to be undertaken in partnership with the State of Louisiana, the City of Natchitoches, local communities and settlements of the Cane River area, preservation organizations, and private landowners, with full recognition that programs must fully involve the local communities and landowners.

SEC. 303. ESTABLISHMENT OF CANE RIVER CREOLE NATIONAL HISTORICAL PARK.

(a) IN GENERAL.—In order to assist in the preservation and interpretation of, and education concerning, the Creole culture and diverse history of the Natchitoches region, and to provide technical assistance to a broad range of public and private landowners and preservation organizations, there is hereby established the Cane River Creole National Historical Park in the State of Louisiana (hereinafter in titles III and IV of this Act referred to as the "historical park").

(b) AREA INCLUDED.—The historical park shall consist of lands and interests therein as follows:

(1) Lands and structures associated with the Oakland Plantation as depicted on map CARI, 80,002, dated January 1994.

(2) Lands and structures owned or acquired by Museum Contents, Inc. as depicted on map CARI, 80,001A, dated May 1994.

(3) Sites that may be the subject of cooperative agreements with the National Park Service for the purposes of historic preservation and interpretation including, but not limited to, the Melrose Plantation, the Badin-Roque site, the Cherokee Plantation, the Beau Fort Plantation, and sites within the Natchitoches National Historical Landmark District: *Provided*, That such sites may not be added to the historical park unless the Secretary of the Interior (hereinafter referred to as the "Secretary") determines, based on further research and planning, that such sites meet the applicable criteria for national historical significance, suitability, and feasibility, and notification of the proposed addition has been transmitted to the Committee on Energy and Natural Resources of the United States Senate and the appropriate committees of the House of Representatives.

(4) Not to exceed 10 acres of land that the Secretary may designate for an interpretive visitor center complex to serve the needs of the historical park and heritage area established in title IV of this Act.

SEC. 304. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the historical park in accordance with this title and with provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4); and the Act of August 21, 1935 (49 Stat. 666, 16 U.S.C. 461-467). The Secretary shall manage the historical park in such a manner as will preserve resources and cultural landscapes relating to the Creole culture of the Cane River and enhance public understanding of the important cultural heritage of the Cane River region.

(b) DONATIONS.—The Secretary may accept and retain donations of funds, property, or services from individuals, foundations, or other public or private entities for the purposes of providing programs, services, facilities, or technical assistance that further the purposes of titles III and IV of this Act. Any funds donated to the Secretary pursuant to this subsection may be expended without further appropriation.

(c) INTERPRETIVE CENTER.—The Secretary is authorized to construct, operate, and maintain an interpretive center on lands identified by the Secretary pursuant to section 303(b)(4). Such center shall provide for the general information and orientation needs of the historical park and the heritage area. The Secretary shall consult with the State of Louisiana, the City of Natchitoches, the Association for the Preservation of Historic Natchitoches, and the Cane River National Heritage Area Commission pursuant to section 402 of this Act in the planning and development of the interpretive center.

(d) COOPERATIVE AGREEMENTS AND TECHNICAL ASSISTANCE.—(1) The Secretary, after consultation with the Cane River National Heritage Area Commission established pursuant to section 402 of this Act, is authorized to enter into cooperative agreements with owners of properties within the heritage area and owners of properties within the historical park that provide important educational and interpretive opportunities relating to the heritage of the Cane River region. The Secretary may also enter into cooperative agreements for the purpose of facilitating the preservation of important historic sites and structures identified in the historical park's general management plan or other heritage elements related to the heritage of the Cane River region. Such cooperative agreements shall specify that the National Park Service shall have reasonable rights of access for operational and visitor use needs and that preservation treatments will meet the Secretary's standards for rehabilitation of historic buildings.

(2) The Secretary is authorized to enter into cooperative agreements with the City of Natchitoches, the State of Louisiana, and other public or private organizations for the

79-059 O—97 Vol. 140 (Pt. 21) 15

development of the interpretive center, educational programs, and other materials that will facilitate public use of the historical park and heritage area.

(e) RESEARCH.—The Secretary, acting through the National Park Service, shall coordinate a comprehensive research program on the complex history of the Cane River region, including ethnography studies of the living communities along the Cane River, and how past and present generations have adapted to their environment, including genealogical studies of families within the Cane River area. Research shall include, but not be limited to, the extensive primary historic documents within the Natchitoches and Cane River areas, and curation methods for their care and exhibition. The research program shall be coordinated with Northwestern State University of Louisiana, and the National Center for Preservation Technology and Training in Natchitoches.

SEC. 305. ACQUISITION OF PROPERTY.

(a) GENERAL AUTHORITY.—Except as otherwise provided in this section, the Secretary is authorized to acquire lands and interests therein within the boundaries of the historical park by donation, purchase with donated or appropriated funds, or exchange.

(b) STATE AND LOCAL PROPERTIES.—Lands and interests therein that are owned by the State of Louisiana, or any political subdivision thereof, may be acquired only by donation or exchange.

(c) MUSEUM CONTENTS, INC.—Lands and structures identified in section 303(b)(2) may be acquired only by donation.

(d) COOPERATIVE AGREEMENT SITES.—Lands and interests therein that are the subject of cooperative agreements pursuant to section 303(b)(3) shall not be acquired except with the consent of the owner thereof.

SEC. 306. GENERAL MANAGEMENT PLAN.

Within 3 years after the date funds are made available therefor and in consultation with the Cane River heritage Area Commission, the National Park Service shall prepare a general management plan for the historical park. The plan shall include, but need not be limited to—

(1) a visitor use plan indicating programs and facilities that will be provided for public use, including the location and cost of an interpretive center;

(2) programs and management actions that the National Park Service will undertake cooperatively with the heritage area commission, including preservation treatments for important sites, structures, objects, and research materials. Planning shall address educational media, roadway signing, and brochures that could be coordinated with the Commission pursuant to section 403 of this Act; and

(3) preservation and use plans for any sites and structures that are identified for National Park Service involvement through cooperative agreements.

TITLE IV—CANE RIVER NATIONAL HERITAGE AREA

SEC. 401. ESTABLISHMENT OF THE CANE RIVER NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is hereby established the Cane River National Heritage Area (hereinafter in this title referred to as the "heritage area").

(b) PURPOSE.—In furtherance of the need to recognize the value and importance of the Cane River region and in recognition of the findings of section 302(a) of this Act, it is the purpose of this title to establish a heritage area to complement the historical park and to provide for a culturally sensitive approach to the preservation of the heritage of the Cane River region, and for other needs including—

(1) recognizing areas important to the Nation's heritage and identity;

(2) assisting in the preservation and enhancement of the cultural landscape and traditions of the Cane River region;

(3) providing a framework for those who live within this important dynamic cultural landscape to assist in preservation and educational actions; and

(4) minimizing the need for Federal land acquisition and management.

(c) AREA INCLUDED.—The heritage area shall include—

(1) an area approximately 1 mile on both sides of the Cane River as depicted on map CARI, 80,000A, dated May 1994;

(2) those properties within the Natchitoches National Historic Landmark District which are the subject of cooperative agreements pursuant to section 304(d) of this Act;

(3) the Los Adaes State Commemorative Area;

(4) the Fort Jesup State Commemorative Area;

(5) the Fort St. Jean Baptiste State Commemorative Area; and

(6) the Kate Chopin House.

A final identification of all areas and sites to be included in the heritage area shall be included in the heritage area management plan as required in section 403.

SEC. 402. CANE RIVER NATIONAL HERITAGE AREA COMMISSION.

(a) ESTABLISHMENT.—To assist in implementing the purposes of titles II and III of this Act and to provide guidance for the management of the heritage area, there is established the Cane River National Heritage Area Commission (hereinafter in this title referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall consist of 19 members to be appointed no later than 6 months after the date of enactment of this title. The Commission shall be appointed by the Secretary as follows—

(1) one member from recommendations submitted by the Mayor of Natchitoches;

(2) one member from recommendations submitted by the Association for the Preservation of Historic Natchitoches;

(3) one member from recommendations submitted by the Natchitoches Historic Foundation, Inc.;

(4) two members with experience in and knowledge of tourism in the heritage area from recommendations submitted by local business and tourism organizations;

(5) one member from recommendations submitted by the Governor of the State of Louisiana;

(6) one member from recommendations submitted by the Police Jury of Natchitoches Parish;

(7) one member from recommendations submitted by the Concerned Citizens of Cloutierville;

(8) one member from recommendations submitted by the St. Augustine Historical Society;

(9) one member from recommendations submitted by the Black Heritage Committee;

(10) one member from recommendations submitted by the Los Adaes/Robeline Community;

(11) one member from recommendations submitted by the Natchitoches Historic District Commission;

(12) one member from recommendations submitted by the Cane River Waterway Commission;

(13) two members who are landowners in the residents of the heritage area;

(14) one member with experience and knowledge of historic preservation from recommendations submitted by Museum Contents, Inc.;

(15) one member with experience and knowledge of historic preservation from recommendations submitted by the President of Northwestern State University of Louisiana;

(16) one member with experience in and knowledge of environmental, recreational and conservation matters affecting the heritage area from recommendations submitted by the Natchitoches Sportsmans Association and other local recreational and environmental organizations; and

(17) the director of the National Park Service, or the Director's designee, ex officio.

(c) DUTIES OF THE COMMISSION.—The Commission shall—

(1) prepare a management plan for the heritage area in consultation with the National Park Service, the State of Louisiana, the City of Natchitoches, Natchitoches Parish, interested groups, property owners, and the public;

(2) consult with the Secretary on the preparation of the general management plan for the historical park;

(3) develop cooperative agreements with property owners, preservation groups, educational groups, the State of Louisiana, the City of Natchitoches, universities, and tourism groups, and other groups to further the purposes of titles III and IV of this Act; and

(4) identify appropriate entities, such as a non-profit corporation, that could be established to assume the responsibilities of the Commission following its termination.

(d) POWERS OF THE COMMISSION.—In furtherance of the purposes of titles III and IV of this Act, the Commission is authorized to—

(1) procure temporary and intermittent services to the same extent that is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable;

(2) accept the services of personnel detailed from the State of Louisiana or any political subdivision thereof, and may reimburse the State or political subdivision for such services;

(3) upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties;

(4) appoint and fix the compensation of such staff as may be necessary to carry out its duties. Staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive services, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(5) enter into cooperative agreements with public or private individuals or entities for research, historic preservation, and education purposes;

(6) make grants to assist in the preparation of studies that identify, preserve, and plan for the management of the heritage area;

(7) notwithstanding any other provision of law, seek and accept donations of funds or services from individuals, foundations, or other public or private entities and expend the same for the purposes of providing services and programs in furtherance of the purposes of titles III and IV of this Act;

(8) assist others in developing educational, informational, and interpretive programs and facilities;

(9) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may consider appropriate; and

(10) use the United States mails in the same manner and under the same conditions as other departments or agencies of the United States.

(e) COMPENSATION.—Members of the Commission shall receive no compensation for their service on the Commission. While away from their homes or regular places of business in the performance of services for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government services are allowed expenses under section 5703 of title 5, United States Code.

(f) CHAIRMAN.—The Commission shall elect a chairman from among its members. The term of the chairman shall be for 3 years.

(g) TERMS.—The terms of Commission members shall be for 3 years. Any member of the Commission appointed by the Secretary for a 3-year term may serve after expiration of his or her term until a successor is appointed. Any vacancy shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor was appointed.

(h) ANNUAL REPORTS.—The Commission shall submit an annual report to the Secretary identifying its expenses and any income, the entities to which any grants or technical assistance were made during the year for which the report is made, and actions that are planned for the following year.

SEC. 403. PREPARATION OF THE PLAN.

(a) IN GENERAL.—Within 3 years after the Commission conducts its first meeting, it shall prepare and submit a heritage area management plan to the Governor of the State of Louisiana. The Governor shall, if the Governor approves the plan, submit it to the Secretary for review and approval. The Secretary shall provide technical assistance to the Commission in the preparation and implementation of the plan, in concert with actions by the National Park Service to prepare a general management plan for the historical park. The plan shall consider local government plans and shall present a unified heritage preservation and education plan for the heritage area. The plan shall include, but not be limited to—

(1) an inventory of important properties and cultural landscapes that should be preserved, managed, developed, and maintained because of their cultural, natural, and public use significance;

(2) an analysis of current land uses within the area and how they affect the goals of preservation and public use of the heritage area;

(3) an interpretive plan to address the cultural and natural history of the area, and actions to enhance visitor use. This element of the plan shall be undertaken in consultation with the National Park Service and visitor use plans for the historical park;

(4) recommendations for coordinating actions by local, State, and Federal governments within the heritage area, to further the purposes of titles III and IV of this Act; and

(5) an implementation program for the plan including desired actions by State and local governments and other involved groups and entities.

(b) APPROVAL OF THE PLAN.—The Secretary shall approve or disapprove the plan within 90 days after receipt of the plan from the Commission. The Commission shall notify the Secretary of the status of approval by the Governor or Louisiana when the plan is submitted for review and approval. In determining whether or not to approve the plan the Secretary shall consider—

(1) whether the Commission has afforded adequate opportunity, including public meetings and hearings, for public and governmental involvement in the preparation of the plan; and

(2) whether reasonable assurances have been received from the State and local governments that the plan is supported and that the implementation program is feasible.

(c) DISAPPROVAL OF THE PLAN.—If the Secretary disapproves the plan, he shall advise the Commission in writing of the reasons for disapproval, and shall provide recommendations and assistance in the revision of the plan. Following completion of any revisions to the plan, the Commission shall resubmit the plan to the Governor of Louisiana for approval, and to the Secretary, who shall approve or disapprove the plan within 90 days after the date that the plan is revised.

SEC. 404. TERMINATION OF HERITAGE AREA COMMISSION.

(a) TERMINATION.—The Commission shall terminate on the day occurring 10 years after the first official meeting of the Commission.

(b) EXTENSION.—The Commission may petition to be extended for a period of not more than 5 years beginning on the day referred to in subsection (a), provided the Commission determines a critical need to fulfill the purposes of titles III and IV of this Act; and the Commission obtains approval from the Secretary, in consultation with the Governor of Louisiana.

(c) HERITAGE AREA MANAGEMENT FOLLOWING TERMINATION OF THE COMMISSION.—The national heritage area status for the Cane River region shall continue following the termination of the Commission. The management plan, and partnerships and agreements subject to the plan shall guide the future management of the heritage area. The Commission, prior to its termination, shall recommend to the Governor of the State of Louisiana and the Secretary, appropriate entities, including the potential for a nonprofit corporation, to assume the responsibilities of the Commission.

SEC. 405. DUTIES OF OTHER FEDERAL AGENCIES.

Any Federal entity conducting or supporting activities directly affecting the heritage area shall—

(1) consult with the Secretary and the Commission with respect to implementation of their proposed actions; and

(2) to the maximum extent practicable, coordinate such activities with the Commission to minimize potential impacts on the resources of the heritage area.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out titles III and IV of this Act.

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

Mr. HANSEN. Mr. Speaker, reserving the right to object, I yield to the gentleman from Minnesota.

Mr. VENTO. I thank the gentleman for yielding.

Mr. Speaker, this is a measure that comes back from the Senate that we sent there about a year ago. It provides for the designation of a heritage corridor, the Quinebaug and Shetucket Rivers. It provides for the addition of lands to the Weir Park, a historic park in Connecticut, and provides for a heritage corridor on the Cane River Creole National Historical Park in Louisiana.

These are all measures that were heard—the latter measure was heard in the committee—this Congress. The Weir Park issue had been an issue under consideration in the past Congress, and it is a good addition to the park, and I would urge my colleagues to support it. I want to commend especially the gentleman from Connecticut [Mr. GEJDENSON], for his persistence in pursuing his heritage corridor. This corridor was not a part of the package of the measures that we sent over, the Quinebaug and Shetucket Rivers were in a separate bill sent to the Senate about 1 year ago.

I thank the gentleman from Utah for yielding and urge the Members' support.

Mr. Speaker, H.R. 1348 establishes the Quinebaug and Shetucket Rivers Valley National Heritage Corridor consisting of 25 towns in the Quinebaug and Shetucket Rivers Valley in Connecticut. The legislation originally passed the House on September 13, 1994. Subsequently the Senate considered the measure on October 6, 1994 and has returned the bill to the House with an amendment in the nature of a substitute.

In lieu of what was provided for in the House-passed measure, the Senate amendment encourages the Governor or Connecticut to prepare a plan to provide for preservation, interpretation and recreation in the Heritage corridor with the input of the public and specified representatives of regional, State and local agencies. After review by the Secretary of the interior, the plan would be implemented by the Governor of Connecticut.

The Senate amendment also expands the boundaries of the Weir Farm National Historic Site in the State of Connecticut. These provisions are similar to S. 2064, introduced by Senator LIEBERMAN on May 3, 1994 and H.R. 4480, introduced by Representative FRANKS on May 24, 1994. This boundary expansion will allow the National Park Service to acquire an adjacent parcel of land.

Finally, the Senate amendment establishes the Cane River Creole National Historical Park and Cane River National Heritage Area in the State of Louisiana. These provisions are similar to S. 1980 which was introduced by Senator JOHNSTON on March 24, 1994. The park would consist of certain named plantations as well as a visitor center complex to be constructed. The heritage area would consist of areas along the Cane River, as well as other named locations in and around Natchitoches.

Mr. Speaker, while H.R. 1348, as amended, is not the legislation I would have preferred, I

appreciate the time constraints we are under. These provisions are adequate to protect the resources in these areas, and I urge my colleagues support.

Mr. GEJDENSON. Mr. Speaker, I rise in strong support of H.R. 1348. I want to thank the gentleman from Minnesota [Mr. VENTO], the gentleman from California [Mr. MILLER], the gentleman from Utah [Mr. HANSEN], and the gentleman from Alaska [Mr. YOUNG], for their assistance in bringing this bill to the floor today.

Mr. Speaker, as many of my colleagues may remember, the House passed H.R. 1348 by a voice vote on September 13, 1993. Today, we are considering an amended version of the bill that passed the Senate by unanimous consent on October 7. Senators DODD and LIEBERMAN worked closely with Energy and Natural Resources Committee Chairman JOHNSTON as well as Ranking Member MALCOLM WALLOP to draft this amendment. In fact, this version of the bill is largely the result of close negotiations with Senator WALLOP and his staff. Senators JOHNSTON and WALLOP support this bill. I truly appreciate the efforts of these distinguished members of the other body.

H.R. 1348 has been amended in several ways. First, the Quinebaug and Shetucket National Heritage Corridor Commission has been eliminated. This bill encourages, but does not direct, the Governor to develop the cultural heritage and corridor management plan called for under the bill. The Governor can request the assistance of the Secretary of Interior in developing such a plan. Under my previous bill, the Commission was comprised almost entirely of local officials and residents. Without the Commission, it was necessary to amend the bill to include a section guaranteeing broad-based public participation in the development of the plan. The Governor is authorized to involve a wide range of people, including local elected officials, members of the regional planning agencies in the corridor, experts in historic preservation and economic development, citizens, and others. The plan will be implemented by the Governor with the assistance of the Secretary.

Under this amendment, no entity is authorized to acquire land through any means. The authorization of appropriations continues to be very modest, $200,000 in the first year and $250,000 in the succeeding years, and is limited to 7 years. This represents a reduction of 3 years from the House-passed bill. Like my earlier bill, the amendment limits Federal contributions to 50 percent of the total costs of the corridor in any given fiscal year. State, local, and other sources must cover the remaining half. Furthermore, the amendment makes it clear that the Quinebaug and Shetucket National Heritage Corridor shall not be considered a unit of the National Park Service.

Mr. Speaker, recently we have heard many Members of this body expressing their concerns about the possible effects of certain legislation on private property rights. These are legitimate concerns in light of our long tradition of valuing and protecting private property in this country. I share their desire to ensure that the interests of local land owners are protected and that is why I support the heritage corridor concept. Under this amendment, private property rights are completely protected. No entity is given authority to acquire property through any means. Land will stay in local hands and under local control. All zoning and land use regulations will remain unchanged. Neither the Governor nor the Secretary is authorized to change these local policies in any way. Zoning boards, elected officials, and residents will retain full authority over developing land use regulations within their communities. The role of the Secretary is advisory and technical in nature.

I want my colleagues to know that this bill has overwhelming support in the proposed corridor area. It is backed by residents who own property in my State. For of the past 3 years, we have had walking weekend tours which have drawn between 3,000 to 4,000 people each year for hikes, tours, lectures, archeological digs, and other events. Other than a few large fairs and a University of Connecticut basketball game, no other single event attracts so many people in my area of Connecticut. Local elected officials, regional planning agencies, the State of Connecticut, business groups, and a wide range of others strongly support this bill.

Finally, some have questioned whether the Department of Interior should have a role in supporting heritage corridors. I firmly believe that it should. In the eastern United States, it is impossible to place large tracts of land in traditional parks or monuments in order to protect natural resources or to provide recreational opportunities for residents. Current budgetary circumstances make large-scale land acquisition virtually impossible. Moreover, the residents of my area do not want the Federal Government to become a landlord.

At the same time, my area has nationally significant natural, cultural, and historic resources which are threatened and are worthy of protection. This area has been referred to as the "last green valley" between Boston and New York. It contains the birthplaces and homes of signers of the Declaration of Independence and the Constitution and includes massive 19th and early 20th century textile mills which powered the Industrial Revolution in our Nation. Small towns in this area lack the technical and financial resources to preserve and promote these resources on their own. The Department, especially the National Park Service, has the technical expertise to assist these communities. This assistance will allow local groups and residents to preserve and develop these resources which are intimately connected to some of the most significant events in our Nation's history. Under my bill, the Department plays a supporting role which is completely consistent with its mission as guardian of our natural, cultural, and historic resources.

In addition, I would briefly like to comment on the other two sections of this bill. TItle II expands the boundaries of the only national park in Connecticut, the Weir Farm, by adding about 3 acres. One acre will be donated and the other 2 will be acquired by the Service with unobligated funds set aside for land acquisition. This bill does not authorize any funds whatsoever. Finally, title III contains a bill introduced by Energy Chairman JOHNSTON to create a heritage area along the Cane River in Louisiana. Chairman VENTO has explained this portion of the bill adequately.

Mr. Speaker, this is a balanced bill which has been developed with the assistance and guidance of Senators JOHNSTON and WALLOP. Private property rights are completely protected, land will stay in local hands and residents in the area will retain full authority over local zoning and land use regulations. This bill has a limited time frame and an extremely modest authorization of appropriations. Finally, this amendment has the overwhelming support of a wide range of interests throughout the proposed corridor area. I urge my colleagues to support this important measure.

Mr. FRANKS of Connecticut. Mr. Speaker, I rise in support of H.R. 1348, the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1993. The bill would establish the Quinebaug and Shetucket Rivers Valley National Corridor in Connecticut and a Commission within the Interior Department to assist with the management of the corridor. Most importantly, the measure includes my legislation to expand the boundary of the Weir Farm National Historic Site. The National Park Service is authorized to acquire the last two remaining undeveloped parcels of the historic Weir Farm that remain in private ownership. This requires no additional funding authority or appropriations. Although these parcels were a part of the historic Weir Farm and were identified as such when the State of Connecticut and the trust for public land began acquiring the land that eventually became the Weir Farm National Historic Site, the Federal legislation that designated the site moved more quickly than the negotiations between the State and the trust for public land. Not wanting to include land from an owner who was unwilling to be included within the boundaries of a national park site, the sponsors of the authorizing legislation removed these parcels from the boundary maps.

The legislation I introduced was prompted by an agreement between the owner of the land, the recent acquisition of the land by the trust for public land, and the expressed interest by the National Park Service of acquiring the land. The funds to do so have been appropriated, so no new funding authority or appropriations would be required.

Moving forward with this acquisition would preclude development of these last remaining privately owned undeveloped parcels. Because these parcels are directly in view of the most visited part of Weir Farm, their undeveloped state is necessary to preserve the aesthetic integrity of the site. This will preserve the landscape as it was in the late 19th and early 20th century when it was painted by those—led by J. Alden Weir—who became known internationally as the American impressionists.

The J. Alden Weir National Historic Site is the only site in the National Park System to commemorate an American painter and it is Connecticut's only national park.

Mr. Speaker, I support this legislation, and would urge my colleagues to support it as well.

Mr. HANSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota [Mr. VENTO]?

There was no objection.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 4950, JOBS THROUGH TRADE EXPANSION ACT OF 1994

Mr. GEJDENSON. Mr. Speaker, I call up the conference report on the bill (H.R. 4950) to extend the authorities of the Overseas Private Investment Corporation, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Tuesday, October 4, 1994, at page 27779.)

The SPEAKER pro tempore. The gentleman from Connecticut [Mr. GEJDENSON] will be recognized for 30 minutes, and the gentleman from Wisconsin [Mr. ROTH] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Connecticut [Mr. GEJDENSON].

GENERAL LEAVE

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to say that this legislation would not be possible without the cooperation of the gentleman from Wisconsin [Mr. ROTH] and other minority Members, particularly the gentleman from Nebraska, [Mr. BEREUTER], on the other side with whom we have worked diligently on this bill.

It is a noncontroversial measure that will substantially assist us in exports.

Mr. Speaker, I am pleased to present to my colleagues the conference agreement on the Jobs Through Trade Expansion Act of 1994 which will improve the effectiveness of U.S. export promotion programs and create jobs here at home.

This is a bipartisan piece of legislation with wide support in the business community. Both the National Association of Manufacturers and the Coalition for Employment through Exports endorse the bill.

The Jobs Through Exports Act will: Significantly enhance the ability of the United States Government to provide grants, loans, loan guarantees, and risk insurance for U.S. export projects and investments overseas; provide specific programs for the expansion of U.S. environmental exports; protect U.S. intellectual property overseas; and ensure the extension of all OPIC programs to Northern Ireland and the Republic of Ireland.

In addition, the bill will create at least 80,000 U.S. jobs.

Allow me to briefly explain the provisions of this bill. Title I extends the authority of the Overseas Private Investment Corporation for 2 years. OPIC offers U.S. investors assistance in finding overseas investment opportunities, insurance to protect those investments and loans, and loan guarantees to help finance projects. OPIC cannot insure or finance projects that would displace American workers. In fact, OPIC helped create over 24,000 U.S. jobs in 1993 alone.

In title II, we extend the authorization for the Trade and Development Agency for another 2 years. This Agency simultaneously promotes economic development and the export of U.S. goods and services to developing countries. TDA has estimated that for every $1 it spends, it generates $25 in U.S. goods and services.

Title III reauthorizes the funding for the export promotion programs within the International Trade Administration.

Title IV promotes the export of U.S. environmental technologies and products.

The last title involves intellectual property. Title V requires AID, in conjunction with Commerce's Patent and Trademark Office, to establish a program of training and technical assistance. The program is aimed at countries that have expressed a willingness to improve their record on intellectual property protection but lack the expertise or the resources to do so.

Before we vote on this measure I would like to extend a sincere thank you to my fellow Democrats and the Republican Members of the House for their support of the agreement. In particular, I want to extend a special note of thanks to Chairman HAMILTON, and Congressmen ROTH, GILMAN, and BEREUTER.

At this point in the RECORD I would like to include correspondence between the committee and the Committee on Ways and Means on this conference report.

CONGRESS OF THE UNITED STATES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, October 4, 1994.

Hon. SAM GIBBONS,
Acting Chairman, Committee on Ways and Means, Longworth House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I write regarding H.R. 4950, the Jobs Through Trade Expansion Act of 1994.

As you may be aware, the Senate passed a one-year extension of the current authorities of the Overseas Private Investment Corporation on September 30, 1994 and requested a conference on H.R. 4950. It is my intention to appoint conferees, convene a meeting of the conference committee and file the conference report today, in order that the conference report will be eligible for House consideration before the end of the Congress.

Knowing of your interest in the section of the original House bill relating to the use of bonded public debt, I have attached the tentative conference agreement for your review. As you can see from the attached, it is our intention to adopt the Senate approach to this issue by simply extending OPIC's authority for two years and making other necessary technical adjustments to that authority.

With that understanding, and given the expedited timetable for this legislation, I would request that the Committee on Ways and Means forego representation on the conference on H.R. 4950.

Thank you for your attention to this request.

With best wishes, I am

Sincerely,

LEE H. HAMILTON,
Chairman.

COMMITTEE ON WAYS AND MEANS,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 4, 1994.

Hon. LEE H. HAMILTON,
Chairman, Committee on Foreign Affairs, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I write to you in response to your letter of earlier today regarding H.R. 4950, the Jobs Through Trade Expansion Act of 1994.

Thank you for informing me, in light of the Committee on Ways and Means' jurisdictional interest in the bill, that the Committee on Foreign Affairs is about to begin conference with the Senate on H.R. 4950. As our correspondence of September 22, 1994, acknowledged, H.R. 4950 contains one provision in the jurisdiction of the Committee on Ways and Means concerning the issuance of public debt.

Your letter describes the tentative conference agreement with regard to the provision extending and changing OPIC's borrowing authority and on that basis requests that the Committee on Ways and Means not exercise its jurisdictional right to be included in the House-Senate conference on H.R. 4950. Based on your assurance that the conference report will adopt the Senate approach and include only a simple two-year extension of the current-law authority for OPIC to borrow from the Department of the Treasury, the Committee on Ways and Means will not exercise its jurisdictional prerogative to be conferees in this case, with the understanding that this does not in any way prejudice its jurisdictional interests, now and in the future.

I wish to thank you for your cooperation in this matter and for your attention to the jurisdictional concerns of the Committee on Ways and Means. I look forward to working with the Committee on Foreign Affairs in the future, should any similar issues arise.

Sincerely yours,

SAM M. GIBBONS,
Acting Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. DINGELL. Mr. Speaker, I rise in support of the conference report on H.R. 4950, particularly title IV, the Environmental Export Promotion Act of 1994. Our Committee on Energy and Commerce shares jurisdiction with the Committee on Foreign Affairs on this title.

I call attention to the provisions that provide that environmental technology specialists in the United States and in the foreign commercial service will, among other things, be promoting in foreign countries the equal treatment of United States' environmental, safety, and related requirements—that is regulations and standards—with those of other exporting countries in order to promote the export of U.S.-made products. I also note that the provision includes participation of industries producing such products and of labor in the working group established by this title.

Mr. Speaker, this is an important change because the European Union and others are gaining an advantage over the United States by encouraging adoption of their regulations by the developing world. That serves their manufacturers very well, to the detriment of our industries.

In this regard, I insert in the record the following correspondence with the Secretary of Commerce:

HOUSE OF REPRESENTATIVES, COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, July 1, 1994.

Hon. RONALD H. BROWN,
Secretary, Department of Commerce, Washington, DC.

DEAR MR. SECRETARY: Enclosed is a May 26, 1994 letter I sent to the Secretaries of State and Transportation and to the Environmental Protection Agency (EPA) concerning a proposal by the EPA and the National Highway Traffic Safety Administration (NHTSA) to amend the U.N. Economic Commission for Europe's (ECE) 1958 Agreement Concerning the Adoption of Uniform Conditions of Approval and Reciprocal Recognition of Approval of Motor Vehicle Equipment and Parts.

It is my understanding that the prime objective of these efforts to amend the 1958 agreement is to help U.S. firms export vehicles to the Pacific Basin, Asia, Latin America and elsewhere. Some reportedly believe that the European Union (EU) is gaining an advantage because other countries tend to gravitate toward EU regulations and adopt them as their regulations. That would purportedly provide an international process for treating U.S. regulations on an equal footing with those of the EU. However, the proposal is not limited to safety regulations or to motor vehicle regulations. It is in the clear economic interest of the U.S. to increase U.S.-made vehicle exports. I certainly have no objection to the purpose, particularly if it will, in fact, increase sales of U.S. vehicles made by U.S. labor. However, it is not clear to me that this proposal addresses the real issues hindering U.S. exports to other countries or that your Department, in particular, has participated in this matter or that your Department has taken all the necessary measures to open up markets in Asia, Latin America, and the African continent to vehicle exports from the U.S. Thus, I would appreciate your reply to the following:

1. Do you agree that nothing in U.S. law precludes U.S. auto firms from building vehicles according to the safety, emission, noise, and other standards of other countries and exporting them for sale in those countries? How and to what extent are you encouraging U.S. auto firms to export U.S. made vehicles to the Pacific Basin, Asia, Latin America, and Russia? To what extent does your Department, including its foreign embassy personnel, assist U.S. auto firms in identifying and removing obstacles to exporting U.S.-made vehicles to S. Korea, Malaysia, India, Indonesia, New Zealand, Australia, China, the Philippines, Singapore, Taiwan, Thailand, and Latin America? Which Commerce Department officials have this duty?

In a September 8, 1992 letter, the Commerce Department said it would "continue to respond aggressively to grievances raised by the U.S. industry including the automotive industry." That, however, is not a very satisfactory response because it suggests that the industry raise grievances. The government should not have to wait for the filing of grievances unless, of course, you are unaware of the barriers. Please explain this grievance approach.

2. Please provide an update on barriers to U.S. auto exports for each of the above listed countries and Latin America and explain what your Department is doing to remove them. Are they an obstacle to U.S. firms developing a market for U.S. exports?

3. What safety standards have each of these countries adopted? Do they recognize our safety standards as complying with theirs and do they allow self-certification?

4. What emission standards have each of these countries adopted? Do they require unleaded gasoline? If not, can U.S. built vehicles that meet U.S. emission standards with catalysts be sold in such countries? Is that a disadvantage?

5. Is the EU gaining an advantage through the 1958 agreement or otherwise by having uniform safety and other regulations for motor vehicles that are often adopted or followed by other non-EU countries in Europe and elsewhere? Is this a significant problem? Is it proper under international agreements? How is the U.S. dealing with it? To what extent do countries tend to adopt or prefer European or Japanese safety and emission standards over U.S. standards? Are such U.S. standards an obstacle in such countries to U.S. exports? Please explain.

6. Has the EU adopted noise standards for motor vehicles in Europe that require test procedures and test tracks that are not used in the U.S.? What is the effect of such requirements on U.S. auto firms? Has the U.S. protested? Are these standards consistent with our trade agreements?

7. Recent articles show significant smog in Thailand and other developing countries. Those same articles show that those countries receive significant exports of vehicles from Europe and Japan. What is being done internationally, with or without U.S. prodding, to encourage those countries to adopt stricter emission standards like those in the U.S.? To what extent are used vehicles from Japan exported by Japanese interests to these countries?

8. I understand that while the auto industry generally supports the goals encompassed by the NHTSA-EPA proposal, they also believe that becoming a Party to the ECE agreement will be a hollow gain if it is not followed with a fundamentally different approach in the preparation for, and participation in, overseas technical and regulatory meetings by the U.S. The auto industry and other industries are not satisfied that the U.S. has an effective and institutionalized policy and practice for regular consultation with U.S. industry and commerce on technical, economic, and marketing matters that arise in international meetings to develop regulations, agreements, protocols, etc. (I would add that all too often little effort is made to consult with labor as well.) Other countries, including Canada, conduct such consultants far more regularly. These industries also think there is a need for a program to objectively assess the functional equivalence of U.S. and EU regulations. I would appreciate your response to these criticisms—many of which I share—and an explanation of the actions you can and will take, working within the Administration, to address these concerns of many industries and labor.

At a recent briefing for our Committee about the next international meeting in August regarding the adequacy of commitments beyond the year 2000 under the Global Climate Convention, the State Department, Energy Department, and the EPA were represented. The Commerce and Treasury Departments and the Office of the Trade Representative were conspicuously absent. In short, the economic, trade, and commercial side of the Administration went unrepresented. Yet such interests concerned many of the congressional staff participating in the meeting. That suggests either a lack of interest or a failure on the part of these other agencies to actively include this side in all aspects of the preparations for such international meetings. There also is no evidence of such participation by that side of the Administration in the development of the NHTSA-EPA proposal for the 1958 agreement, and I would like to know why.

I request your response by July 15, 1994.

With every good wish.

Sincerely,

JOHN D. DINGELL,
Chairman.

U.S. HOUSE OF REPRESENTATIVES, COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, May 26, 1994.

Hon. WARREN CHRISTOPHER,
Secretary, Department of State, Washington, DC.

Hon. FEDERICO PEÑA,
Secretary, Department of Transportation, Washington, DC.

Hon. CAROL M. BROWNER,
Administrator, Environmental Protection Agency, Washington, DC.

DEAR SECRETARIES CHRISTOPHER AND PEÑA, AND ADMINISTRATOR BROWNER: On May 9, 1994, the National Highway Traffic Safety Administration's (NHTSA) Director of the Office of International Harmonization wrote to the Committee on Energy and Commerce to explain that NHTSA and the Environmental Protection Agency (EPA) have been granted authority by the Department of State to negotiate revisions to the U.N. Economic Commission for Europe's (ECE) 1958 Agreement Concerning the Adoption of Uniform Conditions of Approval and Reciprocal Recognition of Approval of Motor Vehicle Equipment and Parts. Last Novemnber the Working Party on the Construction of Vehicles (WP-29), which is a subsidiary of the ECE, circulated a proposal to revise the 1958 agreement. Prior to that, WP-29 reportedly agreed to this approach to encourage other countries, especially Japan, Canada, Australia, and the U.S., to become Parties to the 1958 Agreement. It is unclear why the ECE seeks such participation.

Attached to the NHTSA letter is a "draft Proposed Revised 1958 Agreement" developed by NHTSA and the EPA. It differs significantly from the WP-29 proposal of November 1993. The letter indicates that the U.S. plans to propose it at the 103rd session of WP-29 in June, apparently in lieu of the ECE proposal. The NHTSA letter does not explain why a substitute is needed. Also, NHTSA does not explain the role of the Secretaries of Energy, Commerce, Agriculture, and Treasury and the Chairman of the Consumer Product Safety Commission and the U.S. Trade Representative in developing the draft. Further, there is no indication that these agencies have sought the views of industry, labor, and others, although, the draft is being made available to both industry and consumer organizations to "inform them."

After more than 30 years of not wanting to be a Party, I do not understand why the U.S. is now rushing to become a Party. While there may be good reasons, they are not readily apparent.

I also have concerns about the draft proposal, particularly the broadening of the agreement to cover more than motor vehicles, such as locomotives, off-highway vehicles, lawn and garden equipment, bicycles, and trailers, and the impact on federal and state standards and regulations. Additionally, I question the need to expand the scope beyond safety to include energy and environmental matters, particularly in light of the

existence of other international agreements, such as the Global Climate Convention, the North American Free Trade Agreement, and the General Agreement on Tariffs and Trade of December 1993. The agreement now in effect only deals with safety issues. I understand that in 1967 WP-29 established a subcommittee to develop regulations concerning pollution and energy, but obviously that subcommittee has not been effective.

Pursuant to Rules X and XI of the Rules of the House of Representatives, I therefore request your response to the enclosed questions. I also request that NHTSA and the EPA not submit any such draft to WP-29 until after your response has been adequately reviewed by this Committee.

With every good wish.

Sincerely,

JOHN D. DINGELL,
Chairman.

Enclosure.

QUESTIONS BY HON. JOHN D. DINGELL, CHAIRMAN, COMMITTEE ON ENERGY AND COMMERCE REGARDING NHTSA-EPA PROPOSAL FOR AMENDING THE 1958 ECE AGREEMENT CONCERNING ADOPTION OF UNIFORM CONDITIONS OF APPROVAL FOR MOTOR EQUIPMENT AND PARTS—MAY 26, 1994

1. Please provide a list of Parties to the ECE's 1958 agreement. In your opinion, why have Japan, Canada, and Australia not become Parties? In your opinion, what is the likelihood of each of these countries becoming a Party? Why does the ECE want these countries and the U.S. to join as Parties?

2. For some time, the U.S. has been engaged in extensive negotiations regarding the opening of Japan's markets. One area of continued controversy has been self-certification of automobiles to Japanese safety standards (see enclosed Commerce Department letter). How would this agreement help those negotiations, particularly if Japan fails to become a Party?

3. On several occasions, I have questioned the advantages to the U.S. of being a Party to the ECE Convention on Longrange Transboundary Pollution and subsequent protocols. The benefits to the U.S. have been minimal because our laws and regulations are generally more stringent. In fact, the U.S. recently declined to sign an ECE sulfur dioxide protocol because it was inconsistent with the Clean Air Act.

As I have noted, for more than 30 years the U.S. has declined to become a Party to the 1958 ECE agreement. One reason is that the 1958 agreement requires type approval for conformity with safety regulations, while the U.S. uses self-certification. According to an undated State Department Circular 175 memorandum from Daniel K. Tarullo to another official in the Department, another reason is that the U.S. did not want to "engage in a European common regulatory development forum nor incur reciprocal recognition obligations," although the U.S. has participated in WP-29 in a technical advisory capacity. Other than the self-certification issue, what has changed to cause the U.S. to now believe that becoming a Party is advantageous? In the past, WP-29 has not been an effective forum to harmonize safety standards. Please explain why and provide the basis for Mr. Tarulllo's comment that it is now becoming an "increasingly important forum." What influence are we trying to exert through this forum?

4. Mr. Tarullo adds that this agreement "could facilitate efforts to reduce barriers to trade in motor vehicles, and thereby improve the international competitiveness of the U.S. motor vehicle industry." The NHTSA-EPA draft, however, is not limited to that industry. Moreover, I understand that U.S. exports of vehicles to the European Union (EU) were less than one percent in 1993. I presume that this is because the Big Three auto companies already have manufacturing operations in Europe.

I also understand from a February 23, 1994 research paper by the Commission of the European Community that EU car exports to the U.S., Japan, and South Korea are decreasing. The document says it is "essential that the EU industry develops a world-wide sales basis which allows production cycles to be smoothed." The EU sees growth potential in Malaysia, the Philippines, and Indonesia, but local industry in those countries continues to be protected through high import duties, local content sales, or restrictive licenses. These are also problems for U.S. exports (see enclosed September 8, 1992 letter from the Commerce Department). The 1958 agreement and the draft do not address these other barriers. The lack of uniform standards and regulations is not cited as a barrier.

What trade advantages does the U.S. gain by becoming a Party to the 1958 agreement, particularly in light of the GATT agreement pending approval by the U.S.? How will this action improve international competitiveness of the U.S. motor vehicle industry, particularly if Japan, South Korea, Malaysia, India, Indonesia, the Philippines, and China are not Parties? How does it help the U.S. in Europe?

5. An EPA-NHTSA concept paper states: A potential benefit attendant to the adoption of common standards on a wider international basis would be improved global levels of motor vehicle safety and environmental protection. This is because mobile product rules are difficult for a country to develop, if that country has no such rules or is not a member of a body that supplies the country with mobile product rules. Further, the adoption of common standards on a wider international basis would significantly aid mobile product exports by reducing the potential of technical barriers to trade and thus would improve the competitiveness of these industries. It is costly for industry to certify a product to different standards, but it is even more costly to develop different versions of the same product for markets that have different, but very similar, standards.

I again note that the draft is not limited to motor vehicles.

What is being proposed by any country, including the U.S., that will result in the adoption of "common standards"? What is the likelihood of that occurring? Are U.S. manufacturers urging such action for Europe and elsewhere? Does this agreement provide greater benefits to the imports of other countries by giving them even easier access to our regulatory system than they now enjoy? Is that in our economic and employment interest?

6. The Circular 175 memorandum by Mr. Tarullo states that NHTSA and the EPA have "engaged in communications" with the Committee staff about the proposed agreement. That comment is misleading. The Committee staff was informed by letter a few days prior to the last WP-29 meeting that NHTSA and the EPA were going to that meeting to negotiate. The draft was only provided to us with NHTSA's May 9 letter. Please provide a copy of the signed Circular 175 memorandum and a copy of all internal and interagency memoranda, letters, and related documents in your files since November 1, 1993 regarding the Circular 175 authorization to negotiate and the development of the draft substitute.

7. The 1958 agreement requires that the Parties establish "uniform conditions for the approval of motor vehicle equipment and parts and for approval markings" and that they "recognize one another's approvals." A November 5, 1993 proposed ECE revision requires that the Parties establish regulations for wheeled vehicles, equipment and parts. The NHTSA-EPA draft states that it has been decided "to expand the mandate and scope of the existing forum that administers the 1958 Agreement to that of a world forum for the cooperative development of common or compatible standards and regulations governing the safety, environmental pollution and energy efficiency of vehicles and engines." Article 5 of the draft creates a "global registry of standards and regulations" comprised of national and regional standards and regulations of the Parties and standards and regulations developed with the forum as generally representing agreement among Parties that they are considered to be "common or compatible" with existing national or regional regulations. It establishes an "Administrative Committee" with each Party having one vote. Global regulations are established by vote of the Committee. The Committee "may evaluate comparability among regulations and issue comparability assessments" by vote. Votes under Article 5 must be unanimous.

As noted, WP-29 circulated draft amendments to the 1958 agreement in November 1993 which were adopted in principle by WP-29. What is the status of that draft and why is the U.S. offering at this late date a completely different draft rather than seeking to amend that draft?

The draft appears to permit self-certification. The WP-29 proposal does not appear to permit it. Has the WP-29 agreed to self-certification? If not, why not? What other countries approve vehicles through this method? Is self-certification an issue for locomotives and other vehicles and engines?

Please explain why it is in the interest of the U.S. and U.S. manufacturers and workers to provide for the development of safety, environmental and energy standards and regulations by an international group that is comprised of diplomats, politicians, and civil servants, and that decides by negotiation and the vote of Parties. Is the requirement for unanimous voting consistent with the United Nations' rules and procedures? (The ECE's November 1993 draft provides for a two-thirds majority.) Must the Parties always vote or can they decide by consensus?

While I have no objection to registering U.S. standards and regulations with this forum, I would like to understand the benefits to the U.S. of such registration. The NHTSA-EPA concept paper suggests that such registration would make them "available for adoption by countries that wish to regulate" their mobile sources. That seems quite speculative. Also, what is the need for comparability assessments and what is the effect of such assessments on competition and the U.S.?

In the case of emissions, U.S. standards result in the use of catalysts that require unleaded gasolines. To what extend do countries in Europe, Asia, and Latin America rely solely on unleaded gasoline and thus could adopt U.S. standards and technology? Which U.S. standards would be registered, the Federal emissions standards or California emission standards from the standpoint of increasing exports of U.S. made vehicles?

8. The draft states that each regulation in the registry must be a "performance" rule. I

believe that some U.S. rules, like the air bag rule established by Congress, are not performance rules. They are design rules. Is that correct?

Please explain the purpose of the provision in the draft that provides that regulations "may include optional levels of stringency."

The draft provides for binding arbitration in the case of disputes concerning the interpretation or application of the Agreement. Why does the U.S. want to submit to such arbitration?

9. The draft does not mention the word "new." Does it apply to both new and existing vehicle and engines? If yes, please explain why. Does it apply only to the manufacturers of vehicles or engines or does it apply also to the use and operation of such vehicles and engines under Federal and state laws?

10. The draft defines "vehicles and engines" to mean: "* * * any vehicles, mobile equipment and parts whose characteristics have a bearing on road safety, environmental pollution and energy efficiency, including, but not limited to, automobiles, motorcycles, mopeds, on-highway trucks and truck engines, agricultural and forestry tractors and their engines, off-highway mobile engines (such as commercial, industrial, construction, utility, lawn and garden, inland and recreational marine, locomotives and movable power sources), bicycles and trailers."

Please explain why NHTSA and EPA want to expand the 1958 agreement to cover such a broad and unlimited spectrum of "vehicles and engines." What are examples of commercial, industrial, construction, utility, and marine power sources? Why are locomotives and off-road vehicles included? Why does the draft exclude airplanes?

11. European countries have lagged far behind the U.S. in adopting U.S. mobile sources safety and pollution standards. How does this agreement change that? Please explain why the draft agreement is proposed to cover energy and environmental standards and regulations, particularly since 1967 the ECE has not covered them.

One Federal standard or rule applicable in the U.S. to foreign and domestic motor vehicles relates to fuel economy. Yet the EU is challenging that requirement in GATT. What is the status of that challenge? Why should the U.S. engage in negotiating to participate in the 1958 agreement when the EU is challenging one of our basic energy and environmental laws and when they have never adopted such an equivalent energy savings requirements for Europe?

12. A November 18, 1993 "Memorandum of Law" by the Assistant Legal Advisor for Economic, Business and Communications Affairs at the State Department lists some federal laws with regulations and standards that could be covered by the draft. It also states: "While U.S. states are generally preempted from establishing emissions standards for new motor vehicle or non-road engines or vehicles, section 209 of the Clean Air Act permits states to enact standards that are in the aggregate more stringent than the federal standards in this area. Thus, legislation may be required to overcome more stringent state law standards (if any) in order to permit the sale of vehicles meeting ECE regulations in all states."

The Circular 175 memorandum states: "The proposed agreement would not result in a reduction of the level of safety and environmental protection that U.S. law provides. The United States will maintain its right to opt out of any ECE adopted regulation if it fails to meet the level of U.S. standards. The United States will endeavor to include as one of the agreement's specific goals the raising of global levels of safety and environmental standards in addition to the current stated goal of eliminating technical barriers to trade."

These two statements appear inconsistent, although one refers to state rules and the other refers to Federal rules. While some federal laws occupy the field, that is not the case for the Clean Air Act. Please explain why the states should weaken their requirements in order to permit EU vehicles entry to U.S. commerce. Where does the draft ensure that U.S. requirements would not be weakened? What would be the process for deciding which states' rules and standards should be registered and for registering them? Please also list the federal laws under which regulations and standards are promulgated that are likely to be subject to this draft.

13. What agency would implement the agreement? What would be the annual cost and source of funds?

14. The memorandum says the draft has been "discussed" with the Industry Sector and Functional Advisory Committees. The NHTSA letter said the draft was being made available to both industry and consumer organizations "to inform them." Please provide a list of such organizations, as well as the membership of the two Committees. Is NHTSA and EPA also seeking the comments of such organizations, a well as of those of labor, environmentalists, the States and the users of these vehicles and engines? If yes, when is the deadline for comments? If not, why not?

THE SECRETARY OF COMMERCE,
Washington, DC, August 12, 1994.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding the U.S. amendment to the U.N. Economic Commission for Europe's 1958 agreement for establishing uniform regulations regarding motor vehicle equipment and parts, including those affecting road safety.

In addition to the questions you provided us on the 1958 agreement, you also asked a number of questions concerning foreign barriers and the role of the U.S. Department of Commerce in facilitating U.S. automotive industry exports. We agree that the real issues concern all barriers to full participation in foreign motor vehicle markets. I appreciate your including us, along with the Departments of State and Transportation and the Environmental Protection Agency, in your inquiry process.

We are making every effort to prepare thorough replies to your questions and will be back in touch with you soon.

Sincerely,

RONALD H. BROWN.

Mr. Speaker, I again urge support for this legislation and express appreciation to the Committee on Foreign Affairs and their staff for their cooperative help in regard to this title.

Mr. ROTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation, Jobs Through Export Expansion Act of 1994, will create 100,000 jobs for American workers. It is a bipartisan bill. I ask all Members to vote for this bill.

Mr. Speaker, as the ranking Republican member of the Foreign Affairs Trade Subcommittee, I rise to urge my colleagues to vote for this conference report. This legislation—the Jobs Through Trade Expansion Act—will create 100,000 jobs for American workers.

This is a bipartisan bill. I worked with our chairman, the gentleman from Connecticut [Mr. GEJDENSON] to craft a bill that every Member of this House can vote for. We passed our bill on September 19, on a voice vote.

A similar version was passed by the other body on September 30. Today we bring to the House a conference report that reflects the goals of our original bill.

We expand the Overseas Private Investment Corporation, which finances and insures American companies in their efforts to expand into overseas markets.

Last year alone, OPIC generated 1.6 billion dollars in American exports.

Our bill increases OPIC's operating ceiling so they provide even more assistance to American companies.

Our bill expands the Trade and Development Agency, which helps finance engineering and feasibility studies for large construction projects overseas.

TDA assistance gives American companies a leg up in winning the ultimate construction contracts on these projects. Evidence presented to our subcommittee confirms that TDA returns $25 in American exports for every dollar we invest in this program.

Our bill nearly doubles TDA's authorization, which will provide even more job-creating assistance.

This legislation extends the U.S. and Foreign Commercial Service, our front-line agency that helps American companies find export opportunities and beat the competition.

We also have included the provisions of H.R. 3818, our environmental export promotion bill.

This provision puts a priority on promoting environmental technology exports to the five biggest potential markets for environmental equipment.

We are the world leader in this field, which is a $300 billion annual world market. It will double over the next 6 years, providing enormous export opportunities.

This bill will improve our competitive position in this rapidly growing market.

Finally, we have authorized the use of foreign aid funds to help protect American intellectual property rights.

This will reduce the theft of patents, trademarks and other protected property of American entertainment, computer, engineering and related knowledge-based industries.

In short, Mr. Speaker, today we bring the House a good bill—a bill that creates jobs for American workers.

This legislation is supported by the National Association of Manufacturers and the National Coalition for Employment Through Exports.

I ask all my colleagues to join with me in voting for the jobs through Trade Expansion Act.

Ms. FURSE. Mr. Speaker, I rise today in strong support of H.R. 4950, the Environmental Export Promotion Act of 1994. This conference report is a landmark achievement for environmental businesses across the Nation, and is the result of a 2-year effort to expand exports of environmental technologies. I

must thank my Chairman, Mr. STUDDS, for his work on this legislation and his friendship. Thanks are also due to my friend from Connecticut, Mr. GEJDENSON. As chair of the Foreign Affairs Subcommittee on Trade, the Export Promotion Act is the result of his collaboration with Chairman STUDDS and myself. Today would not be possible without his leadership and tireless efforts to craft a bill that will create thousands of jobs in America.

In Oregon, environmental technologies means jobs—good jobs. Environmental technologies, goods, and services are produced in my home State by 400 envirotech companies. These companies employ 14,000 Oregonians and the number increases every year. Importantly, the average salary in the environmental technology industry is about $31,000—a remarkable $9,000 higher than the next closest industry. These are truly the family wage jobs of the future. In fact, by the year 2000, it is estimated that the global environmental technology marketplace will triple to an estimated $600 billion. Environmental technologies are key to Oregon's and the Pacific Northwest's future economy.

It is important to point out that, due to our Nation's environmental protection laws, hundreds of American companies currently enjoy a huge comparative advantage in the production of environmental goods and services. The challenge facing the envirotech industry is linking all businesses that produce export-ready goods—from large corporations to small, entrepreneurial startups—with opportunities for success in the global marketplace. Direct access to world markets within a private-sector drive, clearly defined public/private partnership is the backbone of the Environmental Export Promotion Act.

Briefly, let me explain how the Environmental Export Promotion Act works. The Export Promotion Act helps promote a true public-private partnership in five key ways. First, it creates an Environmental Technologies Trade Advisory Committee to ensure that the private sector is at the table in designing export promotion strategies. Second, regional alliances are created to draw upon the expertise of existing envirotech business, and will build upon regional strengths. Third, environmental technology specialists in the U.S. Foreign and Commercial Service will be continuously identifying potential markets and customers for U.S. environmental technology companies, acting as a liaison for American business with foreign governments, and providing information on local business practices. Fourth, the newly created U.S. Export Assistance Centers will include information on environmental technologies and market possibilities. Fifth, international regional environmental initiatives, including trade missions, are also encouraged. For example, Oregon environmental technology firms have established key relationships in the Pacific Rim and Latin America; this legislation helps build these partnerships. An Environmental Technologies Project Advocacy Calendar is also created to assist in the dissemination of this information.

Think for a moment about the economic effects of a remediation project on a piece of community land. When you use environmental technologies to help restore land which has been rendered useless from contamination, for example, you pay the salaries of the envirotech firms which develop effective environmental products or services, you pay the salaries of the people who work and use that technology to clean up that land, and the entire community regains a previously lost asset. There are significant, tangible economic benefits at every stage.

In short, Mr. Speaker, the Environmental Export Promotion Act is about creating win-win situations. This act is important because it proves that protecting and enhancing our environment works hand-in-hand with job creation. Because of this bill, countries all across the globe will no longer be forced to look the other way when faced with serious environmental problems; they will have American envirotech businesses knocking on their door with solutions. As I've said before, this legislation is about cleaning up in the job market by cleaning up the globe.

Again, my thanks to Chairman STUDDS and Mr. GEJDENSON. I am proud that one of my top initiatives this Congress is on the verge of becoming a reality. I urge all my colleagues to give their strong support to the conference report on H.R. 4950, which includes the Environmental Export Promotion Act.

Mr. BEREUTER. Mr. Speaker, this Member rises in support of the conference report for H.R. 4950, the "Jobs Through Trade Expansion Act of 1994." This legislation reauthorizes the legislative charter of the Overseas Private Investment Corporation [OPIC], the Trade and Development Agency [TDA], and the International Trade Administration [ITA] of the Department of Commerce. Additionally, it promotes the export of environmental technologies and services and directs the Agency for International Development [AID] to assist developing countries in improving their protection of intellectual property rights.

Mr. Speaker, these export promotion agencies and these initiatives are absolutely critical to ensure the competitiveness of U.S. manufacturing and service industries. For example, the Trade and Development Agency helps U.S. exporters compete against foreign competitors for lucrative infrastructure projects in developing countries by providing grants which hire U.S. consultants and engineers for the planning and design of large multilateral development bank [MDB] projects. Therefore, I am especially pleased that this conference report reauthorizes the Trade and Development Agency for fiscal year 1995 at $77 million. This amount represents a substantial increase from former and current authorizations ($45 million) and therefore appropriately reflects the contribution this agency makes in promoting the export of U.S. goods and services.

Because U.S. consultants and engineers are more likely to design, for example, a multimillion dollar power generation plant in China with United States goods and services in mind, TDA grants ultimately ensure that United States goods and services are more likely to receive the detailed design, construction, equipment, and maintenance and resupply business for such MDB/financed projects over the long term.

Currently, Mr. Speaker, our European competitors and Japan greatly outspend the United States in this trust fund game to the detriment of U.S. exporters. The General Accounting Office recently reported that Japan, for example, currently outspends the United States by approximately $5 for every $1 we devote to this important purpose, and the United Kingdom just announced a $78 million tied-aid commitment to Vietnam.

Mr. Speaker, in the power generation market alone, investors and energy market analysts predict a whopping $1.8 trillion investment demand by the year 2010. Agencies such as the Overseas Private Insurance Company and the Trade and Development Agency help to ensure that small and medium-sized U.S. businesses can compete for the billions of dollars in service and manufactured goods which will design, construct, and operate massive infrastructure projects in the developing world.

Mr. Speaker, the State of Nebraska boasts of one of the lowest unemployment rates in the country. This may be due in large part to the fact that Nebraska led all but one State in dramatically increasing its exports 429 percent in the last 6 years. However, Nebraska's economy depends on small and medium-sized businesses to maintain its rapid growth and high standard of living. Agencies like the Overseas Private Investment Corporation and the Trade and Development Agency mostly benefit these small and medium-sized investors and exporters who would not be able to compete against foreign-subsidized competition without U.S. assistance.

In closing, this Member urges his colleagues to support the conference report for the Jobs through Trade Expansion Act of 1994. This legislation is necessary to ensure the competitiveness of United States goods and services through the promotion of exports and the protection of intellectual property rights worldwide.

Mr. GILMAN. Mr. Speaker, I rise in support of the conference report on H.R. 4950, The Jobs Through Trade Expansion Act of 1994, a bill reauthorizing the Overseas Private Investment Corporation [OPIC] and the Trade and Development Agency [TDA].

I am pleased that a provision in this legislation will permit OPIC to operate all of its programs in Ireland and Northern Ireland and thereby assist the peace process in that troubled part of the world.

I would like to thank the chairman of the International Economic Policy Subcommittee, Mr. GEJDENSON, and the ranking member of this subcommittee, Mr. ROTH, for their leadership in enacting this legislation.

The incorporation of an amendment will for the first time permit OPIC to operate all of its programs in Ireland and Northern Ireland. With its proven ability to attract private sector funding, OPIC programs can help to promote economic development and the prospects for a lasting peace in Northern Ireland. At this critical moment, I believe that OPIC, can play a key role in building a public and private partnership in support of the peace process.

In its report on this legislation, the Foreign Affairs Committee urges OPIC to undertake a feasibility study of an equity fund of up to $60 million for Ireland and Northern Ireland. A recently passed House resolution also urged the adoption of an OPIC equity fund effort for Ireland.

The report asks that the study be completed no later than 120 days after the date of enactment of this conference report. While it does

not spell out the precise objectives of an equity fund for Ireland, I can only assume that if and when OPIC establishes such a fund, it will help to change the present inequalities, where unemployment among Catholics is roughly twice that for Protestants in many areas in Northern Ireland.

I would also note that the president of Sinn Fein, Gerry Adams, in his recent visit here, urged that any assistance to Northern Ireland should not be used to perpetuate the unsatisfactory economic status quo, and any such aid should follow the McBride principles, which the administration also supports, promoting human rights and equality among all citizens of Northern Ireland. These principles are also supported by States like New York and many cities, such as Chicago, New York, and New Haven.

A list of the MacBride principles and the cities and States that support them follows:

1. Increasing the representation of individuals from underrepresented religious groups in the work force, including managerial, supervisory, administrative, clerical and technical jobs.

2. Adequate security for the protection of minority employees both at the workplace and while traveling to and from work.

3. The banning of provocative religious or political emblems from the workplace.

4. All job openings should be publicly advertised and special recruitment efforts should be made to attract applicants from underrepresented religious groups.

5. Layoff, recall and termination procedures should not, in practice, favor particular religious groupings.

6. The abolition of job reservations, apprenticeship restrictions and differential employment criteria, which discriminate on the basis of religion or ethnic origin.

7. The development of training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade and improve the skills of minority employees.

8. The establishment of procedures to assess, identify and actively recruit minority employees with potential for further advancement.

9. The appointment of a senior management staff member to oversee the company's affirmative action efforts and the setting up of timetables to carry out affirmative action principles.

STATES AND CITIES THAT SUPPORT MACBRIDE

Connecticut
Florida
Illinois
Kentucky
Maine
Massachusetts
Michigan
Minnesota
Montana
New Hampshire
New Jersey
New York
Pennsylvania
Rhode Island
Vermont
Virginia
Binghamton, NY
Boston, MA
Bridgeport, CT
Bucks City, PA
Burlington, UT
Cambridge, MA
Carbondale, PA
Chicago, IL
Cleveland, OH
Detroit, MI
Hartford, CT
Honolulu, HI
Kansas City, MO
Lackawanna County, PA
Lawrence, MA
Monroe, NY
Minneapolis, MN
Nashua, NH
New Haven, CT
New York, NY
Orangetown, NY
Philadelphia, PA
Pittsburgh, PA
Providence, RI
Rochester, NY
Rockland County, NY
San Francisco, CA
Saint Louis, MO
Saint Paul, MN
Scranton, PA
Springfield, MA
Tucson, AZ
Union City, NJ
Washington, DC
West Caldwell, NJ
Westchester County, NY
Wilmington, DE
Worcester, MA
Yonkers, NY

We must help end the discriminatory employment practices where the Catholic minority is more than two times likely to face discrimination, especially in the area of unemployment. Any OPIC projects should keep that goal in mind in Northern Ireland.

Mr. ROTH. Mr. Speaker, I yield back the balance of my time.

Mr. GEJDENSON. Mr. Speaker, I have no further requests for time, I yield back the remainder of my time and I move the previous question on the conference report.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

□ 1630

PROVIDING FOR MANAGEMENT OF PORTIONS OF THE PRESIDIO

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 576 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 576

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 5231) to provide for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior. All points of order against the bill and against its consideration are waived. Debate on the bill shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources. The previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. SHARP). The gentleman from California [Mr. BEILENSON] is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], and pending that, I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 576 is the rule providing for the consideration of H.R. 5231, legislation for the management and operation of the historic Presidio military post in San Francisco. The rule provides for consideration of the bill in the House. It waives all points of order against the bill and against its consideration. The rule also provides 1 hour of debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Natural Resources. Finally, Mr. Speaker, the rule provides for one motion to recommit.

Mr. Speaker, the Committee on Natural Resources requested this rule for H.R. 5231, a bill that is identical to H.R. 3433, as passed the House in August. The bill, as recently introduced, is needed to give the Senate the opportunity to act on this legislation. As my colleagues will recall, the Senate committee considering the bill we approved earlier added several unrelated provisions and has not returned it to the House in a timely fashion. H.R. 5231 is being considered with the hope that the plan can be approved before we adjourn. The lack of action on the legislation leaves the Secretary of the Interior without adequate authority to properly manage the Presidio, which the Department of the Army turned over to the Department of the Interior on October 1. The trust fund called for by H.R. 5231 is a responsible managerial and financial mechanism to reduce costs at the Presidio. The bill would save money, protect and improve Federal property, and free up appropriated money for other use in national parks.

Mr. Speaker, this rule and the legislation which it provides consideration for deserves the support of our colleagues. We urge approval of this rule so that we may proceed with consideration of this important legislation.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when the Committee on Rules heard testimony on this rule at about 2 a.m. this morning, we were told that the bill providing for the management of the Presidio, which passed the House earlier this year, has become bogged down in the Senate.

A Senate committee has amended the original bill so that the spending in the bill is no longer subject to appropriation.

A hold has been put on the bill because of a plan to use it as a vehicle for another proposal.

This rule makes in order consideration of exactly the same text that has

already passed the House back on August 18 of this year by a vote of 245 to 168.

There will be 1 hour of general debate and no amendments. However this rule allows for a motion to recommit which could include an amendment in its instructions.

Mr. Speaker, at the Rules Committee meeting I offered a motion for an open rule with the exception of the Ways and Means portion of the bill.

The Ways and Means portion contains the language making spending in the bill subject to appropriation.

My motion reflected the request of the ranking Republicans on both the Committees on Natural Resources and Ways and Means. Unfortunately, it was turned down by the majority on the Rules Committee.

Mr. Speaker, this rule is not the right way to do the business of the House. This is the second time in this Congress we have passed identical bills to send a message to the other body. It is not only a bad precedent, but a costly communications system.

In addition this rule prohibits amendments. This kind of a rule unnecessarily restricts the ability of the House to work its will on the legislation. We should do better than this.

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
95th (1977–78)	211	179	85	32	15
96th (1979–80)	214	161	75	53	25
97th (1981–82)	120	90	75	30	25
98th (1983–84)	155	105	68	50	32
99th (1985–86)	115	65	57	50	43

OPEN VERSUS RESTRICTIVE RULES 95TH–103D CONG.—Continued

Congress (years)	Total rules granted [1]	Open rules		Restrictive rules	
		Number	Percent [2]	Number	Percent [3]
100th (1987–88)	123	66	54	57	46
101st (1989–90)	104	47	45	57	55
102d (1991–92)	109	37	34	72	66
103d (1993–94)	104	31	30	73	70

[1] Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

[2] Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House. The parenthetical percentages are open rules as a percent of total rules granted.

[3] Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rule, and rules providing for consideration in the House as opposed to the Committee of the Whole. The parenthetical percentages are restrictive rules as a percent of total rules granted.

Sources: "Rules Committee Calendars & Surveys of Activities," 95th–102d Cong.; "Notices of Action Taken," Committee on Rules, 103d Cong., through Oct. 6, 1994.

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 58, Feb. 2, 1993	MC	H.R. 1: Family and medical leave	30 (D–5; R–25)	3 (D–0; R–3)	PQ: 246–176. A: 259–164. (Feb. 3, 1993).
H. Res. 59, Feb. 3, 1993	MC	H.R. 2: National Voter Registration Act	19 (D–1; R–18)	1 (D–0; R–1)	PQ: 248–171. A: 249–170. (Feb. 4, 1993).
H. Res. 103, Feb. 23, 1993	C	H.R. 920: Unemployment compensation	7 (D–2; R–5)	0 (D–0; R–0)	PQ: 243–172. A: 237–178. (Feb. 24, 1993).
H. Res. 106, Mar. 2, 1993	MC	H.R. 20: Hatch Act amendments	9 (D–1; R–8)	3 (D–0; R–3)	PQ: 248–166. A: 249–163. (Mar. 3, 1993).
H. Res. 119, Mar. 9, 1993	MC	H.R. 4: NIH Revitalization Act of 1993	13 (d–4; R–9)	8 (D–3; R–5)	PQ: 247–170. A: 248–170. (Mar. 10, 1993).
H. Res. 132, Mar. 17, 1993	MC	H.R. 1335: Emergency supplemental Appropriations	37 (D–8; R–29)	1(not submitted) (D–1; R–0)	A: 240–185. (Mar. 18, 1993).
H. Res. 133, Mar. 17, 1993	MC	H. Con. Res. 64: Budget resolution	14 (D–2; R–12)	4 (1-D not submitted) (D–2; R–2)	PQ: 250–172. A: 251–172. (Mar. 18, 1993).
H. Res. 138, Mar. 23, 1993	MC	H.R. 670: Family planning amendments	20 (D–8; R–12)	9 (D–4; R–5)	PQ: 252–164. A: 247–169. (Mar. 24, 1993).
H. Res. 147, Mar. 31, 1993	C	H.R. 1430: Increase Public debt limit	6 (D–1; R–5)	0 (D–0; R–0)	PQ: 244–168. A: 242–170. (Apr. 1, 1993).
H. Res. 149 Apr. 1, 1993	MC	H.R. 1578: Expedited Rescission Act of 1993	8 (D–1; R–7)	3 (D–1; R–2)	A: 212–208. (Apr. 28, 1993).
H. Res. 164, May 4, 1993	O	H.R. 820: Nate Competitiveness Act	NA	NA	A: Voice Vote. (May 5, 1993).
H. Res. 171, May 18, 1993	O	H.R. 873: Gallatin Range Act of 1993	NA	NA	A: Voice Vote. (May 20, 1993).
H. Res. 172, May 18, 1993	O	H.R. 1159: Passenger Vessel Safety Act	NA	NA	A: 308–0 (May 24, 1993).
H. Res. 173 May 18, 1993	MC	S.J. Res. 45: United States forces in Somalia	6 (D–1; R–5)	6 (D–1; R–5)	A: Voice Vote (May 20, 1993)
H. Res. 183, May 25, 1993	O	H.R. 2244: 2d supplemental appropriations	NA	NA	A: 251–174. (May 26, 1993).
H. Res. 186, May 27, 1993	MC	H.R. 2264: Omnibus budget reconciliation	51 (D–19; R–32)	8 (D–7; R–1)	PQ: 252–178. A: 236–194 (May 27, 1993).
H. Res. 192, June 9, 1993	MC	H.R. 2348: Legislative branch appropriations	50 (D–6; R–44)	6 (D–3; R–3)	PQ: 240–177. A: 226–185. (June 10, 1993).
H. Res. 193, June 10, 1993	O	H.R. 2200: NASA authorization	NA	NA	A: Voice Vote. (June 14, 1993).
H. Res. 195, June 14, 1993	MC	H.R. 5: Striker replacement	7 (D–4; R–3)	2 (D–1; R–1)	A: 244–176. (June 15, 1993).
H. Res. 197, June 15, 1993	MO	H.R. 2333: State Department. H.R. 2404: Foreign aid	53 (D–20; R–33)	27 (D–12; R–15)	A: 294–129. (June 16, 1993).
H. Res. 199, June 16, 1993	C	H.R. 1876: Ext. of "Fast Track"	NA	NA	A: Voice Vote. (June 22, 1993)
H. Res. 200, June 16, 1993	MC	H.R. 2295: Foreign operations appropriations	33 (D–11; R–22)	5 (D–1; R–4)	A: 263–160. (June 17, 1993).
H. Res. 201, June 17, 1993	O	H.R. 2403: Treasury-postal appropriations	NA	NA	A: Voice Vote. (June 17, 1993)
H. Res. 203, June 22, 1993	MO	H.R. 2445: Energy and Water appropriations	NA	NA	A: Voice Vote. (June 23, 1993).
H. Res. 206, June 23, 1993	O	H.R. 2150: Coast Guard authorization	NA	NA	A: 401–0. (July 30, 1993).
H. Res. 217, July 14, 1993	MO	H.R. 2010: National Service Trust Act	NA	NA	A: 261–164. (July 21, 1993).
H. Res. 220, July 21, 1993	MC	H.R. 2667: Disaster assistance supplemental	14 (D–8; R–6)	2 (D–2; R–0)	PQ: 245–178. F: 205–216. (July 22, 1993).
H. Res. 226, July 23, 1993	MC	H.R. 2667: Disaster assistance supplemental	15 (D–8; R–7)	2 (D–2; R–0)	A: 224–205. (July 27, 1993).
H. Res. 229, July 28, 1993	MO	H.R. 2330: Intelligence Authority Act, fiscal year 1994	NA	NA	A: Voice Vote. (Aug. 3, 1993).
H. Res. 230, July 28, 1993	O	H.R. 1964: Maritime Administration authority	NA	NA	A: Voice Vote. (July 29, 1993).
H. Res. 246, Aug. 6, 1993	MO	H.R. 2401: National Defen.e authority	149 (D–109; R–40)		A: 246–172. (Sept. 8, 1993).
H. Res. 248, Sept. 9, 1993	MO	H.R. 2401: National defense authorization			PQ: 237–169. A: 234–169. (Sept. 13, 1993).
H. Res. 250, Sept. 13, 1993	MC	H.R. 1340: RTC Completion Act	12 (D–3; R–9)	1 (D–1; R–0)	A: 213–191–1. (Sept. 14, 1993).
H. Res. 254, Sept. 22, 1993	MO	H.R. 2401: National Defense authorization		91 (D–67; R–24)	A: 241–182. (Sept. 28, 1993).
H. Res. 262, Sept. 28, 1993	O	H.R. 1845: National Biological Survey Act	NA	NA	A: 238–188 (10/06/93)
H. Res. 264, Sept. 28, 1993	MC	H.R. 2351: Arts, humanities, museums	7 (D–0; R–7)	3 (D–0; R–3)	PQ: 240–185. A: 225–195. (Oct. 14, 1993)
H. Res. 265, Sept. 29, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	A: 239–150. (Oct. 15, 1993).
H. Res. 269, Oct. 6, 1993	MO	H.R. 2739: Aviation infrastructure investment	N/A	N/A	A: Voice Vote. (Oct. 7, 1993).
H. Res. 273, Oct. 12, 1993	MC	H.R. 3167: Unemployment compensation amendments	3 (D–1; R–2)	2 (D–1; R–1)	PQ: 235–187. F: 149–254. (Oct. 14, 1993)
H. Res. 274, Oct. 12, 1993	MC	H.R. 1804: Goals 2000 Educate America Act	15 (D–7; R–7; I–1)	10 (D–7; R–3)	A: Voice Vote. (Oct. 13, 1993).
H. Res. 282, Oct. 20, 1993	C	H.J. Res. 281: Continuing appropriations through Oct. 28, 1993	N/A	N/A	A: Voice Vote. (Oct. 21, 1993)
H. Res. 286, Oct. 27, 1993	O	H.R. 334: Lumbee Recognition Act	N/A	N/A	A: Voice Vote. (Oct. 28, 1993).
H. Res. 287, Oct. 27, 1993	C	H.J. Res. 283: Continuing appropriations resolution	1 (D–0; R–0)	0	A: 252–170. (Oct. 28, 1993).
H. Res. 289, Oct. 28, 1993	O	H.R. 2151: Maritime Security Act of 1993	N/A	N/A	A: Voice Vote. (Nov. 3, 1993).
H. Res. 293, Nov. 4, 1993	MC	H. Con. Res. 170: Troop withdrawal Somalia	N/A	N/A	A: 390–8. (Nov. 8, 1993).
H. Res. 299, Nov. 8, 1993	MO	H.R. 1036: Employee Retirement Act–1993	2 (D–1; R–1)	N/A	A: Voice Vote. (Nov. 9, 1993).
H. Res. 302, Nov. 9, 1993	MC	H.R. 1025: Brady handgun bill	17 (D–6; R–11)	4 (D–1; R–3)	A: 238–182. (Nov. 10, 1993).
H. Res. 303, Nov. 9, 1993	O	H.R. 322: Mineral exploration	N/A	N/A	A: Voice Vote. (Nov. 16, 1993).
H. Res. 304, Nov. 9, 1993	C	H.J. Res. 288: Further CR, FY 1994	N/A	N/A	
H. Res. 312, Nov. 17, 1993	MC	H.R. 3425: EPA Cabinet Status	27 (D–8; R–19)	9 (D–1; R–8)	F: 191–227. (Feb. 2, 1994).
H. Res. 313, Nov. 17, 1993	MC	H.R. 796: Freedom Access to Clinics	15 (D–9; R–6)	4 (D–1; R–3)	A: 233–192. (Nov. 18, 1993).
H. Res. 314, Nov. 17, 1993	MC	H.R. 3351: Alt Methods Young Offenders	21 (D–7; R–14)	6 (D–3; R–3)	A: 238–179. (Nov. 19, 1993).
H. Res. 316, Nov. 19, 1993	C	H.R. 51: D.C. statehood bill	1 (D–1; R–0)	N/A	A: 252–172. (Nov. 20, 1993).
H. Res. 319, Nov. 20, 1993	MC	H.R. 3: Campaign Finance Reform	35 (D–6; R–29)	1 (D–0; R–1)	A: 220–207. (Nov. 21, 1993).
H. Res. 320, Nov. 20, 1993	MC	H.R. 3400: Reinventing Government	34 (D–15; R–19)	3 (D–3; R–0)	A: 247–183. (Nov. 22, 1993).
H. Res. 336, Feb. 2, 1994	MC	H.R. 3759: Emergency Supplemental Appropriations	14 (D–8; R–5; I–1)	5 (D–3; R–2)	PQ: 244–168. A: 342–65. (Feb. 3, 1994).
H. Res. 352, Feb. 8, 1994	MC	H.R. 811: Independent Counsel Act	27 (D–8; R–19)	10 (D–4; R–6)	PQ: 249–174. A: 242–174. (Feb. 9, 1994).
H. Res. 357, Feb. 9, 1994	MC	H.R. 3345: Federal Workforce Restructuring	3 (D–2; R–1)	2 (D–2; R–0)	A: VV (Feb. 10, 1994).
H. Res. 366, Feb. 23, 1994	MO	H.R. 6: Improving America's Schools	NA	NA	A: VV (Feb. 24, 1994).
H. Res. 384, Mar. 9, 1994	MC	H. Con. Res. 218: Budget Resolution FY 1995–99	14 (D–5; R–9)	5 (D–3; R–2)	A: 245–171 (Mar. 10, 1994).
H. Res. 401, Apr. 12, 1994	MO	H.R. 4092: Violent Crime Control	180 (D–98; R–82)	68 (D–47; R–21)	A: 244–176 (Apr. 13, 1994).
H. Res. 410, Apr. 21, 1994	MO	H.R. 3221: Iraqi Claims Act	N/A	N/A	A: Voice Vote (Apr. 28, 1994).
H. Res. 414, Apr. 28, 1994	O	H.R. 3254: NSF Auth. Act	N/A	N/A	A: Voice Vote (May 3, 1994).
H. Res. 416, May 4, 1994	C	H.R. 4296: Assault Weapons Ban Act	7 (D–5; R–2)	0 (D–0; R–0)	A: 220–209 (May 5, 1994).
H. Res. 420, May 5, 1994	O	H.R. 2442: EDA Reauthorization	N/A	N/A	A: Voice Vote (May 10, 1994).
H. Res. 422, May 11, 1994	MO	H.R. 518: California Desert Protection	N/A	N/A	PQ: 245–172 A: 248–165 (May 17, 1994)
H. Res. 423, May 11, 1994	O	H.R. 2473: Montana Wilderness Act	N/A	N/A	A: Voice Vote (May 12, 1994).
H. Res. 428, May 17, 1994	MO	H.R. 2108: Black Lung Benefits Act	4 (D–1; R–3)	N/A	A: VV (May 19, 1994).
H. Res. 429, May 17, 1994	MO	H.R. 4301: Defense Auth., FY 1995	173 (D–115; R–58)		A: 369–49 (May 18, 1994).
H. Res. 431, May 20, 1994	MO	H.R. 4301: Defense Auth., FY 1995		100 (D–80; R–20)	A: Voice Vote (May 23, 1994)
H. Res. 440, May 24, 1994	MC	H.R. 4385: Natl Hiway System Designation	16 (D–10; R–6)	5 (D–5; R–0)	A: Voice Vote (May 25, 1994).
H. Res. 443, May 25, 1994	MC	H.R. 4426: For. Ops. Approps, FY 1995	39 (D–11; R–28)	8 (D–3; R–5)	PQ: 233–191 A: 244–181 (May 25, 1994)
H. Res. 444, May 25, 1994	MC	H.R. 4454: Leg Branch Approp, FY 1995	43 (D–10; R–33)	12 (D–8; R–4)	A: 249–177 (May 26, 1994)

OPEN VERSUS RESTRICTIVE RULES: 103D CONG.—Continued

Rule number date reported	Rule type	Bill number and subject	Amendments submitted	Amendments allowed	Disposition of rule and date
H. Res. 447, June 8, 1994	O	H.R. 4539: Treasury/Postal Approps 1995	N/A	N/A	A: 236–177 (June 9, 1994).
H. Res. 467, June 28, 1994	MC	H.R. 4600: Expedited Rescissions Act	N/A	N/A	PQ: 240–185 A:Voice Vote (July 14, 1994).
H. Res. 468, June 28, 1994	MO	H.R. 4299: Intelligence Auth., FY 1995	N/A	N/A	A: Voice Vote (July 19, 1994).
H. Res. 474, July 12, 1994	MO	H.R. 3937: Export Admin. Act of 1994	N/A	N/A	A: Voice Vote (July 14, 1994).
H. Res. 475, July 12, 1994	O	H.R. 1188: Anti. Redlining in Ins	N/A	N/A	A: Voice Vote (July 20, 1994).
H. Res. 482, July 20, 1994	O	H.R. 3838: Housing & Comm. Dev. Act	N/A	N/A	A: Voice Vote (July 21, 1994).
H. Res. 483, July 20, 1994	O	H.R. 3870: Environ. Tech. Act of 1994	N/A	N/A	A: Voice Vote (July 26, 1994).
H. Res. 484, July 20, 1994	MC	H.R. 4604: Budget Control Act of 1994	3 (D–2; R–1)	3 (D–2; R–1)	PQ: 245–180 A: Voice Vote (July 21, 1994).
H. Res. 491, July 27, 1994	O	H.R. 2448: Radon Disclosure Act	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 492, July 27, 1994	O	S. 208: NPS Concession Policy	N/A	N/A	A: Voice Vote (July 28, 1994).
H. Res. 494, July 28, 1994	MC	H.R. 4801: SBA Reauth & Amdmts. Act	10 (D–5; R–5)	6 (D–4; R–2)	PQ: 215–169 A: 221–161 (July 29, 1994).
H. Res. 500, Aug. 1, 1994	MO	H.R. 4003: Maritime Admin. Reauth.	N/A	N/A	A: 336–77 (Aug. 2, 1994).
H. Res. 501, Aug. 1, 1994	O	S. 1357: Little Traverse Bay Bands	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 502, Aug. 1, 1994	O	H.R. 1066: Pokagon Band of Potawatomi	N/A	N/A	A: Voice Vote (Aug. 3, 1994).
H. Res. 507, Aug. 4, 1994	O	H.R. 4217: Federal Crop Insurance	N/A	N/A	A: Voice Vote (Aug. 5, 1994).
H. Res. 509, Aug. 5, 1994	MC	H.J. Res. 373/H.R. 4590: MFN China Policy	N/A	N/A	A: Voice Vote (Aug. 9, 1994).
H. Res. 513, Aug. 9, 1994	MC	H.R. 4906: Emergency Spending Control Act	N/A	N/A	A: Voice Vote (Aug. 17, 1994).
H. Res. 512, Aug. 9, 1994	MC	H.R. 4907: Full Budget Disclosure Act	N/A	N/A	A: 255–178 (Aug. 11, 1994).
H. Res. 514, Aug. 9, 1994	MC	H.R. 4822: Cong. Accountability	33 (D–16; R–17)	16 (D–10; R–6)	PQ: 247–185 A: Voice Vote (Aug. 10, 1994).
H. Res. 515, Aug. 10, 1994	O	H.R. 4908: Hydrogen Etc. Research Act	N/A	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 516, Aug. 10, 1994	MC	H.R. 3433: Presidio Management	12 (D–2; R–10)	N/A	A: Voice Vote (Aug. 19, 1994).
H. Res. 532, Sept. 20, 1994	O	H.R. 4448: Lowell Natl. Park	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 535, Sept. 20, 1994	O	H.R. 4422: Coast Guard Authorization	N/A	N/A	A: Voice Vote (Sept. 22, 1994).
H. Res. 536, Sept. 20, 1994	MC	H.R. 2866: Headwaters Forest Act	16 (D–5; R–11)	9 (D–3; R–6)	PQ: 245–175 A: 246–174 (Sept. 21, 1994).
H. Res. 542, Sept. 23, 1994	O	H.R. 4008: NOAA Auth. Act	N/A	N/A	A: Voice Vote (Sept. 26, 1994).
H. Res. 543, Sept. 23, 1994	O	H.R. 4926: Natl. Treatment in Banking	N/A	N/A	
H. Res. 544, Sept. 23, 1994	O	H.R. 3171: Ag. Dept. Reorganization	N/A	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 551, Sept. 27, 1994	MO	H.R. 4779: Interstate Waste Control	22 (D–15; R–7)	N/A	A: Voice Vote (Sept. 28, 1994).
H. Res. 552, Sept. 27, 1994	O	H.R. 4683: Flow Control Act	N/A	N/A	A: Voice Vote (Sept. 29, 1994).
H. Res. 562, Oct. 3, 1994	MO	H.R. 5044: Amer. Heritage Areas	N/A	N/A	A: Voice Vote (Oct. 5, 1994).
H. Res. 563, Oct. 4, 1994	MC	H. Con. Res. 301: SoC Re: Entitlements	N/A	N/A	F: 83–339 (Oct. 5, 1994).
H. Res. 565, Oct. 4, 1994	MC	S. 455: Payments in Lieu of Taxes	N/A	N/A	A: 384–28 (Oct. 6, 1994).
H. Res. 570, Oct. 5, 1994	MC	H. J. Res. 416: U.S. in Haiti	N/A	N/A	A: 241–182 (Oct. 6, 1994).
H. Res. 576, Oct. 6, 1994	C	H.R. 5231: Presidio Management	N/A	N/A	

Note.—Code: C-Closed; MC-Modified closed; MO-Modified open; O-Open; D-Democrat; R-Republican; PQ: Previous question; A-Adopted; F-Failed.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I, too, yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. VENTO. Mr. Speaker, pursuant to House Resolution 576, I call up the bill (H.R. 5231) to provide for the management of portions of the Presidio under the jurisdiction of the Secretary of the Interior, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The text of H.R. 5231 is as follows:

H.R. 5231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the Presidio of San Francisco, located amidst the incomparable scenic splendor of the Golden Gate, is one of America's great natural and historic sites;

(2) the Presidio is the oldest continually operating military post in the Nation dating from 1776, and was designated as a National Historic Landmark in 1962;

(3) preservation of the cultural and historic integrity of the Presidio for public use would give due recognition to its significant role in the history of the United States;

(4) the Presidio in its entirety will transfer to the jurisdiction of the National Park Service on September 30, 1994, in accordance with Public Law 92–589;

(5) as part of the Golden Gate National Recreation Area, the Presidio's outstanding natural, historic, scenic, cultural and recreational resources must be managed in a manner which is consistent with sound principles of land use planning and management, and which protect the Presidio from development and uses which would destroy the scenic beauty and natural character of the area;

(6) activities and management at the Presidio must be consistent with both the Act establishing the Golden Gate National Recreation Area (Public Law 92–589) and the General Management Plan for the Golden Gate National Recreation Area, as amended;

(7) the Presidio will be a global center dedicated to addressing the world's most critical environmental, social, and cultural challenges and a working laboratory at which models of environmental sustainability shall be developed;

(8) the Presidio, as an urban park, will be managed in a manner that is responsive to the concerns of the public and cognizant of its impact on the local community, and as a public resource, will reflect, in both activities and management, of the diversity that exists in the surrounding community; and

(9) the Presidio will be managed in an innovative public/private partnership that minimizes cost to the United States Treasury and makes efficient use of private sector resources that could be utilized in the public interest.

SEC. 2. AMENDMENT OF ACT ESTABLISHING GOLDEN GATE NATIONAL RECREATION AREA.

(a) STATEMENT OF PURPOSES.—Section 1 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes", approved October 27, 1972 (Public Law 92–589; 86 Stat. 1299; 16 U.S.C. 460bb), is amended by inserting the following after the second sentence: "In addition, the Secretary may utilize the resources of the Presidio of San Francisco to provide for and support programs and activities that foster research, education or demonstration projects, and relate to the environment, energy, transportation, international affairs, arts and cultural understanding, health and science.".

(b) ADMINISTRATION.—Section 4 of such Act is amended by adding the following new subsection at the end thereof:

"(g) INTERIM AUTHORITY.—(1) In addition to other available authorities, the Secretary may, in his discretion, negotiate and enter into leases, as appropriate, with any person, firm, association, organization, corporation or governmental entity for the use of any property within the Presidio in accordance with the General Management Plan and any of the purposes set forth in section 1 of this Act.

"(2) In addition to other available authorities, the Secretary may, in his discretion, enter into—

"(A) interagency permitting agreements or other appropriate agreements with the Secretary of Defense and the Director of the Federal Emergency Management Agency, and

"(B) leases with the American Red Cross, to house their activities and employees at the Presidio.

"(3) Any leases or other appropriate agreements entered into under this subsection shall be subject to such procedures, terms, conditions and restrictions as the Secretary deems necessary. The Secretary is authorized to negotiate and enter into leases or other agreements, at fair market value and without regard to section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b), fair market value shall take into account the uses permitted by the General Management Plan and this Act. The preceding sentence shall not apply to any interagency permitting agreement entered into between the Secretary and the Secretary of Defense regarding the housing of activities and employees of the Sixth United States Army. For purposes of any such lease or other agreements, the Secretary may adjust the rental by taking into account any amounts to be expended by the lessee for preservation, maintenance, restoration, improvement, repair and related expenses with respect to the leased properties.

"(4) The proceeds from leases under this subsection, and from concession and other use authorizations and from other services that may be provided by the recreation area under this subsection shall be retained by the Secretary for 5 years after the date of enactment of this paragraph or until the leased property is transferred to the Presidio Trust

and shall be available without further appropriation and used to offset the costs of preservation, restoration, maintenance, improvement, repair and related expenses including administration of the above, incurred by the Secretary with respect to Presidio properties, with the balance used to offset other costs incurred by the Secretary in the administration of the Presidio.

"(5) Each lessee of a lease entered into under this subsection shall keep such records as the Secretary may prescribe to enable the Secretary to determine that all terms of the lease have been and are being faithfully performed. The Secretary and the Comptroller General and their duly authorized representatives shall, for the purpose of audit and examination, have access to financial records pertinent to the lease and all the terms and conditions thereof.

"(6) The Secretary shall annually prepare and submit to Congress a report on property leased under this subsection.

"(7) In addition to other available authorities, the Secretary may, in his discretion, enter into cooperative agreements and permits for any of the purposes of the recreation area set out in section 1 of this Act.".

SEC. 3. THE PRESIDIO TRUST.

(a) ESTABLISHMENT.—There is established within the Department of the Interior a nonprofit public benefit government corporation to be known as the Presidio Trust (hereinafter in this Act referred to as the "Trust"). The Trust shall manage, in accordance with the purposes set forth in section 1 of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes", approved October 27, 1972 (Public Law 92-589; 86 Stat. 1299; 16 U.S.C. 460bb), and with this Act, the leasing, maintenance, rehabilitation, repair and improvement of property within the Presidio which is transferred to the Trust by the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary"). The Trust may participate in the development of programs and activities at the properties that have been transferred to the Trust.

(b) TRANSFER.—Except as provided in this subsection, the Secretary shall transfer to the Trust, under such terms and conditions as the Secretary deems appropriate, a leasehold in the following properties within the Presidio under the control of the Secretary: the Letterman-LAIR complex, Fort Scott, Main Post, Cavalry Stables, Presidio Hill, Wherry Housing, East Housing, the structures at Crissy Field, and such other properties, within the Presidio as the Secretary and the Trust deems appropriate. Any such property shall be transferred within 60 days after a request is made by the Trust. The leasehold shall be of sufficient term to enable the Trust to obtain necessary and beneficial financing arrangements and to carry out the purposes of this Act. The Secretary may withhold transfer to the Trust of any buildings necessary to house or support activities of the National Park Service. The Secretary may not transfer to the Trust any property irrevocably permitted to the Department of Army. The Secretary shall transfer, with any transferred property, all leases, concessions, licenses and other agreements affecting such transferred property. The Secretary may transfer any properties within the Presidio to the Trust not requested by the Trust subject to terms and conditions mutually agreed to by the Secretary and the Trust. All proceeds received by the Presidio Trust from the leasing of properties managed by the Trust within the Presidio shall be retained by the Trust without further appropriation and used to offset the costs of administration, preservation, restoration, operation, maintenance, repair, and related expenses incurred by the Trust with respect to such properties.

(c) BOARD OF DIRECTORS.—(1) The powers and management of the Trust shall be vested in a Board of Directors consisting of 13 members, as follows:

(A) The Director of the National Park Service.

(B) Secretary of the Army.

(C) Administrator of the Environmental Protection Agency.

(D) Ten individuals, who are not employees of the Federal Government, appointed by the Secretary within 6 months after the date of the enactment of this Act, 6 of whom shall have knowledge and experience in one or more of the fields of the environment, energy, transportation, international affairs, health, science, education, or any other such field related to the activities at the Presidio; 4 of whom shall have knowledge and experience in one or more of the fields of city planning, finance, real estate, labor or historic preservation. With respect to the 10 individuals, 5 shall meet the additional requirement of possessing extensive knowledge of the region in which the Presidio is located.

Each member of the Board of Directors specified in subparagraphs (A) through (C) paragraph (1) may designate (through written notice to the Secretary and Chairman of the Board) an alternative senior official (classified as Senior Executive Service) of his or her department or agency who may serve on the Board in his or her stead. The Secretary of the Army shall serve on the Board until such time as the Sixth Army Headquarters ceases to maintain a presence at the Presidio. In such an event, the Secretary of Energy shall replace the Secretary of the Army on the Board.

(d) TERMS OF BOARD MEMBERS.—Each member of the Board of Directors appointed under subparagraph (D) of subsection (c)(1) shall serve for a term of 5 years from the expiration of his or her predecessor's term; except that the Secretary, in making the initial appointments to the Board under subparagraph (D), shall appoint 3 Directors to a term of 2 years and 3 Directors to a term of 3 years. Any vacancy on the Board of Directors shall be filled in the same manner in which the original appointment was made, and any member appointed to fill a vacancy shall serve for the remainder of the term for which his or her predecessor was appointed. Each member shall continue to serve after the expiration of his or her term until his or her successor is appointed. No appointed director may serve more than 10 years in consecutive terms.

(e) ORGANIZATION AND COMPENSATION.—(1) The Board of Directors shall elect at the initial meeting a Chairman and a Vice Chairman from among the members of the Board of Directors. The Director of the National Park Service shall serve as Chairman until such time as the Board holds such election.

(2) The Board of Directors may establish an Executive Committee within the Board and other such committees within the Board as it deems appropriate, and delegate such powers to such committees as the Board determines appropriate to carry out its functions and duties. Any such committees established by the Board may meet and take action on behalf of the Board between meetings to the extent the Board delegates such authority. Delegations to such committees shall not relieve the Board of full responsibility for the carrying out of its functions and duties, and shall be revocable by the Board in its exclusive judgment.

(3) Members of the Board of Directors shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Trust.

(4) The Board of Directors shall meet at the call of the Chairman, who shall require it to meet not less often than once every 6 months. A majority of the members of the Board of Directors (or their designated alternates) shall constitute a quorum. The Board shall hold at least one public meeting per year at the Presidio at which time the Board shall report on its operations, accomplishments and goals for the upcoming year.

(5) Members of the Board of Directors shall not be considered Federal employees by virtue of their membership on the Board, except for purposes of the Federal Tort Claims Act and other statutes defining legal liability.

(f) STAFF.—The Board of Directors shall have the power to appoint and fix the compensation and duties of an Executive Director and such other officers and employees of the Trust as may be necessary for the efficient administration of the Trust. Officers and employees of the Trust may be appointed and compensated without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51, and subchapter III of chapter 53, title 5, United States Code (relating to classification and General Schedule pay rates), except that no such officer or employee may receive a salary which exceeds the salary payable to officers or employees of the United States classified a level IV of the Executive Schedule.

(g) EXPERTS AND CONSULTANTS.—The Board of Directors is authorized to procure the services of experts or consultants, or organizations, including but not limited to urban planners, architects, engineers, and appraisers.

(h) AUTHORITIES.—In exercising its powers and duties, the Trust shall act in accordance with both the approved General Management Plan, as amended (hereinafter in this Act referred to as the "Plan") and the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes", approved October 27, 1972 (Public Law 92-589: 86 Stat. 1299; 16 U.S.C. 460bb), and have the following authorities:

(1) The Trust shall manage, maintain, improve and repair those properties within the Presidio which are transferred to the Trust by the Secretary.

(2) The Trust shall publish and disseminate information and make known to potential occupants, by advertisement, solicitation, or other means, the availability of the property within the Presidio which the Trust manages.

(3) The Trust may prepare or cause to be prepared plans, specifications, designs, and estimates of costs for the rehabilitation, improvement, alteration, or repair of any property managed by the Trust, and from time to time may modify such plans, specifications, designs, or estimates.

(4)(A) The Trust may negotiate and enter into agreements, including contracts, leases, and cooperative agreements, with any person including any governmental entity) for the occupancy of any property within the Presidio which the Trust manages.

(B) Agreements under this paragraph shall be subject to procedures established by the Secretary under paragraph (5).

(C) Agreements under this paragraph may be entered into without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b).

(5) The Secretary shall establish procedures for agreements under paragraph (4), including a requirement that in entering into such agreements the Trust shall obtain such competition as is practicable in the circumstances.

(6) The Trust shall establish (through easements, covenants, regulations, agreements, or otherwise) such restrictions, standards, and requirements as are necessary to assure the maintenance, protection, and aesthetic character of the property managed by the Trust.

(7) The Trust may make commercially reasonable loans to the occupants of property managed by the Trust for the preservation, restoration, maintenance, or repair of such property.

(8) The Trust may provide technical assistance to the occupants of property managed by the Trust, to assist such occupants in making repairs or improvements to the property or applying for loans under paragraph (7) of this section.

(9) The Trust and the Secretary may solicit and the Trust may accept donations of funds, property, supplies, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of carrying out its duties.

(10) The Trust may retain any revenues from leases or other agreements concerning property managed by the Trust, including preexisting leases or agreements and any donations, and use the proceeds without further appropriation to offset any costs for any function of the Trust authorized by this Act, except for those moneys transferred to the Secretary as stipulated in paragraph (11).

(11) The Secretary and the Trust shall agree on an amount of revenues received by the Trust to be transferred to the Secretary, to be applied by the Secretary, without further appropriation or offset to appropriation, for common operating and maintenance expenses at the Presidio.

(12)(A) The Trust may not (directly or indirectly) borrow funds from any source other than the Secretary of the Treasury as provided in this paragraph.

(B) Except as provided in subparagraph (F), if at any time the funds available to the Trust are insufficient to enable the Trust to discharge its responsibilities under this Act, the Trust may issue obligations to the Secretary of the Treasury, but only if the Secretary of the Treasury agrees to purchase such obligations after determining that the projects to be funded from the proceeds thereof are credit worthy.

(C) The aggregate amount of obligations issued under this paragraph which are outstanding at any one time may not exceed $150,000,000.

(D) Obligations issued under this paragraph—

(i) shall be in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury, and

(ii) shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(E) No funds appropriated to the Trust may be used for repayment of principal or interest on, or redemption of, obligations issued under this paragraph.

(F) The Secretary of the Treasury may purchase obligations issued under this paragraph only to the extent provided in advance in appropriation Acts.

(13) Upon the request of the Trust, the Secretary of the Treasury shall invest excess moneys of the Trust in public debt securities with maturities suitable to the needs of the Trust, as determined by the Trust, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

(14) The Trust may enter into and perform such contracts and other transactions with any person, firm, association, organization, corporation or governmental entity as may be necessary or appropriate to the conduct of activities authorized under this Act.

(15) The Trust may execute all instruments necessary or appropriate in the exercise of any of its functions under this Act, and may delegate to the Executive Director such of its powers and responsibilities as it deems appropriate and useful for the administration of the Trust.

(16) The Trust may obtain by purchase, rental, donation, or otherwise, such goods and services as may be needed to carry out its duties. In the event of the termination of the Trust, all property and unexpended funds shall be transferred to the Department of the Interior, except that such funds shall only be expended for the purposes of this Act.

(17) The Trust shall procure insurance against any loss in connection with the properties managed by it as is reasonable and customary; and shall procure such additional insurance for losses arising out of any of its authorized activities as is reasonable and customary.

(18) The Trust may sue and be sued in its name. All litigation arising out of the activities of the Trust shall be conducted by the Attorney General; the Trust may retain private attorneys to provide advice and counsel on transactional issues.

(19) The Trust may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised.

(20) The Trust shall have perpetual succession.

(21) The Trust shall have an official seal selected by the Board which shall be judicially noticed.

(22) The Trust shall have all necessary and proper powers for the exercise of the authorities invested in it.

(23) For purposes of complying with section 106 of the National Historic Preservation Act, the Trust may work directly with the National Park Service, the State Historic Preservation Office, and the Advisory Council on Historic Preservation and enter into programmatic agreements, where appropriate.

(i) USE OF FEDERAL PERSONNEL, FACILITIES, AND SERVICES.—The Secretary and the heads of other Federal departments and agencies may provide personnel, facilities, and other administrative services to the Trust to assist it in carrying out its duties under this Act. Furthermore, the Secretary and the heads of other Federal departments and agencies may loan or transfer to the Trust excess or surplus personal property deemed necessary for the management of the Presidio.

(j) TAXES.—Since the exercise of the powers granted by this section will be in all respects for the benefit of the people, the Trust is hereby declared to be devoted to an essential public and governmental function and purpose and shall be exempt from all taxes and special assessments of every kind of the State of California, and its political subdivisions, including the City and County of San Francisco.

(k) VOLUNTEERS.—The Secretary may accept, without regard to the Civil Service classification laws, rules, or regulations, the services of the Trust, the Board, and the officers, and employees and consultants of the Board, without compensation from the Department of the Interior, as volunteers in the performance of the functions authorized herein, in the manner provided for under the Volunteers in the Parks Act of 1969 (16 U.S.C. 18g et seq.).

(l) SAVINGS CLAUSE.—Nothing in this section shall preclude the Secretary from exercising any of his or her lawful powers within the Presidio.

(m) AFFIRMATIVE ACTION.—The Trust shall ensure that affirmative steps are taken, consistent with other Federal law, to afford equal access and equal opportunities for leases, concessions, contracts, subcontracts, and other contracting and employment opportunities to minorities, women, and other socially and economically disadvantaged individuals, commensurate with local availability.

(n) FINANCIAL RECORDS.—The financial records of the Trust shall be available for inspection by the Secretary, the Inspector General of the Department of the Interior, and the Comptroller General at any time and shall be audited by a reputable firm of certified public accountants not less frequently than once each year. Such audit shall be made available to the Secretary and the Congress. The Trust shall be subject to the provisions of the Government Corporation Control Act (31 U.S.C. 9109 et seq.), including the budget and credit provisions, except that the Trust shall submit its budget through and in consultation with the Secretary.

(o) LEASING.—In managing and leasing the properties transferred to it, the Trust should consider the extent to which prospective tenants maximize the contribution to the implementation of the General Management Plan and to the generation of revenues to offset costs of the Presidio. If the Trust has difficulty securing a tenant for a property under its control, it may enter into negotiation with a prospective tenant whose proposed use may be inconsistent with the approved General Management Plan. The Trust may not enter into a lease which is inconsistent with the approved General Management Plan unless the Secretary makes a finding that the proposed lease will not have a detrimental effect on the natural, historical, scenic and recreational values for which the Golden Gate National Recreation Area was established. For major leasing actions, the Trust shall submit the proposed lease to the Secretary of the Interior or his designee for a period of 10 working days for his review of the lease for consistency with the General Management Plan. Before executing the lease, the Trust shall consider issues of consistency raised by the Secretary or his designee.

(p) APPLICATION OF OTHER LAWS.—(1) All general penal statutes relating to the larceny, embezzlement, or conversion of public moneys or property of the United States shall apply to the moneys and property of the Trust.

(2)(A) Except as provided in subparagraphs (B) and (C), Federal laws and regulations governing procurement by Federal agencies shall apply to the Trust.

(B) The Secretary may authorize the Trust, in exercising authority under section 303(g) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 253(g)) relating to simplified purchase procedures, to use as the dollar limit of each purchase or contract under that subsection an amount which does not exceed $500,000.

(C) The Secretary may authorize the Trust, in carrying out the requirement of section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) to furnish to the Secretary of Commerce for publication notices of proposed procurement actions, to use as the applicable dollar threshold for each expected procurement an amount which does not exceed $1,000,000.

(q) GOLDEN GATE NATIONAL RECREATION AREA ADVISORY COMMISSION.—The Trust shall maintain liaison with the Golden Gate National Recreation Area Advisory Commission in matters relating to the General Management Plan, and shall meet with the Commission at least annually.

(r) REVERSION.—In the event of failure or default, all interests and assets of the Trust shall revert to the United States to be administered by the Secretary.

(s) REPORT.—The Trust shall transmit to the Secretary and the Congress, annually each January, a comprehensive and detailed report of its operations, activities, and accomplishments for the prior fiscal year. The report also shall include a section that describes, in general terms, the Trust's goals for the current fiscal year. The portion of the report containing the audited financial statement may be submitted at a later date, but no later than the first day of March of such year.

(t) AUTHORIZATION OF APPROPRIATIONS FOR PRESIDIO.—For purposes of the Presidio, including the Presidio Trust, there is authorized to be appropriated to the Secretary such sums as may be necessary, but the aggregate of funds appropriated for purposes of the Presidio (excluding the Presidio Trust) under this subsection and under the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes", approved October 27, 1972 (Public Law 92-589; 86 Stat. 1299; 16 U.S.C. 460bb) may not exceed $25,000,000 in any one fiscal year. Funds appropriated under this Act (other than funds appropriated for operations) remain available until expended.

(u) SEPARABILITY OF PROVISIONS.—If any provisions of this Act or the application thereof to any body, agency, situation, or circumstance is held invalid, the remainder of the Act and the application of such provision to other bodies, agencies, situations, or circumstances shall not be affected thereby.

(v) The provisions of the Act of March 3, 1931 (40 U.S.C. 276a et seq.; commonly known as the Davis-Bacon Act), and the provisions of the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), shall apply to the Trust. All laborers and mechanics employed on the construction, rehabilitation, reconstruction, alteration, or repair of projects funded in whole or in part by the Trust and projects financed in whole or in part by loans, grants, loan guarantees, or any other assistance by the Trust shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a et seq.; commonly known as the Davis-Bacon Act). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

SEC. 4. COMPLIANCE WITH BUY AMERICAN ACT.

No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1993 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

SEC. 5. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the head of each Federal agency shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 6. PROHIBITION OF CONTRACTS.

It has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

The SPEAKER pro tempore. Pursuant to House Resolution 576, the gentleman from Minnesota [Mr. VENTO] will be recognized for 30 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5231, replaces H.R. 3433, which was introduced by Representative NANCY PELOSI and passed by the House on August 18, 1994. The primary purpose of this legislation is to establish a public benefit corporation to lease and manage property at the Presidio in order to reduce costs to the Federal Government. Over the past several years, the Presidio has been the subject of extensive discussion and debate.

As of October 1, 1994, the Presidio, by law, was transferred from the U.S. Army to the National Park Service to be administered as part of the Golden Gate National Recreation Area [GGNRA]. This transfer was the result of the 1972 enabling legislation for GGNRA which required the Presidio be transferred to the National Park Service when it was determined to be excess to the Army's needs.

The 1,480 acre Presidio contains a wealth of natural, historical, and recreational resources. With 220 years of military history captured in over 500 historic buildings, natural beauty ranging from coastal bluffs to grasslands and forests, and abundant recreational opportunities, the Presidio is a unique place which is made even more remarkable by its location in the middle of a major urban metropolitan area. Sites throughout the Presidio provides views of the Pacific Ocean, the Golden Gate Bridge, the Marin headlands, San Francisco Bay, and the skyline of San Francisco. The Presidio also contains numerous recreational resources where visitors hike, bike, and tour scenic trails and drives. The Golden Gate National Recreation Area is currently the most visited unit of the National Park System, and the addition of the Presidio will provide millions of national and international visitors with the opportunity to enjoy and learn from this truly unique area.

The challenge facing us is to preserve the national assets of the Presidio in a manner which is sensitive to the budgetary constraints of the Federal Government. This concern is bipartisan and it is shared by Congress and the administration. The Congress has already acted once to reduce costs at the Presidio by authorizing the National Park Service to lease the 1.8 million square foot Letterman/Lair hospital complex. The measure we are considering today takes the next step by establishing a public benefit Government corporation to lease the remaining Presidio properties and reinvest the lease income into repair and rehabilitation of structures.

The activities of the National Park Service and the trust will be closely monitored by the authorizing and appropriations committees of Congress. The bill ensures that the activities of the trust are consistent with both the purposes of the act establishing the GGNRA and the approved general management plan of the Presidio. The Secretary of the Interior has the authority to review major leases for consistency with the general management plan. The bill also contains a number of other provisions to increase accountability including requirements for public meetings and maintaining liaison with the GGNRA Advisory Commission as well as other financial reporting requirements.

H.R. 5231 is an important measure which provides for the responsible management of the numerous nationally significant resources of the Presidio. I urge my colleagues to support the bill.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Minnesota [Mr. VENTO] for yielding this time to me, and for his leadership and cooperation in bringing this legislation once again to the floor. I want to also commend

the chairman of the full Committee on Natural Resources, the gentleman from California [Mr. MILLER] for his leadership on it, and the gentleman from Utah [Mr. HANSEN] as well, even though we are not in agreement, for his graciousness in opposition. I also want to thank the gentleman from Florida [Mr. GIBBONS], the chairman of the Committee on Ways and Means, and the gentleman from Missouri [Mr. GEPHARDT], the majority leader, for their assistance in making it possible for us to consider this legislation today.

□ 1640

The gentleman from New York [Mr. SOLOMON], in the debate on the rule, mentioned to the body why it is necessary for us to bring this same legislation up again. I would like to just add to his remarks by emphasizing that this legislation is identical, not one word different, from legislation that passed the House in August and was voted upon and passed the House.

The reason we are bringing it up again is because it is the last day of session. We have not received our bill back from the Senate. It is necessary for us to put the ball back in their court as we adjourn and they approve the legislation so that the much-needed Presidio trust can be put in place.

Mr. Speaker, last weekend, the Presidio changed from an Army post to a national park. So it is necessary for us to have this legislation right now because this park is born.

I think that we can stipulate to the fact that Members have seen the historic value, the value, the biological diversity of the park. It is the only urban park that is a U.S. biosphere in the United States. It is rich in history as far as the U.S. Army is concerned. And its magnificent vistas will be enjoyed for generations to come as a national park.

It was quite a moving occasion to see the Army flag replaced by the national park flag. Of course, the Army flag will still fly there, but side by side with the national park flag.

I say that to emphasize the fact that it is a park; the transition has taken place. This legislation is necessary, and that is why we are taking the unusual measure of reintroducing the bill and sending it over to the Senate.

Mr. VENTO. Mr. Speaker, I reserve the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, here we are, deja vu all over again. This same bill is sitting over in the Senate right now. I am really tempted to deliver the same speech I did 50 days ago, when we last considered this bill. I did not think it was a good bill then. I do not think it is a good bill now.

We have all gone through the reasons and we have all talked money and all the things we did earlier. Instead of spending time on this measure, I refer my colleagues to the debate on pages 23137 through 23141 in the CONGRESSIONAL RECORD dated August 18, 1994.

Mr. ALLARD. Mr. Speaker, I hope Members are listening carefully to the discussion and fully understand exactly what is happening with this rule we are now considering.

If this rule passes, and I stress if because I intend to oppose and seek a vote on this rule, Members of this body will be spending several hours of our final day discussing a bill which is identical to what was agreed to on this floor just 50 days ago and which cannot be amended. A bill which was just introduced at 1:30 a.m. this morning and on which a rule was reported 45 minutes later.

We will spend several hours discussing a bill identical to one which is sitting in the Senate.

Further, we know that the Senate committee of jurisdiction opposes this version of the bill, because they amended it; it is also opposed by the chairman of the responsible Senate Appropriations Committee. In fact, I believe even the sponsor of the bill does not support this version of the bill.

I am sympathetic to the sponsors of this bill that the measure has not moved in the Senate. In fact, the Senate Energy Committee has about 50 of our Natural Resources bills reported from the committee and waiting for action on the Senate floor.

Should we reconvene the Rules Committee and ask them to issue 50 rules so that this body can spend time on each of these important bills?

What about bills of the other 26 committees, don't they deserve equal consideration?

The two fundamental questions we should ask before you vote on this rule are: First, is this action essential from a time perspective? And second, do we have a guarantee that if we pass the same bill again it will be agreed to?—the answer to both questions is no.

The fiscal year 1995 Interior budget is passed and signed into law. It provides $25 million for the Presidio. Even if we pass this bill today it would not increase funding for the Presidio one nickel. Further, we have also enacted legislation to allow NPS to lease the most valuable property at the Presidio. Further, legislation today is not essential for the basic preservation or management of this site over the next 12 months.

What assurances do we have that 100 Senators have agreed to this version of the bill? The fact is, that we have ample evidence that the Senate opposes this version of the Presidio bill.

Further, there is absolutely nothing which prevents the Senate from taking the Presidio bill right now and passing it, except that there is no agreement on the bill.

Passing this bill changes nothing in the Senate and wastes the time of Members of this body.

Therefore, I believe we should vote. Members who don't want to waste their valuable time on passing a bill now sitting in the Senate should vote "no" on this rule.

Mr. HANSEN. Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I would point to the excellent debate record that occurred, with the votes on this bill, on August 18, 1994. I see no need to reiterate my thoughts at this time.

Mr. Speaker, I yield back the balance of my time.

Mr. HANSEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHARP). Pursuant to House Resolution 576, the previous question is ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 134

Mr. HUNTER. Mr. Speaker, I ask unanimous consent to withdraw my name as a cosponsor of House Concurrent Resolution 134.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

TRIBUTE TO THE HONORABLE DOUGLAS APPLEGATE AND MEMBERS RETIRING FROM COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

(Without objection, Mr. TRAFICANT was given permission to address the Houses for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, when I came to this body 10 years ago, there was a fellow in the neighboring district by the name of DOUGLAS APPLEGATE who is now chairman of the Subcommittee on Water Resources and Environment of the Committee on Public Works and Transportation.

The gentleman from Ohio [Mr. APPLEGATE] is leaving the Congress, is retiring.

I just wanted to say on the House floor that he will be very much missed. He was a dear friend and a mentor. He helped many Members in this body. He is one of the finest human beings I have ever met.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I want to thank the gentleman from Ohio, my friend for calling attention to the fact that the gentleman from Ohio, DOUG

APPLEGATE, like myself, is leaving the Congress.

DOUG is a very nice person, one I very much enjoyed working with. I completely join with the gentleman from Ohio in his sentiments expressed today.

Mr. TRAFICANT. Mr. Speaker, I also would like to say the gentleman from Kentucky [Mr. MAZZOLI], as well, a great Member, we will miss him dearly, and many others member of the Committee on Public Works and Transportation, the gentleman from the Virgin Islands [Mr. DELUGO], the gentleman from North Carolina [Mr. VALENTINE], the gentleman from Illinois [Mr. SANGMEISTER], there are many Members that are leaving this body and retiring.

I just would like to conclude and say that the gentleman from Ohio [Mr. APPLEGATE], helped me as much as anybody in my entire life. I will miss him dearly.

He is a dear friend. I love him.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON S. 1569, MINORITY HEALTH IMPROVEMENT ACT OF 1994

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 574 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 574

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 1569) to amend the Public Health Service Act to establish, reauthorize and revise provisions to improve the health of individuals from disadvantaged backgrounds, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 574 provides for the consideration of the conference report on S. 1569, the conference report on the Minority Health Improvement Act of 1994.

The rule waives all points of order against the conference report and against its consideration.

The rule further provides that the conference report shall be considered as read.

Mr. Speaker, the conference report on S. 1569, the bill for which the committee has recommended this rule, is crafted to strengthen Federal programs designed to improve the health status of minorities through the delivery of health care services, training of health professionals, and expanded research and data collection.

This legislation includes an important provision which I drafted to address serious problems confronting women scientists employed at the National Institutes of Health.

Several studies, hearings and task force investigations have been conducted concerning the employment climate at the NIH. In 1993, it was found that disparities and inequities existed for women scientists with regard to pay, tenure, mentoring, promotion and visibility. Underrepresentation of women scientists was found at the more senior levels of the Institutes: only 18 percent of the tenured women scientists at NIH were women, despite the fact that women make up 30 percent of PhD's in the life sciences and medicine.

In May of this year an EEOC report on employment conditions at NIH found that women scientists were leaving the NIH at a rate above their representation in the work force. And entry-level pay for women and minority scientists was lower than for entry-level white male scientists.

Other problems with harassment, discrimination and a pervasive mistrust of the Institute's Equal Employment Opportunity office were also raised.

I have met recently with senior staff at NIH, including the director. And I have been heartened by the Institute's response to many of these problems. I do not doubt their commitment to bring about deep and lasting changes in the culture of this large organization.

Still, I believe it is important for the Congress to enact a legislative response to help support and speed up the process of equalizing opportunity for the women scientists at NIH. That is why I introduced a bill calling on the NIH to establish policies relating to employment of women scientists. These include defining the standard tenure process for all scientific fellows, and calling on the Director of NIH to establish a standard family, including maternity, leave policy throughout the organization. Special consideration should also be given to development of a policy on the recruitment of minority women into tenured posts. And the NIH would be directed to require significant participation of women scientists in intramural and extramural conferences, workshops, congresses and other events funded or sponsored by NIH. Finally, the legislation calls for a study to identify pay differences between women and men scientists, and this information would be open and available to all NIH scientists.

For too long, women in the workplace have put up with substandard treatment and lower pay. It is time for this behavior to end at the Federal Government's premier medical scientific research establishment. I look forward to continuing to work with the NIH to improve conditions for women scientists.

Mr. Speaker, I urge my colleagues to support both the rule and the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, although I do not favor blanket waivers, I will not object to adoption of this rule. The House version of the Minority Health Improvement Act passed by voice vote earlier this year, and although there may be some controversy over the cost of the final measure and over some of the provisions, we can discuss these issues thoroughly during general debate and vote accordingly.

Mr. Speaker, numerous bills come before the House during these last hectic hours of Congress, and we are not always given sufficient time to review the provisions of all legislation.

□ 1650

Mr. Speaker, I urge my colleagues to pay close attention to the debate on these final measures before casting their votes. Mr. Speaker, I urge adoption of the rule.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANTIQUATED PROCEDURES IN THE OTHER BODY BOTTLE UP ACCOMPLISHMENTS OF CONGRESS (Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I have had an interesting day, where many of the members of the press called me out and said, "Isn't it a shame that this Congress did not do anything?" I have been saying, "They did something. They did a lot of things."

The amazing thing to me is that there have been individuals in the other body that have been able to stop everything that has transpired over here. That is really more power than a President has. If a President uses a veto, we have the right to at least attempt a veto override with two-thirds.

However, Mr. Speaker, there are certain procedures that have grown up over the centuries on the other side of this building where one person can stop what the President wants, what a majority of both Houses want, and there is

not anything we can do about it. It is pretty shocking to me that lobbying reform, campaign finance reform, putting the House under the same rules that we pass for everyone else, things like that that there is a tremendous consensus on, one person can stop. I think that has been the real problem.

Mr. Speaker, I just really hope that we get the story straight, because there has been a phenomenal agenda here this year, and many, many good bills have passed. Unfortunately, certain people are able to totally bottle them up. I wish I could do a wanted sign with the faces of those bottlers on it, so people could really find out what happened, because I do not think that is democratic, with a small "d", and I resent very much having this whole body get smeared by those kinds of practices.

RECESS

The SPEAKER pro tempore (Mr. SHARP). Pursuant to clause 12 of rule I, the Chair declares the House in recess for 5 minutes.

Accordingly (at 4 o'clock and 53 minutes p.m.) the House stood in recess until 4:58 p.m.

□ 1700

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GONZALEZ) at 5 p.m.

CONFERENCE REPORT ON S. 1569, MINORITY HEALTH IMPROVEMENT ACT OF 1994

Mr. WAXMAN. Mr. Speaker, pursuant to House Resolution 574, I call up the conference report on the Senate bill (S. 1569) to amend the Public Health Service Act to establish, reauthorize and revise provisions to improve the health of individuals from disadvantaged backgrounds, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to House Resolution 574, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Thursday, October 6, 1994, at page 28578.)

The SPEAKER pro tempore. The gentleman from California [Mr. WAXMAN] will be recognized for 30 minutes, and the gentleman from Virginia [Mr. BLILEY] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present the conference report on S. 1569, the Minority Health Improvement Act of 1994. This report represents the culmination of months of hard work and compromise by Members and staff to create legislation that reflected the spirit of both the House and Senate bills.

The conference agreement honors two Americans—Cesar Chavez and Thurgood Marshall—through the establishment of health professions scholarship programs in their name. These programs will provide an enduring legacy for their work in the cause of civil rights by providing hundreds of young Americans the opportunity to attend health professions schools and to work in medically underserved areas.

The agreement underscores the Congress' commitment to increasing the numbers of disadvantaged students in the health professions through the establishment of new academic consortia. These consortia will promote the recruitment and enrollment of students by placing greater emphasis upon stimulating the interest of younger children in the health sciences. If we are to increase the enrollment of African-American, Hispanic, American Indian and Asian students as physicians, dentists, nurses, and mental health providers, we must devote increased resources at the secondary and college level.

Mr. Speaker, the success of this agreement would not have been possible without the critical participation of Members representing the Hispanic and Black Caucuses. The result is a series of reforms that will achieve a genuine and quantifiable improvement in the availability of programs and health services targeted toward minority and other disadvantaged communities. The reforms reflected in this agreement address what we understand are the most critical needs of minority communities today: improving health status by increasing access to primary and preventive health care.

Mr. Speaker, allow me to briefly summarize three of the most important provisions.

First, establishment of two scholarship programs that will provide tuition assistance to students in exchange for a service commitment among a medically underserved population. The agreement offers hundreds of disadvantaged students who desire a health professions career the opportunity to attend school without the fear of insurmountable debt. It allows talented students the ability to attend the school of their choice and the financial freedom to practice in disadvantaged communities.

Second, reauthorization of the Nation's community, migrant and homeless health care centers. These centers provide invaluable services to millions who lack access to basic primary and preventive health care.

Third, reauthorization of the Healthy Start Program which is designed to reduce infant mortality in communities with high rates.

Mr. Speaker, we know that discretionary funding next year is under severe budgetary caps. Common sense dictates that in times of fiscal austerity, we must prioritize federal programs to address the most pressing needs. The reforms contained in the conference agreement will help increase access to health services and target limited Federal funding to those individuals and communities in greatest need.

I would like to thank all my colleagues on the conference committee for working so cooperatively to achieve these important reforms. The conference report was approved unanimously by all Members—House and Senate.

I want to single out the contributions of several Members who deserve special praise for their concern and commitment to improving the health status of minority populations. Bill Richardson and the Members of the Hispanic Caucus have been strong supporters of efforts to improve the health status of minority populations. With their assistance we have incorporated strong provisions to strengthen the Centers of Excellence Program and assure the collection of accurate health status data used in identifying medically underserved communities.

ED TOWNS and the dean of the Black Caucus, LOUIS STOKES, worked tirelessly to strengthen the conference agreement and expand opportunities for talented students to enter a health professions career. When the hundreds of students who will benefit from this bill complete their education, the communities in which they serve will owe an important debt to the efforts of these valued colleagues.

Finally, I want to thank our Republican conferees, particularly the gentleman from Virginia [Mr. BLILEY], who were so helpful in facilitating this agreement. They are all strongly committed to the objectives of these programs and it has been an honor to work with them.

Mr. Speaker, I urge support for the conference report. Members can take great pride in the ideals and objectives embodied in this important legislation. I urge support for the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this conference agreement largely reflects the House-passed bill with several amendments that improve on that legislation.

First, the conference agreement provides that 30 percent of the funds appropriated for scholarships can be awarded to students who have not declared a medical specialty. This compromise provides much more flexibility for students who under the House-

passed bill would have been required to choose primary care upon entering medical school. The conference agreement also provides that in return for scholarship funds students who enter primary care must serve in a health professions shortage area for each year of funds received and students who select a specialty field incur a two-for-one service requirement. By making these changes all students who receive Federal scholarship funds will now receive full tuition and incur a service requirement.

I am also pleased that the conference agreement eases the new matching requirements imposed by the House bill on health careers opportunities programs. These are programs which recruit and help retain disadvantaged minority students in health professions programs. The conference agreement caps the matching requirements for these programs at 50 percent. Under the House bill these programs were ultimately required to fully fund their programs. We received letters from nearly every program across the country expressing their concern about this provision.

In addition to reauthorizing the health professions programs the conference agreement codifies in law the Healthy Start Program which was initiated by the Bush administration to prevent infant mortality. It also reauthorizes the Community and Migrant Health Centers Programs. All of the programs included in this conference report are intended to improve the health of individuals who live in areas where there is a shortage of health care providers or severe access barriers to health care services.

I urge my colleagues to join me in supporting the conference report on S. 1569.

Mr. Speaker, I would like to commend the gentleman from California [Mr. WAXMAN], the chairman of the Subcommittee on Health and the Environment; the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee; and my colleague, the gentleman from California [Mr. MOORHEAD], the ranking Member, for their working in turning out this bill and conference report.

With that, Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from California for yielding me the time.

Mr. Speaker, I compliment the gentleman and his committee for reporting this Minority Health Improvement Act. The Congresswomen's Caucus certainly supports this and supports it fully. I was very pleased that there is also a women's health provision in here because we know how difficult all of this has been in making our whole health community much more sensitive to the diversity in America.

Mr. Speaker, my colleagues who were horrified by the CNN Program on female genital mutilation (FGM) in Egypt, or heard from their constituents about it, should support the Minority Health Improvement Act. This bill does something about it.

FGM is a traditional practice that involves the cutting off of all or part of the female genitalia. There is no comparison to male circumcision. Over 100 million girls and women in the world have undergone some form of FGM. While the CNN piece focused on FGM in Egypt, I have received reports that FGM is happening in the U.S.

The Minority Health Improvement Act meets this damaging tradition head on. It requires the Office of women's Health and the Office of Minority Health to:

First, collect data on the number of women and girls living in the United States who have experienced some form of FGM.

Second, identify communities in the United States that traditionally practice FGM, and design and carry out outreach activities to educate individuals in the communities on the physical and psychological health effects of such practice.

Third, develop recommendations for the education of students of schools of medicine and osteopathic medicine regarding female genital mutilation, and complications arising from such practices; and disseminate the recommendations.

The Minority Health Improvement Act gives our doctors and social workers the information they need to treat the special health needs of women who have undergone FGM, and to start the education necessary to eradicate FGM in the United States.

□ 1710

Mr. BLILEY. Mr. Speaker, it gives me pleasure to yield as much time as he may consume to the gentleman from California [Mr. MOORHEAD], the ranking minority member of the full committee.

Mr. MOORHEAD. Mr. Speaker, I rise in support of H.R. 3869. The conference report reauthorizes a number of expiring programs in the Public Health Service Act. The purpose of many of these programs is to improve the health of individuals who are members of minority groups through the provision of health care services and by increasing the number of minorities who enter the health professions. The bill: (1) reauthorizes the office of minority health; (2) consolidates three scholarship and loan programs for disadvantaged students and imposes a service requirement on students who receive scholarships; (3) reauthorizes the migrant and community health centers programs; (4) reauthorizes the health care for the homeless program; and (5) reauthorizes the state offices of rural health.

Mr. Speaker, I am especially pleased that this bill reauthorizes the Community Health Centers Program. These centers provide comprehensive, high-quality, primary health care to populations living in medically underserved areas.

Community health centers are located in areas throughout the country where there are financially, geographic, or cultural barriers to primary health care. In many communities, these centers are the sole providers of care. Currently, Community Health Centers (CHCs) serve large proportions of poor and minority people. Sixty percent of C–H–C users are below the poverty level, 29 percent are between 100 and 200 percent of poverty and 11 percent are above 200 percent of poverty. In fiscal year 1992, 44 percent of individuals receiving services were children from newborn to 19 years of age.

I also support the consolidation and modification of the existing health professions scholarship programs. The conference report specifies that scholarships are for the full tuition at a health professions school and in return for this money students are required to serve in a health professions shortage area upon graduation. In this manner this bill not only increases the number of disadvantaged minorities who can attend health professions school but improves the access to health care for underserved areas.

Mr. Speaker, the Senate receded to the House language in Section 807 of title VIII. The House amendment to section 340B creates narrow exemptions from current law eligibility requirements for purchases of covered outpatient drugs by certain entities identified pursuant to the amendments. It is my understanding that it is the intent of the conferees that eligibility for government-mandated price reductions under these amendments is available only to entities that fall within these categories as of the date of enactment of this provision. It is these entities, and only these entities, that have made the case to the Congress to qualify for the exemption.

Any subsequent business arrangement or government actions that may make the terms of subparagraph (L) as modified or new subparagraph (M) appear to be applicable to entities in addition to those eligible as of the date of enactment, should not be construed as extending eligibility for government-mandated pharmaceutical prices under section 340B to such additional entities.

For example, the conferees found that hospitals meeting the requirement of 340B(a)(4)(L)(i) and (ii) in Los Angeles County and currently purchasing

through the Health Services Purchasing Group under the control of Los Angeles County warranted this narrow exemption. It is not the intent of the conferees to cover entities that may begin purchasing through the L.A. County purchasing group after date of enactment.

Mr. Speaker, I urge my colleagues to join me in supporting the conference report on S. 1569

Mr. WAXMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN. Mr. Speaker, I rise in strong support of S. 1569.

I rise in strong support of the conference report for S. 1569, the Minority Health Improvement Act of 1994. I applaud the leadership of Chairman DINGELL and Congressman WAXMAN for bringing this vital initiative to the floor.

This bill includes the authorization of a cooperative regional environmental laboratory to supplement the existing public health laboratories of the border States. A recent incidental discovery of highly toxic fish in the Rio Granda exemplished the need for additional laboratory capacity, because our current labs are stretched beyond capacity and are unable to detect a number of these potential health threats.

This report includes the reauthorization of a host of important health initiatives, such as migrant and community health centers, as well as the creation of a new comprehensive scholarship program. These scholarships are aimed at minority and disadvantaged medical students choosing to go into primary care. This bill will also reserve one-third of medical scholarships for undecided students that may decide to go into specialty areas.

These scholarships will provide stipends and fully fund students' medical education in exchange for service obligations in medically underserved communities. This will complement the existing National Health Service Corps Program, which has only been able to provide assistance to 2 out of every 10 applicants due to funding limitations. This change will result in scholarship recipients getting full funding for their education versus the current $200 to several thousand dollar range that had been awarded.

This minority health bill also includes the reauthorization and improvements in the Health Careers Opportunity Program [H–COP], which provides grants to public, nonprofit entities, health profession, or training programs to promote science and math education in high schools to encourage students from disadvantaged background to go into health professions. This program has been redesigned to focus on making linkages between health profession programs and elementary and secondary schools, including border areas, rather than focusing on remedial math and science classes. The hope is to expose minority children to community-based health clinics via internships, in addition to the academic experience they will receive.

These are only a few examples of the initiatives in this bill. These programs are very important for my district in El Paso, where we have a shortage of primary care providers and a great number individuals that stand to benefit from this bill.

Mr. WAXMAN. Mr. Speaker, I yield 3 minutes to the gentleman form New York [Mr. TOWNS], a very important member of our subcommittee and one of the coauthors of the legislation.

Mr. TOWNS. Mr. Speaker, let me begin by first congratulating and thanking Chairman WAXMAN, chairman of the subcommittee, and the ranking member of the committee, the gentleman from Virginia [Mr. BLILEY], and of course the gentleman from Ohio [Mr. STOKES], who has been involved in this issue down through the years.

Mr. Speaker, I rise in support of S. 1569, the Disadvantaged and Minority Health bill. This legislation is a compromise that reflects the concerns of all minority groups. The gross underrepresentation of minorities across all medical specialties dictates that scholarship opportunities be made available to all students. That is why I am particularly gratified that the scholarship provisions contain a 30 percent setaside for students who do not elect a primary care specialty.

The changes in the Office of Minority Health language will result in a more effective use of that office's resources as well as ensuring that all groups benefit from the programs. Finally, I am pleased that we upgraded the Office of Civil Rights at the Department of Health and Human Services. Unfortunately, the office has a backlog of complaints and lapses between the filing of a complaint and the final internal administrative resolution of a complaint. It is our hope that the elevation of the position of Director of Civil Rights to the rank of Assistant Secretary will assist in reducing the backlog and the processing time for complaints filed with the office.

Mr. Speaker, in conclusion, we have crafted a bill that is fair to all parties. I would urge my colleagues to adopt the conference report.

Again, I thank the ranking member, the gentleman from Virginia [Mr. BLILEY], the chairman of the subcommittee, the gentleman from California [Mr. WAXMAN], and all of the staff on both sides of the aisle for the outstanding job they have done.

Mr. WAXMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. STOKES], the dean of the Black Caucus.

Mr. STOKES. Mr. Speaker, I rise in support of the Minority Health Improvement Act, S. 1569. I want to begin by commending the distinguished chairman of the House Subcommittee on Health and the Environment [Mr. WAXMAN] for bringing this conference report to the floor. There have been a number of complicated issues related to this legislation. I want to especially note his work with both the congressional Hispanic Caucus and the Congressional Black Caucus in working out the concerns of both groups.

I also want to express my appreciation to both Mr. JOSÉ SERRANO, chairman of the congressional Hispanic Caucus, and Mr. LUIS GUTIERREZ, chairman of the congressional Hispanic Caucus health task force, for the excellent cooperation that I have had with them as chairman of the Congressional Black Caucus health braintrust.

One of the stickiest areas of this bill involved the whole issue of primary health care. While the bill emphasizes primary care training, it does include some support to allow students to train in nonprimary care fields as well. The bill also includes support for the establishment of Offices of Minority Health at the Centers for Disease Control and other health related agencies.

Mr. Speaker, the health crisis facing the minority population must be elevated on the Nation's health agenda. Until then, the minority health disparity gap will continue to widen. To effectively address this national crisis, the number of minority health professionals must be increased. Currently, African Americans constitute only 3.7 percent of the Nation's physicians, and Hispanics represent only 5.5 percent of the Nation's physicians. This low representation is reflective of the minority health crisis. Let me take a moment to share just a few of the startling statistics with regard to African Americans.

The infant mortality rate for African Americans is more than twice the rate for whites.

Both cancer incidence and mortality rates are higher for African Americans than for whites.

The life expectancy for white males is 8.2 years longer than for African-American males.

AIDS, HIV infection is now the 6th leading cause of death for African Americans while it is the 10th for whites.

To begin to address the crisis, for the Office of Minority Health, the bill includes an authorization level of $25 million and $28 million for fiscal years 1996 and 1997 respectively. For the Centers of Excellence, the bill includes an authorization level of $28 million and $33 million respectively. For primary care scholarships, the bill includes an authorization level of $38 million and $48 million for fiscal years 1996 and 1997 respectively. These authorization levels will allow the Nation to begin to address the crisis in minority health.

Mr. Speaker, as a nation and as a Congress, we must increase our commitment to resolving the crisis in minority health. S. 1569 is a beginning, however, much more needs to be done to reduce the drastic underrepresentation of minorities in all the health professions.

Again, I commend Chairman WAXMAN for his efforts in bringing this important legislation to the floor. I look forward to working with him in the next Congress in implementing and improving this legislation. Minority health

must be on the front burner as this Nation seeks to improve the quality of life for all Americans.

□ 1720

Mr. WAXMAN. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I rise today in strong support of the conference report on S. 1569, the Disadvantaged Minority Health Improvement Act Reauthorization.

I would first like to salute the gentleman from California, Mr. WAXMAN, the gentleman from New York, Mr. SERRANO, the Chair of the Congressional Hispanic Caucus, and the gentleman from Ohio, Mr. STOKES, who has represented the Congressional Black Caucus in the negotiations which have brought this conference report to the floor.

Each of these Members, and their staffs, have shown an extraordinary commitment to the goal of improving the work of the Department of Health and Human Services and its agencies in addressing the needs of this Nation's minority populations. I believe that we all owe them a debt of gratitude for their dedication.

I would particularly like to acknowledge the work of Julia Fortier of the staff of the Subcommittee on Health and the Environment. Her commitment to, and understanding of, the issues facing Asian Pacific Americans around this country has been extraordinary and is deeply appreciated.

I am proud to support this conference report, as I supported the earlier House passage of the bill. As Chair of the Congressional Asian Pacific American Caucus, I would like to draw particular attention to the provisions of S. 1569 which are of great concern to the Asian Pacific American communities.

First, S. 1569 restates the commitment made by the Congress in 1990, that the necessity of linguistically and culturally appropriate care must be a priority within the Office of Minority Health at the Department of Health and Human Services.

Unfortunately, OMH chose to ignore the directions of the Congress and the requirements of the law, and for 3 years refused to implement the bilingual grants program. With the restatement by the conference report before us today that clearly earmarks $3 million of the agency's budget for that purpose, they hopefully will not ignore it further.

Second, the conference report reauthorizes the special research grants program at the National Center for Health Statistics. Since the passage of the Disadvantaged Minority Health Improvement Act in 1990, NCHS has been using this program as a means to measure the health status of ethnic minority groups too small to be picked up by their normal surveys. The resulting data are already providing important results for the smaller Asian and Pacific Islander communities—particularly Southeast Asian refugees.

The bill would also resolve a longstanding difficulty which the Asian Pacific American community has had with the operation of the Community and Migrant Health Centers Program. Current law is ambiguous about the ability of the Secretary of Health and Human Services to approve the funding of a community health center within the same geographic area as an existing center.

This has had a devastating effect on efforts around the country by Asian Pacific American community organizations to establish community health centers responsive to our community's needs.

Existing centers often have well-established patient caseloads, and are severely underfunded. Expansion of their existing programs to accommodate services in three, four, or five Asian languages is something which may not be in the reach of their current resources.

Asian Pacific American health advocates have therefore been faced with an impossible choice: to fight existing centers doing outstanding work in the African-American and Latino communities, or simply do without access to the Community Health Centers Program. Neither one of those options is acceptable, and the language contained in this conference report will remove this ongoing difficulty.

The conference agreement also accepts language adopted in the other body elevating the position of Director of the Office of Civil Rights at the Department of Health and Human Services to an Assistant Secretary of Civil Rights.

Mr. Speaker, the problem of discrimination in our Nation's health care system is a major one. It seems to me that, in order to show the proper level of concern for this issue, and to give the occupant of this office the necessary clout to deal with this problem, the elevation of the Civil Rights Division at Health and Human Services to the Assistant Secretary level is crucial.

The conference report would create a Minority Health Advisory Committee at the Department of Health and Human Services, in order to ensure that the Department no longer ignores the needs of racial and ethnic minority communities. It is my hope that this Advisory Committee can heal longstanding divisions between the Department of Health and Human Services and the communities the Department was intended to serve.

The conference report will also extend and reauthorize two crucial programs: The Native Hawaiian Health Care Program and the Health Services for Pacific Islanders Program.

Finally, the conference agreement accepts language adopted in the Senate requiring the Office of Civil Rights the Department of Health and Human Services to issue regulations establishing standards for linguistically appropriate care. While these regulations have technically been required since a Supreme Court decision in the late 1970's, they have not yet been issued. This conference agreement clearly demonstrates that the Congress considers these regulations a priority, and would require their issuance within 180 days of the President signing this bill into law.

In closing, Mr. Speaker, this conference agreement will restate this Congress' commitment to ensuring that health care programs within the Federal Government are fully responsive to the needs of racial and ethnic minority populations. I urge my colleagues to join me in approving it.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I rise to thank the chairman, the gentleman from California [Mr. WAXMAN], and the ranking member, the gentleman from Virginia [Mr. BLILEY], for their hard work on the Minority Health Improvement Act. Their work assuages some of my disappointment that we were not able to enact full-fledged health care this year. With this act we at least continue to work to alleviate some of the problems of those who have the least access, as with people of color, and those who have been often overlooked, as with many women who have neglected health problems.

The Office of Minority Health, I know, will reach to some of the places where health care simply does not exist, especially in rural areas and in public housing. The increase in scholarships to health professionals, in particular, means that the people most inclined to carry their skills back to where they are most needed will be favored with these scholarships.

I am particularly delighted at the establishment of an Office of Women's Health now to match the Office of Minority Health. Only through such an office can we get to such troublesome issues as the study needed on female genital mutilation in the United States, a practice which we simply must not allow to grow here.

The new office, of course, will yield some of the advocacy that came almost exclusively from our own Women's Caucus.

I thank both gentlemen for their hard work on this very important bill.

Mr. WAXMAN. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. SERRANO].

Mr. SERRANO. Mr. Speaker, as chairman of the Congressional Hispanic Caucus, I rise in strong support of the conference report accompanying

S. 1569, the Minority Health Improvement Act of 1994. I strongly commend Chairman WAXMAN, the drafter of the House counterpart, H.R. 3869, and Representative BILL RICHARDSON, who was a conferee, for their continued leadership in moving this legislation forward.

The legislation includes measures sponsored by the Hispanic Caucus in H.R. 3230. I introduced H.R. 3230 on behalf of the Hispanic Caucus last year to improve the health opportunities and outcomes of Latinos and other underserved communities. The enactment of the original Minority Health Improvement Act of 1990 was historic because it brought the health concerns of ethnic and racial minority communities to the forefront of Federal health policy. The bill before us today improves that bill and makes great strides toward assuring that Federal health programs better serve Latinos and other disadvantaged persons.

Regardless of what some may say, there is a massive health care crisis. The Latino experience demonstrates that many hard working Americans are left behind by the current health insurance structure. Nearly half of Latinos at some point during the past year lacked health insurance. Yet 80 percent of uninsured Latinos are fully employed.

Indeed, receiving timely and adequate health care is the exception rather than the rule for many underserved communities. Latinos in both urban and rural settings face severely limited health care options because there are too few providers and health care facilities are overcrowded. Studies of Latino communities in New York City, like the one I represent, reveal that existing health care providers can only meet 50 percent of the residents' needs for primary health care visits. Many Latino communities on the United States-Mexico border do not have a single doctor.

Mr. Speaker, the bill before us today is an important step toward improving the health of underserved communities. However, in light of the great barriers faced by Latinos and other hard working Americans, broad changes are needed. We need universal health insurance.

But, that is not the purpose of the bill before us now. The Minority Health Improvement Act is an excellent, let me repeat, excellent, step toward addressing the needs of Latinos and other underserved communities. I would like to detail for the record the numerous reforms proposed by this bill.

Indeed, measures included in this bill will enhance the responsiveness of Federal programs in meeting the needs of Latino and other underserved communities. S. 1569, as worked out in Conference, places renewed emphasis on attempting to equitably balance the needs of all groups served. It improves and strengthens the health care capacity of community-based facilities, includes programs to help minority students enter in health professions, and improves research on the health status of ethnic minorities.

This legislation reauthorizes the program of community and migrant health centers, which are badly needed in Latino communities. In addition, with the introduction of this legislation, the way community and migrant health center grants are allocated will now be more sensitive to the access needs of Latinos. I, and the Hispanic Caucus, strongly support the modifications made to the Medically Underserved Area [MUA] designation contained in the bill. The age and infant morbidity factors contained in existing MUA criteria, which target community and migrant health center grants, discriminate against Hispanics. S. 1569 modifies the criteria to include factors indicative of health status, availability of residents to pay, and other barriers to access. Report language specifies that lack of health insurance may be considered under the availability of residents to pay criteria. Latinos are the single group most likely to lack health insurance coverage.

We are in strong support of provisions included in the bill to improve and increase services for limited-English-proficient persons so that care is provided in an appropriate language and cultural context.

This legislation also improves programs that give access to Latino and other minority students to health professions schools. We welcome the renewed emphasis on attempting to equitably balance the needs of all groups served. Measures are included to improve the low participation rates of institutions who serve Latinos in the Health Careers Opportunities Program [H-COP]. H-COP is a pipeline program to increase the number of minority health professionals, will allow for more to participate in the program.

Many Latino medical students who want to return to their underserved communities to practice complain that they are having problems choosing primary care as a health professional option because of the huge debt they must incur. This legislation includes scholarships for minority students interested in working in underserved communities, like those in New York City and along the U.S.-Mexico border, to choose a primary care specialty for career interest rather than not having it as an option because of economic reasons.

I hope that Congress will return next year to finish the job begun by today's important legislation.

I urge my colleagues to vote aye.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on S. 1569, now under consideration.

The SPEAKER pro tempore (Mr. GONZALEZ). Is there objection to the request of the gentleman from California?

There was no objection.

Mrs. LOWEY. Mr. Speaker, I rise in strong support of the conference report on the Minority Health Improvement Act, S. 1569.

The Minority Health Improvement Act contains important provisions to ensure equitable treatment of minorities and women under our health system.

The provisions in the conference report on women's health, known as the Women's Health Equity Act, will improve the treatment and health of women across the Nation. My colleagues will describe many of the provisions in the women's health equity title—all of which will contribute to better treatment of women's health issues. But I will take just a moment to highlight provisions, which I sponsored, to improve the attention given to women's health needs in medical school curricula.

Women have unique health needs. But traditional medical education uses men as the standard for research, surgical training, and diagnosis of disease. Traditional medical education, therefore, has failed American women by not adequately addressing their unique health needs. Inadequate focus by medical schools on the unique health issues women confront leads to misdiagnosis of women's health problems, increased costs associated with these problems, and degeneration of the health of many American women.

It is time to ensure equity in the classroom and in the examining room. We must correct the lack of clinical training in women's health to ensure that women receive the appropriate primary and preventive care they need to improve their health and save health care dollars.

The provisions included in the Minority Health Improvement Act will correct this inequity. This legislation directs the Department of Health and Human Services to study and detail the content of women's health curricula in medical schools, identify gaps and omissions, and make recommendations to correct inequities.

These provisions are essential, Mr. Speaker, and this is a very important bill. I urge my colleagues to support the conference report.

Mr. ORTIZ. Mr. Speaker, today I rise in support of the conference report on S. 1569, the Minority Health Improvement Act. This legislation seeks to improve the health status of racial and ethnic minorities along with reducing the disparities in the health status of minorities. While this legislation does address the needs of minorities, it also contains provisions that would affect the public health of our country. In particular, one invaluable provision addresses the incidence of birth defects, a national health problem that crosses all geographic areas and affects children of all races and economic classes.

It is astonishing to note that every hour a baby dies due to a birth defect, and that birth defects are the leading cause of infant mortality in the United States. Our country lacks a coherent, comprehensive national strategy to address the birth defects problem. Because

we lack such a strategy, there are inadequate State and local resources that work to combat the incidence of birth defects. As a result, most Americans have insufficient knowledge about birth defects, and remain unaware of the high rate of birth defects in our country.

I became more aware of birth defects through a tragedy in Cameron County, TX, when it was noticed that there was a high rate of spinal and neural tube birth defects in infants born in the border region of south Texas. When the matter was first brought to my attention, I was astonished that there was no national monitoring system with which to track and investigate such birth defects.

At that time, I introduced legislation, the Birth Defects Prevention Act, to establish a nationwide birth defects surveillance and prevention program. Such programs could identify clusters of birth defects, study patterns to determine causes, and ultimately lead to the development of prevention strategies.

Legislation to collect and analyze data on birth defects could not have been possible without the drive of the March of Dimes. The allegiance of the March of Dimes and its staff on this effort has been remarkable. The March of Dimes' commitment and fervor for establishing a national program for birth defects prevention should be acknowledged by all Americans. For if this legislation can begin to identify causes of birth defects, then we can help prevent the occurrence of future ones.

Ms. SNOWE. Mr. Speaker, I rise today in support of S. 1569, the Minority Health Improvement Act. This bill expands and reauthorizes health services, education, professional programs, and research for minorities. It also incorporates four provisions of the Women's Health Equity Act of 1993, of which I am a cosponsor as cochair of the Congressional Caucus for Women's Issues.

Women's health has been overlooked for far too many years. It is only within the last decade that a governmental task force was formed to review and recommend a comprehensive women's health agenda. With the Congressional Caucus for Women's Issues leading the charge, the inadequacies and inequities in health care and medical research on women have begun to be addressed in legislation.

The Minority Health Improvements Act authorizes $5 million for fiscal year 1995 for the establishment in law of the Office of Women's Health in the Public Health Service. I sponsored this bill as part of the Women's Health Equity Act. The Office will be administered by the Deputy Assistant Secretary for Women's Health, who has the authority to develop and support programs concerning women's health and advise heads of the PHS agencies and monitor activities that relate to women's health.

I am pleased that the Office of Women's Health will have general authority to offer recommendations on all programs and activities conducted by the Public Health Service to assure that women's health care needs will be addressed through a comprehensive and coordinated policy. Codifying this Office in statute will ensure that women's health concerns are integrated into all programs and activities of the Public Health Service and that women are no longer a footnote in the annals of medical research and care.

Ms. VELÁZQUEZ. Mr. Speaker, I rise today in strong support of S. 1569, the Minority Health Improvement Act. I would like to thank Chairman WAXMAN, Representative LUIS GUTIERREZ, and the distinguished Hispanic Caucus Chairman JOSÉ SERRANO for their hard work on this bill.

Comprehensive health care reform may be dead in Congress, but for millions of Americans, the health care crisis is very much alive. This is especially true for minorities. We lack access to health providers and information about our health options. For example, in New York's lower east side, a poor and minority area in my district, there are only 450 doctors per 100,000 people. Sixty blocks away, in the affluent upper east side, there are 1,700 doctors per 100,000 people. Even when health professionals are available, many people of color cannot access them because they do not accept Medicaid patients or provide linguistically and culturally appropriate care.

The conference report on S. 1569 represents a strong response to the crisis. It will provide comprehensive data collection on the health status and needs of minorities, recruitment programs targeted at minority youth, scholarship opportunities for minorities entering medical school, and authorize funds for language services and disease prevention programs. S. 1569 reauthorizes the Community and Migrant Health Centers, the safety net providers who treat a large portion of the poor minority population. The bill also includes key provisions originally contained in H.R. 3230, the Minority Health Opportunity Enhancement Act [M–HOPE]. M–HOPE, which focused on enhancing the responsiveness of the Federal health programs in meeting the needs of Latinos, was unanimously supported by the Congressional Hispanic Caucus.

I urge my colleagues to seize the day. The chance for comprehensive health reform in this Congress has passed, but we still have an opportunity to respond to a major component of the health care crisis. We must not let this moment pass—millions of lives depend upon it. Vote yes on the conference report on S. 1569.

Mr. RICHARDSON. Mr. Speaker, I rise in support of the conference report on the Minority Health Improvement Act of 1994. This conference report represents a huge leap in the right direction for all minorities.

There have been some very contentious issues included in the conference on this bill and even though not all of them may have been worked out to the complete content of all parties, this conference report is far too important for minority health to be held up now.

I joined by colleagues in the Hispanic caucus over a year ago to introduce H.R. 3230, the Minority Health Opportunity Enhancement Act of 1993. Since that introduction, staff and members have been in very lengthy discussions and negotiations and the conference report contains many of the original goals of H.R. 3230.

All of the programs in this conference report have great importance for minority health but I would like to take a moment to focus on just a few.

Back when we first passed this act in 1990, I helped create the Center of Excellence Program in this act for both native Americans and Hispanics.

I am happy to report that the conference report changes the distribution of funding for Centers of Excellence to make the allocations to Hispanic and Native American Centers more equitable in the future while protecting the funding all centers currently receive.

The total authorization for all Centers of Excellence is increased and this is critical because many Hispanic and Native American Centers have had trouble meeting their goals with the money made available to them now.

This conference report also contains specific funding that must be devoted to the collection of data on Hispanic Health at the agency for health care policy and research and the National Center for Health Statistics.

There is an incredible lack of data available on the health of Hispanic citizens in this country. And within the Hispanic population, there are great differences in health indicators among various subgroups of the Hispanic population.

This definitely promotes gross overgeneralizations on Hispanic health. All Hispanics are hurt by this narrow focus on certain health indicators.

This conference report adds additional funding specifically for the gathering of more complete data on Hispanic health.

Mr. Speaker, we had hoped that we would be able to pass a health care reform bill this year but that was not possible. However, this bill may be as important or more important for minorities in the immediate future.

For that reason I want to express my thanks to Chairmen WAXMAN and DINGELL for their continuing leadership on this issue as well as Senator KENNEDY and Senator KASSEBAUM for their important work on this bill in the Senate.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BLILEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WAXMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 394, nays 5, not voting 35, as follows:

[Roll No. 504]

YEAS—394

Abercrombie	Barcia	Boehlert
Ackerman	Barlow	Boehner
Allard	Barrett (NE)	Bonilla
Andrews (ME)	Barrett (WI)	Bonior
Andrews (NJ)	Bartlett	Borski
Andrews (TX)	Becerra	Boucher
Archer	Beilenson	Brooks
Armey	Bereuter	Browder
Bacchus (FL)	Berman	Brown (CA)
Bachus (AL)	Bevill	Brown (FL)
Baesler	Bilbray	Brown (OH)
Baker (CA)	Bishop	Bryant
Baker (LA)	Blackwell	Bunning
Ballenger	Bliley	Buyer
Barca	Blute	Byrne

Callahan	Gunderson	McKeon
Calvert	Gutierrez	McKinney
Camp	Hall (OH)	McNulty
Canady	Hall (TX)	Meehan
Cantwell	Hamburg	Meek
Cardin	Hamilton	Menendez
Carr	Hansen	Meyers
Castle	Harman	Mfume
Chapman	Hastert	Mica
Clay	Hastings	Michel
Clayton	Hayes	Miller (CA)
Clement	Hefley	Miller (FL)
Clinger	Hefner	Mineta
Clyburn	Herger	Minge
Coble	Hilliard	Mink
Coleman	Hinchey	Moakley
Collins (GA)	Hoagland	Molinari
Collins (IL)	Hobson	Mollohan
Collins (MI)	Hochbrueckner	Montgomery
Combest	Hoekstra	Moorhead
Condit	Hoke	Moran
Conyers	Holden	Morella
Cooper	Horn	Murphy
Coppersmith	Hoyer	Murtha
Costello	Huffington	Myers
Cox	Hughes	Nadler
Coyne	Hunter	Neal (MA)
Cramer	Hutchinson	Neal (NC)
Crane	Hutto	Nussle
Crapo	Hyde	Oberstar
Cunningham	Inglis	Obey
Danner	Inslee	Olver
Darden	Jacobs	Ortiz
de la Garza	Jefferson	Orton
Deal	Johnson (CT)	Owens
DeFazio	Johnson (GA)	Oxley
DeLauro	Johnson (SD)	Packard
Dellums	Johnson, E.B.	Pallone
Derrick	Johnston	Parker
Deutsch	Kanjorski	Pastor
Diaz-Balart	Kaptur	Paxon
Dickey	Kasich	Payne (NJ)
Dicks	Kennedy	Pelosi
Dingell	Kennelly	Penny
Dixon	Kildee	Peterson (FL)
Dooley	Kim	Peterson (MN)
Doolittle	King	Petri
Dornan	Kingston	Pickett
Dreier	Kleczka	Pombo
Dunn	Klein	Pomeroy
Durbin	Klink	Portman
Edwards (CA)	Klug	Poshard
Edwards (TX)	Knollenberg	Price (NC)
Ehlers	Kolbe	Pryce (OH)
Emerson	Kopetski	Quillen
Engel	Kreidler	Quinn
English	Kyl	Rahall
Eshoo	LaFalce	Ramstad
Evans	Lambert	Rangel
Everett	Lancaster	Reed
Ewing	Lantos	Regula
Farr	LaRocco	Reynolds
Fawell	Lazio	Richardson
Fazio	Leach	Ridge
Fields (LA)	Levin	Roberts
Fields (TX)	Lewis (CA)	Roemer
Filner	Lewis (GA)	Rogers
Fingerhut	Lewis (KY)	Rohrabacher
Fish	Lightfoot	Ros-Lehtinen
Flake	Linder	Rose
Ford (MI)	Lipinski	Rostenkowski
Fowler	Livingston	Roth
Frank (MA)	Lloyd	Rowland
Franks (CT)	Long	Roybal-Allard
Franks (NJ)	Lowey	Royce
Frost	Lucas	Rush
Furse	Machtley	Sabo
Gallegly	Maloney	Sanders
Gejdenson	Mann	Sangmeister
Gekas	Manton	Santorum
Gephardt	Manzullo	Sarpalius
Geren	Margolies-Mezvinsky	Sawyer
Gibbons	Markey	Saxton
Gilchrest	Martinez	Schaefer
Gillmor	Matsui	Schenk
Gilman	Mazzoli	Schiff
Gingrich	McCandless	Schroeder
Glickman	McCloskey	Schumer
Gonzalez	McCollum	Scott
Goodlatte	McCrery	Sensenbrenner
Goodling	McDade	Serrano
Gordon	McDermott	Sharp
Goss	McHale	Shaw
Grams	McHugh	Shays
Green	McInnis	Shepherd
Greenwood		Shuster
Sisisky	Tanner	Vucanovich
Skaggs	Tauzin	Walker
Skeen	Taylor (MS)	Walsh
Skelton	Taylor (NC)	Waters
Smith (IA)	Tejeda	Watt
Smith (MI)	Thomas (CA)	Waxman
Smith (NJ)	Thomas (WY)	Weldon
Smith (OR)	Thompson	Wheat
Smith (TX)	Thornton	Williams
Snowe	Thurman	Wilson
Solomon	Torkildsen	Wise
Spence	Torres	Wolf
Stark	Towns	Woolsey
Stearns	Traficant	Wyden
Stokes	Unsoeld	Wynn
Strickland	Upton	Yates
Stupak	Valentine	Young (AK)
Swett	Velazquez	Young (FL)
Swift	Vento	Zeliff
Synar	Visclosky	Zimmer
Talent	Volkmer	

NAYS—5

Burton	Hancock	Stump
Duncan	Johnson, Sam	

NOT VOTING—35

Applegate	Inhofe	Roukema
Barton	Istook	Slattery
Bateman	Laughlin	Slaughter
Bentley	Lehman	Spratt
Bilirakis	Levy	Stenholm
Brewster	Lewis (FL)	Studds
DeLay	McCurdy	Sundquist
Foglietta	McMillan	Torricelli
Ford (TN)	Payne (VA)	Tucker
Gallo	Pickle	Washington
Grandy	Porter	Whitten
Houghton	Ravenel	

□ 1749

Mr. STUMP changed his vote from "yea" to "nay."

Messrs. BONILLA, GILCHREST, and BARCIA of Michigan changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. SLAUGHTER. Mr. Speaker, I was unable to be present for rollcall vote 504 today. Had I been present, I would have voted "yes."

PERSONAL EXPLANATION

Mr. PORTER. Mr. Speaker, I was unable to be present on the House floor for the vote on S. 1569, the Minority Health Improvement Act. I requested to be paired against this bill, and had I been present, I would have voted "No."

NATIONALITY AND NATURALIZATION AMENDMENTS OF 1993

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 783) to amend title III of the Immigration and Nationality Act to make changes in the laws relating to nationality and naturalization, with Senate amendments to the House amendment thereto, and concur in the Senate amendments to the House amendment.

The Clerk read the title of the bill.

The text of the Senate amendments to the House amendment to the Senate amendment is as follows:

Senate amendments to House amendment:

Page 36, after line 19 of the House engrossed amendment, insert:

SEC. 220. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) WAIVER.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) is amended—

(1) in the first proviso by inserting "(or, in the case of an alien described in clause (iii), pursuant to the request of a State Department of Public Health, or its equivalent after "interested United States Government agency"; and

(2) by inserting after "public interest" the following: "except that in the case of a waiver requested by a State Department of Public Health, or its equivalent the waiver shall be subject to the requirements of section 214(k)".

(b) RESTRICTIONS ON WAIVER.—Section 214 of such Act (8 U.S.C. 1184) is amended by adding at the end the following:

"(k)(1) In the case of a request by an interested State agency for a waiver of the two-year foreign residence requirement under section 212(e) with respect to an alien described in clause (iii) of that section, the Attorney General shall not grant such waiver unless—

"(A) in the case of an alien who is otherwise contractually obligated to return to a foreign country, the government of such country furnishes the Director of the United States Information Agency with a statement in writing that it has no objection to such waiver;

"(B) the alien demonstrates a bona fide offer of full-time employment at a health facility and agrees to begin employment at such facility within 90 days of receiving such waiver and agrees to continue to work in accordance with paragraph (2) at the health care facility in which the alien is employed for a total of not less than 3 years (unless the Attorney General determines that extenuating circumstances such as the closure of the facility or hardship to the alien would justify a lesser period of time);

"(C) the alien agrees to practice medicine in accordance with paragraph (2) for a total of not less than 3 years only in the geographic area or areas which are designated by the Secretary of Health and Human Services as having a shortage of health care professionals; and

"(D) the grant of such waiver would not cause the number of waivers allotted for that State for that fiscal year to exceed twenty.

"(2)(1) Not withstanding section 248(2), the Attorney General may change the status of an alien that qualifies under this subsection and section 212(e) to that of an alien described in section 101(a)(15)(H)(i)(b).

"(B) No person who has obtained a change of status under subparagraph (A) and who has failed to fulfill the terms of a contract with a health facility shall be eligible to apply for an immigrant visa, for permanent residence, or for any other change of nonimmigrant status until it is established that such person has resided and been physically present in the country of his nationality or his last residence for an aggregate of at least two years following departure from the United States.

"(3) Notwithstanding any other provision of this subsection, the two-year foreign residence requirement under section 212(e) shall

apply with respect to an alien described in clause (iii) of that section, who has not otherwise been accorded status under section 101(a)(27)(H), if at any time the alien practices medicine in an area other than an area described in paragraph (1)(C).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to aliens admitted to the United States under section 101(a)(15)(J) of the Immigration and Nationality Act, or acquiring such status after admission to the United States before, on, or after the date of enactment of this Act and before June 1, 1996.

Page 36, after line 19 of the House engrossed amendment, insert:

SEC. 221. VISAS FOR OFFICIALS OF TAIWAN.

Whenever the president of Taiwan or any other high-level official of Taiwan shall apply to visit the United States for the purposes of discussions with United States federal or state government officials concerning:

(i) Trade or business with Taiwan that will reduce the U.S.-Taiwan trade deficit;

(ii) Prevention of nuclear proliferation;

(iii) Threats to the national security of the United States;

(iv) The protection of the global environment;

(v) The protection of endangered species; or

(iv) Regional humanitarian disasters.

The official shall be admitted to the United States, unless the official is otherwise excludable under the immigration laws of the United States.

Page 36, after line 19 of the House engrossed amendment, insert;

SEC. 222. EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) EXPANSION OF DEFINITION.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)) is amended to read as follows:

"(43) The term 'aggravated felony' means—

"(A) murder;

"(B) illicit trafficking in a controlled substance (as defined in section 102 of the Controlled Substances Act), including a drug trafficking crime (as defined in section 924(c) of title 18, United States Code);

"(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18, United States Code) or in explosive material (as defined in section 841(c) of that title);

"(D) an offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceed $100,000;

"(E) an offense described in—

"(i) section 842 (h) or (i) of title 18, United States Code, or section 844 (d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);

"(ii) section 922(g) (1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924 (b) of (h) of title 18, United States Code (relating to firearms offenses); or

"(iii) section 5861 of the Internal Revenue Code of 1986 (relating to firearms offenses);

"(F) a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;

"(G) a theft offense (including receipt of stolen property) or burglary offense for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 5 years;

"(H) an offense described in section 875, 876, 877, or 1202 of title 18, United States Code (relating to the demand for or receipt of ransom);

"(I) an offense described in section 2251, 2251A, or 2252 of title 18, United States Code (relating to child pornography);

"(J) an offense described in section 1962 of title 18, United States Code (relating to racketeer influence corrupt organizations) for which a sentence of 5 years' imprisonment or more may be imposed;

"(K) an offense that—

"(i) relates to the owning, controlling, managing, or supervising of a prostitution business; or

"(ii) is described in section 1581, 1582, 1583, 1584, 1585, or 1588, of title 18, United States Code (relating to peonage, slavery, and involuntary servitude);

"(L) an offense described in—

"(i) section 793 (relating to gathering or transmitting national defense information), 798 (relating to disclosure of classified information), 2153 (relating to sabotage) or 2381 or 2382 (relating to treason) of title 18, United States Code; or

"(ii) section 601 of the National Security Act of 1947 (50 U.S.C. 421) (relating to protecting the identity of undercover intelligence agents);

"(M) an offense that—

"(i) involves fraud or deceit in which the loss to the victim or victims exceeds $200,000; or

"(ii) is described in section 7201 of the Internal Revenue Code of 1986 (relating to tax evasion) in which the revenue loss to the Government exceeds $200,000;

"(N) an offense described in section 274(a)(1) of title 18, United States Code (relating to alien smuggling) for the purpose of commercial advantage;

"(O) an offense described in section 1546(a) of title 18, United States Code (relating to document fraud) which constitutes trafficking in the documents described in such section for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 5 years;

"(P) an offense relating to a failure to appear by a defendant for service of sentence if the underlying offense is punishable by imprisonment for a term of 15 years or more; and

"(Q) an attempt or conspiracy to commit an offense described in this paragraph.

The term applies to an offense described in this paragraph whether in violation of Federal or State law and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to convictions entered on or after the date of enactment of this Act.

SEC. —. SUMMARY DEPORTATION.

(a) EXPEDITED PROCEDURES.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended—

(1) in subsection (b)(4)(D), by striking "the determination of deportability is supported by clear, convincing, and unequivocal evidence and"; and

(2) in subsection (b)(4)(E), by striking "entered" and inserting "adjudicated".

(b) TECHNICAL CORRECTION.—Section 106(d)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended by striking "242A(b)(5)" and inserting "242A(b)(4)".

SEC. —. JUDICIAL DEPORTATION.

(a) JUDICIAL DEPORTATION.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by adding at the end the following new subsection:

"(d) JUDICIAL DEPORTATION.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, a United States district court shall have jurisdiction to enter a judicial order of deportation at the time of sentencing against an alien whose criminal conviction causes such alien to be deportable under section 241(a)(2)(A), if such an order has been requested by the United States Attorney with the concurrence of the Commissioner and if the court chooses to exercise such jurisdiction.

"(2) PROCEDURE.—

"(A) The United States Attorney shall file with the United States District court, and serve upon the defendant and the Service, prior to commencement of the trial or entry of a guilty plea a notice of intent to request judicial deportation.

"(B) Notwithstanding section 242B, the United States Attorney, with the concurrence of the Commissioner, shall file at least 30 days prior to the date set for sentencing a charge containing factual allegations regarding the alienate of the defendant and identifying the crime or crimes which make the defendant deportable under section 241(a)(2)(A).

"(C) If the court determines that the defendant has presented substantial evidence to establish prima facie eligibility for relief from deportation under this Act, the Commissioner shall provide the court with a recommendation and report regarding the alien's eligibility for relief. The court shall either grant or deny the relief sought.

"(D)(i) The alien shall have a reasonable opportunity to examine the evidence against him or her, to present evidence on his or her own behalf, and to cross-examine witnesses presented by the Government.

"(ii) The court, for the purposes of determining whether to enter an order described in paragraph (1), shall only consider evidence that would be admissible in proceedings conducted pursuant to section 242(b).

"(iii) Nothing in this subsection shall limit the information a court of the United States may receive or consider for the purposes of imposing an appropriate sentence.

"(iv) The court may order the alien deported if the Attorney General demonstrates that the alien is deportable under this Act.

"(3) NOTICE, APPEAL, AND EXECUTION OF JUDICIAL ORDER OF DEPORTATION.—

"(A)(i) A judicial order of deportation or denial of such order may be appealed by either party to the court of appeals for the circuit in which the district court is located.

"(ii) Except as provided in clause (iii), such appeal shall be considered consistent with the requirements described in section 106.

"(iii) Upon execution by the defendant of a valid waiver of the right to appeal the conviction on which the order of deportation is based, the expiration of the period described in section 106(a)(1), or the final dismissal of an appeal from such conviction, the order of deportation shall become final and shall be executed at the end of the prison term in accordance with the terms of the order. If the conviction is reversed on direct appeal, the order entered pursuant to this section shall be void.

"(B) As soon as is practicable after entry of a judicial order of deportation, the Commissioner shall provide the defendant with written notice of the order of deportation, which shall designate the defendant's country of choice for deportation and any alternate country pursuant to section 243(a).

"(4) DENIAL OF JUDICIAL ORDER.—Denial without a decision on the merits of a request for a judicial order of deportation shall not preclude the Attorney General from initiating deportation proceedings pursuant to section 242 upon the same ground of deportability or upon any other ground of deportability provided under section 241(a).".

(b) TECHNICAL AMENDMENT.—The ninth sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by striking "The" and inserting "Except as provided in section 242Aj(d), the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens whose adjudication of guilt or guilty plea is entered in the record after the date of enactment of this Act.

SEC. —. CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.

No amendment made by this Act and nothing in section 242(i) of the Immigration and Nationality Act (8 U.S.C. 1252(i)) shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

The SPEAKER pro tempore (Mr. SHARP). Is there objection to the request of the gentleman from Texas?

Mr. FISH. Mr. Speaker, reserving the right to object, I do believe when we are dealing with unanimous consent requests, it is very, very important that Members hear the discussion.

I have asked for the reservation in order to inquire of the chairman of the full Committee or the chairman of the Subcommittee on International Law, Immigration, and Refugees if they could tell us what the bill, as it has come over from the Senate, H.R. 783, what is different from the bill that passed this House unanimously last week.

Mr. Speaker, under my reservation of objection, I yield to the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, H.R. 783 provides improvements to the immigration laws and those relating to naturalization and citizenship. H.R. 783 last passed the House on September 20, 1994, and was amended by the Senate last evening.

The Senate amendment maintains the House-passed language, with the addition of several items. First, it expands the list of crimes that are considered "aggravated felonies" for immigration purposes. Second, it authorizes Federal judges to enter deportation orders at the same time that criminal aliens are sentenced in Federal court. Third, it clarifies that the first two provisions and the requirement in current law of speedy deportation for criminal aliens do not create enforcement rights against the United States. Fourth, it allows State health agencies to ask the Attorney General to permit foreign doctors in the United States on temporary visas to remain here permanently if they agree to practice in areas with shortages of medical personnel. This authorization sunsets in 2 years. Finally, it addresses the grant of temporary visas to high-level Taiwanese officials.

Mr. FISH. Mr. Speaker, further reserving the right to object, can the gentleman from Texas, chairman of the full committee, assure the House that no private relief legislation has been added to this bill by the other body?

Mr. BROOKS. Mr. Speaker, if the gentleman will continue to yield, none.

Mr. FISH. Mr. Speaker, that is pretty emphatic.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I have been consulting with the gentleman from New York and the gentleman from Texas, our chairman, and with other Members in the other body concerning these amendments that were added to the House-passed version of the bill. I join with the chairman from Texas in saying, I think that they are not objectionable. Of course, the underlying bill has in it may things which came out of our committee.

The gentleman from Florida [Mr. MCCOLLUM] and I, as chairman and ranking member of the subcommittee, worked very hard to produce a good bill. The basic bill, the big bulk of this bill is exactly what the gentleman from Florida and I put together.

So I rise in very strong support of this bill and hope that the body will approve it.

Mr. FISH. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Florida [Mr. MCCOLLUM] ranking member.

Mr. MCCOLLUM. Mr. Speaker, I thank the gentleman from New York [Mr. FISH] for yielding to me.

I just want to comment that I agree with the gentleman from Kentucky that this does not do anything untoward. The Senate amendments are all positive. In fact, one of the Senate amendments makes a major stride toward expediting the deportation of criminal aliens, which is something that has been long overdue, something we on this side tried very hard to get in the crime bill.

Granted, this is not 100 percent of what we would like to have seen. It goes a good deal of the distance the way it should. So it is a very positive addition.

The others are very technical in nature. Frankly the underlying bill contains the extension of the visa waiver provision, which is the main thrust of that that came out of here on the floor a week or so ago. And it passed.

We would certainly encourage the passing of this bill tonight.

Mr. FISH. Mr. Speaker, further reserving the right to object, I yield to the gentleman, Mr. ROGERS.

Mr. ROGERS. Mr. Speaker, I thank the gentleman for yielding to me.

I rise for a somewhat extraneous matter but related in many ways to the matter before us. Tonight is the last night we have the good fortune of serving with the dean of the Kentucky delegation now, who has been a spokesman for many years on this very topic. I know that all of my colleagues in this room join with me when I say, thank you, ROM MAZZOLI, for the tremendous service you have given to our Nation and to this body and to this topic.

ROM, thank you for your service.

□ 1800

Mr. FISH. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Florida [Mr. MCCOLLUM].

TRIBUTE TO HAMILTON FISH, JR., ON HIS RETIREMENT

Mr. MCCOLLUM. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I cannot help but note that while we have just honored the gentleman from Kentucky [ROM MAZZOLI] a good gentleman with whom I have served a long time, who is having his last night with us, the same is true of the gentleman from New York [Mr. FISH]. This is his last night with us. I think it is only fitting that with all the time he has put in with immigration as well as many other things, that at the same time we honor the gentleman from Kentucky [Mr. MAZZOLI] we also honor the gentleman from New York [Mr. FISH]. I would suggest a round of applause for HAM FISH.

Mr. MCCLOSKEY. Mr. Speaker, I rise in strong support of H.R. 783, particularly as it applies to giving equal rights to Irish visitors, similar to visa-receiving visitors from other countries. It is very important legislation, and particularly the gentleman from Kentucky [Mr. MAZZOLI] was outstanding in his support and leadership on this.

Mr. Speaker, I rise in strong support of the conference report on H.R. 783, the Nationality and Naturalization Amendments of 1994. On September 20, 1994, the House gave its overwhelming support to H.R. 783, legislation to reauthorize and reform the Visa Waiver Pilot Program while implementing much needed reforms. The Visa Waiver Program enables tourists and business travelers from specified countries to come to the United States without first having to obtain a nonimmigrant visa. Current eligibility standards are overly restrictive and hinge largely on nonimmigrant visa refusal rates—a standard which fails to operate in the best interest of the United States or of the countries which are denied participation.

The shortcomings of the eligibility criteria came to my attention in my role as chairman of the Friends of Ireland Committee. The fact that Ireland has been excluded from participation best illustrates the current program's shortcomings. Ireland is one of only three Western European countries excluded from the Visa Waiver Program, even though Ireland has demonstrated exemplary overstay rates and steadily declining refusal rates during the last 3 years. Additionally, while Irish citizens are denied inclusion, citizens from Northern Ireland are able to fully participate in the pilot program.

H.R. 783 will incorporate the overstay rate as a factor in determining eligibility for probationary status in the Visa Waiver Program. The overstay rate is a critical element because it demonstrates how many nationals of a particular country actually violated the terms of their stay in the United States. I would like to commend Chairman ROM MAZZOLI and BILL MCCOLLUM, the distinguished ranking member of the subcommittee, for their leadership on this issue and for incorporating this reform into H.R. 783. It is a commonsense approach which enjoys broad bipartisan support.

The Visa Waiver Pilot Program has proven its worth over the years by generating good will toward many of our neighbors overseas and generating tourist dollars for our economy. This legislation has been designated as a high priority by the Irish Government and the Friends of Ireland Committee. Foreign tourism brought $74 billion into the U.S. economy last year and provided nearly 900,000 jobs for American workers. Today's vote can extend these benefits. I urge my colleagues to vote in favor of H.R. 783.

Mr. MAZZOLI. Mr. Speaker, I rise in strong support of H.R. 783, as amended, the "Immigration and Nationality Technical Corrections Act of 1994."

H.R. 783 originally passed the House by voice vote on November 20, 1993. It consisted of five sections, all of which dealt with naturalization and citizenship. The bill also passed the Senate by voice vote on that day, but the Senate added a number of new sections to the original five.

Then, on September 20, 1994, the House concurred with the Senate amendment, and added an amendment. Last night the Senate accepted our version of the bill, as passed on September 20, in its totality, but added additional provisions concerning criminal aliens, foreign doctors, and diplomatic visas. The Senate amendment makes some needed changes in the law regarding criminal aliens.

First, the Senate amendment expands the definition of aggravated felony. Under current law, if an alien commits an aggravated felony the consequences are far reaching because such an alien is not eligible for most forms of discretionary relief from deportation.

Under current law, aggravated felony is defined as a felony involving murder, drug trafficking, trafficking in firearms, money laundering, or any crime of violence for which the term of imprisonment is at least 5 years.

The Senate amendment expands the definition of aggravated felony to include other violent crimes, immigration related crimes such as alien smuggling, specified white collar crimes and various other extremely serious crimes. A similar provision was included in a bill, H.R. 1459, introduced by the ranking member of the subcommittee, Mr. MCCOLLUM.

Second, the Senate amendment establishes a judicial deportation mechanism which would give the U.S. district courts the authority to enter judicial orders of deportation when they sentence a deportable alien who has been convicted of a crime. This provision will alleviate resource problems at INS and result in more criminal aliens being deported. Again, a similar provision was included in the bill, H.R. 1459, introduced by the ranking member, Mr. MCCOLLUM.

Mr. Speaker, the Subcommittee on International Law, Immigration and Refugees, which I Chair, held hearings on criminal aliens on February 23, 1994 and it was clear from that hearing that INS and the Congress have much more work to do in this area. We heard from a long line of witnesses, including 10 Members of Congress, who testified as to ways in which we could do a better job of deporting criminal aliens form the United States.

The Senate also included a new provision that requires the Secretary of State to extend to the President of Taiwan, and other high-ranking officials of that nation, the same courtesies extended to every other nation in the world in terms of their right to receive a visa to enter the United States to discuss matters relating to their relations with the United States.

Three times this summer the Senate has attached amendments to appropriations bills that would require our Government to issue visas to such Taiwanese officials. Each time, the amendments were dropped due to State Department opposition, but I am now told that the State Department, having worked with the Senate to refine the language, no longer objects to the provision. This provision would not allow a Taiwanese official who is excludable from the United States to receive a visa.

In addition, Senator CONRAD sponsored a provision which creates a much needed avenue through which States can petition to bring physicians into areas which otherwise would have little or no health care available to the community.

A doctor sponsored under this amendment would adjust to a nonimmigrant visa and must practice medicine for at least 3 years in a location which HHS has designated as being medically underserved. If a doctor does not complete the 3 years, he or she would be excluded from receiving any other visa into the United States for 2 years.

The program is limited to 1,000 nonimmigrant visas per year and has a 2-year sunset. Foreign medical graduates receiving waivers would be eligible to adjust status without departing the United States.

H.R. 783 still contains the five core provisions regarding naturalization and citizenship that were in the original House-passed version of H.R. 783. These provisions correct problems in current immigration law that impose unnecessary burdens on persons who wish to become citizens and on the transmission of citizenship from parent to child.

One of the provisions corrects a problem in law dating from 1934. Prior to 1934, only U.S. citizen men could confer citizenship on children born outside the United States. The child of a U.S. citizen father and a noncitizen mother was a U.S. citizen. The child of a U.S. citizen mother and noncitizen father was not a U.S. citizen.

In 1934, Congress revised that clearly discriminatory rule. However, the 1934 Act was not made retroactive. Thus, persons born abroad before 1934 to U.S. citizen mothers and alien fathers are not citizens of the United States. H.R. 783 corrects this inequity, but does so while expressly prohibiting the conferral of citizenship to anyone who assisted in the Nazi persecutions.

H.R. 783 also enables children of U.S. citizens who live and work abroad for long periods of time to receive U.S. citizenship. Under current law, U.S. citizen parents are forced to decide between quitting their jobs and returning to the United States or denying their children U.S. citizenship.

The bill requires, with regard to the U.S. history and government knowledge portions of the naturalization test, that the Attorney General publish regulations that recognize the special needs and equities of persons over 65 who have been permanent residents for at least 20 years.

The bill also provides a general waiver of all testing requirements for persons of any age who, because of "physical or developmental disability or mental impairment," could not reasonably be expected to pass the test.

H.R. 783 allows an individual who lost U.S. citizenship because of failure to meet the retention requirements of the law as they existed prior to repeal in 1978, to regain such citizenship upon application to the Attorney General and upon taking the oath of allegiance, provided such person meets the requirements of existing law.

An extremely important provision in this bill is section 210, which extends the Visa Waiver Pilot Program for 2 years. The Visa Waiver Program allows visitors for business or pleasure from qualified foreign countries to enter the United States for up to 90 days without first having to obtain a visa from a U.S. consular officer abroad; 22 countries now satisfy these standards and are participating in the program. They are France, Germany, Italy, Japan, Brunei, Great Britain, Holland, Sweden, Switzerland, Andorra, Austria, Belgium, Denmark, Finland, Iceland, Liechtenstein, Luxembourg, Monaco, New Zealand, Norway, San Marino, and Spain.

In general, for its nationals to qualify for visa waiver, a foreign country must have a low rate of visa refusal, averaging less than 2 percent during the 2 previous fiscal years and less than 2.5 percent during any 1 fiscal year. In addition, the Attorney General must determine that a country's inclusion would not damage U.S. law enforcement interests. To stay in the program nationals from the country must have low rates of visa violations, specifically below 2 percent.

Visa waiver was first enacted by Congress in 1983 as part of a 3-year pilot program. In 1990, after it had proven successful, Congress extended the program until September 30, 1994. Thus, at this point the program is officially expired and will remain so unless we pass this bill.

The travel and tourism industries as well as officials from both the Bush and Clinton administrations have strongly urged the subcommittee to extend the program.

In addition to extending the program, H.R. 783 provides that countries whose rates are low, but not quite low enough to qualify under current law, could qualify for visa waiver on a probationary basis. Specifically, a country would qualify if its refusal rate was less than 3.5 percent for 2 fiscal years and less than 3 percent during the previous fiscal year.

H.R. 783 also reauthorizes appropriations for the Refugee Resettlement Program for 3 years.

Mr. MINETA. Mr. Speaker, I rise today in strong support of H.R. 783, the Immigration and Nationality Technical Corrections Act.

This is a vital piece of legislation, and I am very pleased to see us bringing it to resolution before adjournment.

First and foremost, Mr. Speaker, this legislation will extend for 2 years the visa waiver pilot program under which more than 9 million international tourists and business people per year travel to the United States.

The Visa Waiver Program, under which the United States has signed cooperative agreements with 20 western European nations, Japan, and New Zealand, is a crucial boost to the American travel and tourism industry, and a failure to extend this program could have meant substantial disruption to our tourism-based sectors of our economy.

Thankfully, due to the leadership of the chairman of the subcommittee, Mr. MAZZOLI, and with the assistance of the minority here in the House, this legislation is before us today.

In addition, Mr. Speaker, H.R. 783 will clarify a provision of immigration law dealing with stowaways on international aircraft under which this Nation's airlines have suffered a severe and undue burden for many years.

As Chair of the Committee on Public Works and Transportation, I applaud and strongly endorse this reform.

Mr. Speaker, there are a number of other provisions of this bill which are of major importance to me, as well.

H.R. 783 contains my H.R. 283, the Equity in Citizenship Act, legislation designed to remove one of the last remaining vestiges of discrimination against women in our immigration code.

This legislation, which appears as section 201 of H.R. 783, would grant U.S. citizenship to the children of American mothers who have been denied that citizenship because they were born before 1934.

This discriminatory provision of our immigration laws is continuing to affect people today—people who by all rights should be American citizens. H.R. 783 will finally grant them the citizenship that should always have been theirs by right.

The bill will also ease the availability of the knowledge of English language and American Government requirement for older, long-term permanent residents. This humanitarian provision was authored by my good friend, Congressman BARNEY FRANK, and will be a tremendous benefit to Asian-Pacific American immigrants who are eager to declare their loyalty to this, their adopted country, by taking the oath of citizenship.

H.R. 783 will also:

Reauthorize current programs for refugee assistance, under which States receive roughly $400 million in fiscal year 1995. This reauthorization represents an affirmation of the Federal Government's commitment to helping State and local governments deal with the pressing humanitarian, health and economic needs of the refugees in their communities.

Streamline the procedures to obtain American citizenship for children adopted by American parents living abroad.

Extend the special immigration status for religious workers.

Extend the off-campus work authorization for foreign students studying the United States.

And, under language adopted in the other body, establish a new visa category allowing foreign students graduating from American medical schools to remain in this country if they agree to practice in areas with a shortage of health professionals.

All of these provisions are worthy of our support, and I wholeheartedly endorse the bill.

Finally, Mr. Speaker, I would like to salute the gentleman from Kentucky, my good friend, Congressman ROM MAZZOLI. This is the last bill he will do prior to his retirement, and I believe that all of us owe him a debt of gratitude for his leadership and his dedication on issues relating to immigration.

There is probably no more difficult issue to manage in the Congress these days, but the gentleman from Oklahoma has shown an extraordinary care to ensure that the bills that come out of this subcommittee are calmly and well-reasoned, are balanced and fair, and show true concern for the people whose lives and livelihoods are often at stake in these debates.

For that work, and for all of his service to this Nation, I would like to thank him. He will be sorely missed in the Congress.

Once again, Mr. Speaker, I would like to reiterate my support for H.R. 783, and urge my colleagues to join me in sending it on to the President.

Mr. MCCLOSKEY. I rise in strong support of H.R. 783, the nationality and naturalization amendments of 1994. On September 20, 1994, the House gave its overwhelming support to H.R. 783, which the Senate has amended. This legislation would reauthorize and reform the Visa Waiver Pilot Program while implementing much needed reforms. The Visa Waiver Program enables tourists and business travelers from specified countries to come to the United States without first having to obtain a nonimmigrant visa. Current eligibility standards are overly restrictive and hinge largely on nonimmigrant visa refusal rates—a standard which fails to operate in the best interest of the United States or of the countries which are denied participation.

The shortcomings of the eligibility criteria came to my attention in my role as chairman of the Friends of Ireland Committee. The fact that Ireland has been excluded from participation best illustrates the current program's shortcomings. Ireland is one of only three Western European countries excluded from the Visa Waiver Program, even though Ireland has demonstrated exemplary overstay rates and steadily declining refusal rates during the last 3 years. Additionally, while Irish citizens are denied inclusion, citizens from Northern Ireland are able to fully participate in the pilot program.

H.R. 783 will incorporate the overstay rate as a factor in determining eligibility for probationary status in the Visa Waiver Program. The overstay rate is a critical element because it demonstrates how many nationals of a particular country actually violated the terms of their stay in the United States. I would like to commend Chairman ROM MAZZOLI and BILL MCCOLLUM, the distinguished ranking member of the subcommittee, for their leadership on this issue and for incorporating this reform into H.R. 783. It is a commonsense approach which enjoys broad bipartisan support.

The Visa Waiver Pilot Program has proven its worth over the years by generating good will towards many of our neighbors overseas and generating tourist dollars for our economy. This legislation has been designated as a high priority by the Irish Government and the Friends of Ireland Committee. Foreign tourism brought $74 billion into the U.S. economy last year and provided nearly 900,000 jobs for American workers. Today's vote can extend these benefits. I urge my colleagues to vote in favor of H.R. 783.

Mr. OBERSTAR. Mr. Speaker, as chairman of the Congressional Travel and Tourism Caucus and the Subcommittee on Aviation, I offer my strong support for H.R. 783 which extends the Visa Waiver Pilot Program for 2 years and expands the program to include several countries on a probationary basis. I recognize that with the appropriate measures in place to preserve American security interests, the visa waiver program is a proven economic stimulus for local, State, and the national economy.

This legislation has particular significance for me in my role as chairman of the Congressional Travel and Tourism Caucus. The Visa Waiver Pilot Program, which has been in place since 1988, has been a tremendous catalyst in encouraging travel and tourism to the United States. From July 1988 through fiscal year 1993, 31 million people were admitted to our country under the Visa Waiver Program. Should the program have expired on September 30 as scheduled, over 10 million prospective travelers who did not need U.S. visas would have been required to acquire a nonimmigrant visa. Additionally, expiration of the program would have caused some countries to reinstate visa requirements for U.S. citizens. Clearly, a situation such as this one would have burdened both travelers to the United States and American citizens traveling abroad. Moreover, the expiration of the program would have undoubtedly had a negative impact on the travel and tourism sector of the economy. Delays due to visa processing would have resulted in canceled travel plans and loss of revenue for airlines, hotels, restaurants, small businesses, and other tourism-related industries in the United States.

As you may be aware, over 45 million international visitors spent $74 billion in the United States in 1993, which resulted in employment for 900,000 Americans and made travel and tourism the second-largest employer and the third largest retail industry. The revenues from these travelers gave the United States a $20.8 billion trade surplus—one of the few trade surpluses the U.S. still maintains. Extending the Visa Waiver Program ensures the continuation of this vital economic trend.

The benefits of ease of travel for visitors is felt in every congressional district. Every time a visitor enters our country, he or she generates new dollars for State and local economies as well as the national economy. Historic sites, national parks, museums, amusement parks, resorts, and the many other businesses in our communities prosper through tourism. Travel and tourism is the first, second, or third largest employer in 30 States. In my home State of Minnesota, more than 8,000 jobs were generated by foreign visitor spending while an additional 100,000 jobs were generated by domestic travel and tourism.

In order to participate in the program, the member countries must meet a basic criteria,

which ensures the protection of American interests and security. At the same time, countries in the program must also reciprocate the visa waiver for U.S. citizens. The 22 member countries currently involved in the program all represent American ideological partners and allies. No attempt is being made to allow countries that do not meet our standards of conduct into the program. It is also important to note that the 2-year extension will in no way dilute the authority of the Customs Service. Visitors from foreign nations will still be subjected to scrutiny upon entering the country. This would include the display of passport identification and searches by customs agents of traveler's personal belongings. H.R. 783 simply eliminates the need to obtain a visa, and in the end, promotes international tourism by lifting bureaucratic travel restrictions.

As an aside, the White House Conference on Travel and Tourism, an idea that originated with my colleagues on the Caucus, will examine, among other items, barriers to tourism. The Visa Waiver Program is certainly a wonderful example of the benefits that come with fewer barriers for travelers. By alleviating bureaucratic procedures and making travel to and from the United States a less cumbersome experience, the Visa Waiver Program sends a strong signal that we welcome foreign travelers and the dollars they bring to our communities.

In closing, I want to commend Chairman MAZZOLI for his efforts to see the pilot program extended. I also want to commend Mr. MCCLOSKEY and Mr. MACHTLEY for their initiatives concerning expansion of the visa waiver program. It is thrilling to see the array of support for increasing travel opportunities for visitors. Extending the Visa Waiver Program will facilitate the free flow of travel for foreign visitors and U.S. citizens and ensure that this vital sector of our economy continues to thrive.

Mr. FISH. Mr. Speaker, before this goes any further, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. SHARP). Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

CIVIL RIGHTS COMMISSION REAUTHORIZATION ACT OF 1994

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the Senate bill (S. 2372) to reauthorize for 3 years the Commission on Civil Rights, and for other purposes, with a Senate amendment to the House amendments thereto, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments, as follows:

Senate amendment to House Amendments: Page 10, line 12, strike out "September 30, 1995" and insert "September 30, 1996".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. FISH. Mr. Speaker, reserving the right to object, and I shall not object, but I make the reservation for the sole purpose of inquiring from the chairman of the full committee, am I not correct that the only change made by the Senate amendments to the House-passed bill is that we had a length of the authorization for 1 year that was changed and lengthened by the Senate amendment? That is the only change that was involved, is that correct?

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, the gentleman is absolutely correct.

Mr. FISH. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

JUDICIAL AMENDMENTS ACT OF 1994

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 2407) to make improvements in the operation and administration of the Federal courts, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, I would request that the gentleman from Texas [Mr. BROOKS] explain what is in the legislation.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, S. 2407, the Judicial Amendments Act of 1994, contains extensions of three expiring provisions relating to the Federal courts. First, it extends and improves the operation of the judiciary automation fund for 3 years. The Director of the Administrative Office of the Courts has written to me regarding the authority that the courts intend to exercise with regard to this fund. I would ask unanimous consent that the letter be entered into the RECORD. Second, it extends the authorization of court arbitration pilot projects for 3 years. Finally, it extends the Civil Justice Reform Act pilot programs for 1 year. All three of these programs are valuable and deserve to be continued.

Mr. Speaker, I include this letter for the RECORD:

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS,
Washington, DC, October 5, 1994.

Hon. JACK BROOKS,
Chairman, House Judiciary Committee, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: It is my understanding that you are concerned about some of the authorities granted to the Judiciary in S. 2407. Recognizing your legitimate concerns, I want to inform you about how the judiciary plans to exercise some of that discretion in the event that S. 2407 is enacted into law:

a. Courts will not deposit money into the Judiciary Automation Fund for the salaries and expenses of court support personnel;

b. The authority granted to the Director to enter into contracts in advance of appropriations, contained in subsection (e)(1), will include a cap of $75,000,000 or the amount collected in fees, whichever is less;

c. The annual report, described in subsection (h), will include a description of automation activities and expenditures by the appellate, district and bankruptcy courts and the pretrial and probation offices not funded through the Judiciary Automation Fund;

d. The judiciary will not exercise the authority to reprogram funds out of the Judiciary Automation Fund up to $1,000,000, leaving the authority to reprogram funds unchanged from the original authorization bill enacted in 1990;

e. The strategic business plan required by added subsection (k) in S. 2407 will be developed by September 30, 1996;

f. The Long Range Plan for Automation in the Federal Judiciary will include a commitment to establish cost efficient and uniform national automation systems; provide for the use of such systems by the courts; and ensure the collection of nationwide data regarding the operations of the courts.

Your interest in this legislation is greatly appreciated. If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

L. RALPH MECHAM,
Director.

Mr. MOORHEAD. Mr. Speaker, further reserving the right to object, I would ask the gentleman if there is any private relief in this legislation.

Mr. BROOKS. Mr. Speaker, if the gentleman will yield further, not that I know of.

Mr. Speaker, I would also like to say, before I ask the gentleman from California [Mr. MOORHEAD] to yield to him, that we are also going to miss the services of one of the finest minds on the Committee on the Judiciary, the gentleman from New Jersey [Mr. HUGHES].

He is not only innovative and hardworking, but he is a very dedicated Member of this body. He has made a tremendous contribution in the last few years.

Mr. Speaker, I hope the Members would join me in applauding his excellent service here.

Mr. MOORHEAD. Mr. Speaker, further reserving my right to object, I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, I thank the gentleman for yielding time to me. I also thank the gentleman from Texas

[Mr. BROOKS], chairman of the Committee on the Judiciary, for those kind remarks, and I thank my colleagues for that warm good wish that they extended to me.

Mr. Speaker, S. 2407 as it appears before the House today is a stop-gap version of the Federal Courts Improvement Act of 1994. Unfortunately, our colleagues in the other body have determined that they would not consider a more comprehensive courts bill this year.

This disappoints me very much, particularly as it relates to the court-annexed arbitration portion of the bill which the House acted upon last year by passing H.R. 1102. H.R. 1102 would have expanded court-annexed arbitration to other jurisdictions while S. 2407 would merely continue for another 3 years the authorization for court-annexed arbitration in the 20 districts which are currently authorized to operate such programs. Ten of these programs contain mandatory nonbinding arbitration, and these programs have met with almost universal acclaim and success. I was hoping that we could expand upon this process to facilitate experimentation of similar programs throughout the rest of the country.

I sincerely hope that the Congress will again get the opportunity to revisit this issue next year when the Department of Justice also will present its civil justice reform package. Reportedly their proposal will deal with alternate dispute resolutions programs, generally.

The second portion of this interim legislation involves the judicial automation fund. This fund expired on September 29, 1994, and this legislation will reauthorize it for 3 more years.

The third part of the bill would extend a Rand Corporations' study of civil litigation which was required by the Civil Justice Reform Act of 1990 for 1 additional year.

I believe these three provisions are noncontroversial and will be a vital interim solution for civil justice reform in our courts. I urge my colleagues to pass S. 2407.

Mr. MOORHEAD. Mr. Speaker, further reserving the right to object, I want to commend the gentleman from New Jersey [Mr. HUGHES] for his fine work on this legislation, and for a vast amount of legislation that he has worked on in the intellectual property area over the last number of years. We have enjoyed working together with him, and I think we have accomplished a lot.

Mr. Speaker, this particular bill has four noncontroversial parts to it. They have already been described.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2407

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Judicial Amendments Act of 1994".

SEC. 2. AMENDMENTS TO THE JUDICIARY AUTOMATION FUND.

Section 612 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) in the second sentence by inserting after "equipment for" the following: "program activities included in the courts of appeals, district courts, and other judicial services account of"; and

(B) in the third sentence by striking out all after "personal services" and inserting in lieu thereof", support personnel in the courts and in the Administrative Office of the United States Courts, and other costs, for the effective management, coordination, operation, and use of automatic data processing equipment purchased by the Fund. In addition, all agencies of the judiciary may make deposits into the Fund to meet their automatic data processing needs in accordance with subsections (b) and (c)(2).";

In subsection (b)(1) by striking out "judicial branch" and inserting in lieu thereof "activities funded under subsection (a) and shall include an annual estimate of any fees that may be collected under section 404 of the Judiciary Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2133)";

(3) in subsection (b)(2) by striking out "judicial branch of the United States" and inserting in lieu thereof "activities funded under subsection (a)";

(4); in subsection (c)(1)(A), by inserting after "surplus property" the following: ", all fees collected after the date of the enactment of the Judicial Amendments Act of 1994 by the judiciary under section 404 of the Judiciary Appropriations Act. 1991 (Public Law 101–515; 104 Stat. 2133)";

(5) in subsection (e)(1)—

(A) by striking out "(A)"; and

(B) by striking out "$75,000,000" and inserting in lieu thereof "amounts estimated to be collected under subsection (c) for that fiscal year";

(6) in subsection (h) by amending the subsection to read as follows:

"(h) ANNUAL REPORT.—

"(1) IN GENERAL.— The Director shall submit to the Congress an annual report on the operation of the Fund, including on the inventory, use, and acquisition of automatic data processing equipment from the Fund and the consistency of such acquisition with the plan prepared under subsection (b). The report shall set forth the amounts deposited into the Fund under subsection (c).

"(2) ADDITIONAL CONTENTS OF REPORT.—The annual report submitted under this subsection shall include—

"(A) the specific actions taken and the progress made to improve the plan developed under subsection (b) and the long range automation plan and strategic business plan developed under subsection (k); and

"(B) a comparison of planned Fund expenditures and accomplishments with actual Fund expenditures and accomplishments, and the reasons for any delays in scheduled systems development, or budget overruns.

"(3) REPORT IN YEAR OF TERMINATION OF AUTHORITY.—The annual report submitted under this subsection for any year in which the authority for this section is to terminate under subsection (m), shall be submitted no later than 9 months before the date of such termination.";

(7) in subsection (i) by striking out all after "Judicial Conference of the United States," and inserting in lieu thereof "may transfer amounts up to $1,000,000 from the Fund into the account to which the funds were originally appropriated. Any amounts transferred from the Fund in excess of $1,000,000 in any fiscal year may only be transferred by following reprogramming procedures in compliance with section 606 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100–459; 102 Stat. 2227).";

(8) in subsection (j) in the second sentence by inserting "in statute" after "not specified";

(9) by redesignating subsections (k) and (l) as subsections (l) and (m), respectively, and by inserting after subsection (j) the following new subsection:

"(k) LONG RANGE MANAGEMENT AND BUSINESS PLANS.—The Director of the Administrative Office of the United States Court shall—

"(1) develop an overall strategic business plan which would identify the judiciary's missions, goals, and objectives;

"(2) develop a long range automation plan based on the strategic business plan and user needs assessments;

"(3) establish effective Administrative Office oversight of court automation efforts to ensure the effective operation of existing systems and control over developments of future systems;

"(4) expedite efforts to complete the development and implementations of life cycle management standards;

"(5) utilize the standards in developing the next generation of case management and financial systems; and

"(6) assess the current utilization and future user requirements of the data communications network."; and

(10) in subsection (m) (as redesignated under paragraph (9) of this section—

(A) in the first sentence by striking out "1994", and inserting in lieu thereof, "1997"; and

(B) in the second sentence by striking out "'Judicial Services Account'" and inserting in lieu thereof "fund established under section 1931 of this title".

SEC. 3. COURT ARBITRATION AUTHORIZATION.

(a) AUTHORIZATION OF APPROPRIATIONS.— Section 905 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 651 note) is amended—

(1) in the first sentence by striking out "for the fiscal year ending September 30, 1989, and for each of the succeeding 7 fiscal years," and inserting in lieu thereof "for each of the fiscal years 1994 through 1997"; and

(2) in the third sentence by striking out all beginning with ", except that" through "this Act".

(b) REMOVAL OF REPEALER.—Section 906 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 651 note), and the item relating to such section in the table of contents contained in section 3 of such Act, are repealed.

SEC. 4. EXTENSION OF CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PILOT PROGRAMS.

Section 105 of the Civil Justice Reform Act of 1990 28 U.S.C. 471 note; 104 Stat. 5097) is amended—

(1) in subsection (a)(1) by striking out "4-year period" and inserting in lieu thereof "5-year period";

(2) in subsection (b)(3)—

(A) in the first sentence by striking out "3 years" and inserting in lieu thereof "4 years"; and

(B) in the second sentence by striking out "3-year period" and inserting in lieu thereof "4-year period"; and

(3) in subsection (c)(1) by striking out "December 31, 1995," and inserting in lieu thereof "December 31, 1996,".

The Senate bill was ordered to be read a third time and passed, was read the third time, and passed, and a motion to reconsider was laid on the table.

REGARDING UNITED NATIONS POLICY TOWARD HAITI

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 229) regarding United States policy toward Haiti, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not object, but I just want to explain that the minority has reviewed this request and has no objection.

Mr. Speaker, continuing my reservation of objection, I am pleased to yield to the gentleman from Indiana [Mr. HAMILTON] for an explanation.

Mr. HAMILTON. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, this resolution was passed by the Senate last night, and is identical to the Dellums-Murtha-Hastings amendment which the House adopted. This action will allow us to send to the President a measure reflecting the will of the Congress on the issue of Haiti.

Mr. LEVIN. Mr. Speaker, each of the resolutions before us tonight has its serious imperfections.

I voted against the Michel resolution because I believe that it would have led to chaos in Haiti and threatened our troops.

The Dellums resolution would set no target date for withdrawing American troops from Haiti.

The Torricelli resolution sets a target date, but its retroactive authorization is unwise and easily misunderstood.

I opposed the use of force in Haiti. Now that our troops are there, I believe that we must support them. I also believe that there must be a clear mission and a target date set for their safe withdrawal.

Since none of the resolutions before us tonight adequately address my concerns, I must reluctantly vote "no" on all of them.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 229

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SENSE OF CONGRESS REGARDING UNITED STATES ARMED FORCES OPERATIONS IN HAITI.

It is the sense of Congress that—

(a) The men and women of the United States Armed Forces in Haiti who are performing with professional excellence and dedicated patriotism are to be commended;

(b) the President should have sought and welcomed Congressional approval before deploying United Stats Forces to Haiti;

(c) the departure from power of the de facto authorities in Haiti, and Haitian efforts to achieve national reconciliation, democracy and the rule of law are in the best interests of the Haitian people;

(d) the President's lifting of the unilateral economic sanctions on Haiti, and his efforts to bring about the lifting of economic sanctions imposed by the United Nations are appropriate; and

(e) Congress supports a prompt and orderly withdrawal of all United Stats Forces from Haiti as soon as possible.

SEC. 2. PRESIDENTIAL STATEMENT OF NATIONAL SECURITY OBJECTIVES.

The President shall prepare and submit to the President Pro Tempore of the Senate and the Speaker of the House of Representatives (hereafter, "Congress") not later than seven days after enactment of this resolution a statement of the national security objectives to be achieved by Operation Uphold Democracy, and a detailed description of the United States policy, the military mission and the general rules of engagement under which operations of the United States Armed Forces are conducted in and around Haiti, including the role of United States Armed Forces regarding Haitian on Haitian violence, and efforts to disarm Haitian military or police forces, or civilians. Changes or modifications to such objectives, policy, military mission, or general rules of engagement shall be submitted to Congress within forty-eight hours of approval.

SEC. 3. REPORT ON THE SITUATION IN HAITI.

Not later than November 1, 1994, and monthly thereafter until the cessation of Operation Uphold Democracy, the President shall submit a report to Congress on the situation in Haiti, including—

(a) a listing of the units of the United States Armed Forces and of the police and military units of other nations participating in operations in and around Haiti;

(b) the estimated duration of Operation Uphold Democracy and progress toward the withdrawal of all United States Armed Forces from Haiti consistent with the goal of Section 1(e) of this resolution;

(c) armed incidents or the use of force in or around Haiti involving United States Armed Forces or Coast Guard personnel in the time period covered by the report;

(d) the estimated cumulative incremental cost of all United States activities subsequent to September 30, 1993 in and around Haiti, including but not limited to—

(1) the cost of all deployments of the United States Armed Forces and Coast Guard personnel, training, exercises, mobilization, and preparation activities, including the preparation of police and military units of the other nations of the multinational force involved in enforcement of sanctions, limits on migration, establishment and maintenance of migrant facilities at Guantanamo Bay and elsewhere, and all other activities relating to operations in and around Haiti; and

(2) the costs of all other activities relating to United States policy toward Haiti, including humanitarian assistance, reconstruction, aid and other financial assistance, and all other costs to the United States Government;

(e) a detailed accounting of the source of funds obligated or expended to meet the costs described in subparagraph (d), including—

(1) in the case of funds expended from the Department of Defense budget, a breakdown by military service or defense agency, line item and program, and

(2) in the case of funds expended from the budgets of departments and agencies other than the Department of Defense, by department or agency and program;

(f) the Administration plan for financing the costs of the operations and the impact on readiness without supplemental funding;

(g) a description of the situation in Haiti, including—

(1) the security situation;

(2) the progress made in transferring the functions of government to the democratically elected government of Haiti; and

(3) progress toward holding free and fair parliamentary elections;

(h) a description of issues relating to the United Nations Mission in Haiti (UNMIH), including—

(1) the preparedness of the United Nations Mission in Haiti (UNMIH) to deploy to Haiti to assume its functions;

(2) troop commitments by other nations to UNMIH;

(3) the anticipated cost to the United States of participation in UNMIH, including payments to the United Nations and financial, material and other assistance to UNMIH;

(4) proposed or actual participation of United States Armed Forces in UNMIH;

(5) proposed command arrangements for UNMIH, including proposed or actual placement of United States Armed Forces under foreign command; and

(6) the anticipated duration of UNMIH.

SEC. 4. REPORT ON HUMAN RIGHTS.

Not later than January 1, 1995, the Secretary of State shall report to Congress on the participation or involvement of any member of the de jure or de facto Haitian government in violations of internationally-recognized human rights from December 15, 1990 to December 15, 1994.

SEC. 5. REPORT ON UNITED STATES AGREEMENTS.

Not later than November 15, 1994, the Secretary of State shall provide a comprehensive report to Congress on all agreements the United States has entered into with other nations, including any assistance pledged or provided, in connection with United States efforts in Haiti. Such report shall also include information on any agreements or commitments relating to United Nations Security Council actions concerning Haiti since 1992.

SEC. 6. TRANSITION TO UNITED NATIONS MISSION IN HAITI.

Nothing in this resolution should be construed or interpreted to constitute Congressional approval or disapproval of the participation of United States Armed Forces in the United Nations Mission in Haiti.

The Senate joint resolution was ordered to be read a third time, was read

the third time, and passed, and a motion to reconsider was laid on the table.

A similar House joint resolution was laid on the table.

CHILD SUPPORT REFORM AMENDMENTS ACT OF 1994

Ms. NORTON. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service, the Committee on Government Operations, and the Committee on Foreign Affairs be discharged from further consideration of the bill (H.R. 5179) to amend title 5, United States Code, to strengthen child support enforcement orders through the garnishment of amounts payable to Federal employees, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I rise in strong support of H.R. 5179, a bill to strengthen child support enforcement orders from Federal employees.

The bill authorizes expedited garnishment proceedings for child support owed by Federal employees. It gives the person owed child support the ability to attach retirement funds for child support after an administrative proceeding. H.R. 5179 denies Federal benefits (like VA and FHA loans and Federal employment) to people owing more than 3 months back child support unless a payment plan is accepted. Further, the measure denies passports to noncustodial parents subject to State arrest warrants in cases of nonpayment of child support.

H.R. 5179 is a substantial starting point that we hope will lead to even stronger child support enforcement measures in the next Congress.

In my State of Maryland, $200 million in child support is collected each year, but an additional $500 million remains delinquent. Incredibly, 330,000 child support enforcement cases are pending in the State meaning that every case worker must handle 500 claims. Clearly, our Nation's child support collection system is badly broken and must be fixed.

Nationally $34 billion is owed by child support that is uncollected. Shockingly, 49 percent of child support payments are in default. Yet the default rate for car loans is only 3 percent. Does that suggest we care more about our cars than our children? Our children deserve the support of both parents. They can wait no longer.

Mr. Speaker, I yield to my distinguished colleague, the gentlewoman from Colorado [Mrs. SCHROEDER], one of the major proponents of this legislation who has worked hard on it.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentlewoman from Maryland for yielding, I thank her for her work, and I thank the gentlewoman from the District for her work in the caucus who has worked so hard.

Basically what these are are recommendations that came from a long, long study that was done nationally on what we could do to do welfare prevention. I am saying welfare prevention because we know if we did a better job of child support enforcement, we would have much better statistics, as the gentlewoman mentioned, the $34 billion. It is tragic that we do better with our cars than our children.

I thank the gentlewoman very much. I hope we can pass this expeditiously and get on with finally doing what we should have done years ago.

Mrs. MORELLA. Mr. Speaker, I thank the gentlewoman for her comments and for the work that went into it. I also want to commend the gentlewoman from the District of Columbia [Ms. NORTON] for her leadership in this bill on the Committee on Post Office and Civil Service.

Ms. NORTON. Mr. Speaker, will the gentlewoman yield?

Mrs. MORELLA. I yield to the gentlewoman from the District of Columbia, the sponsor of this legislation.

Ms. NORTON. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, H.R. 5179 represents the first national approach to assuring child support from both parents and gives Congress a head start on passing far more comprehensive child support legislation, which will surely come in the 104th Congress.

I am particularly proud and pleased that the Committee on Post Office and Civil Service and the Committee on Foreign Affairs have been the first to come forward with historic changes in the way parents' obligations to support the children are required under law.

H.R. 5179 represents the first national approach to assuring child support from both parents. No issue before the Congress has undergone more study or engendered more widespread anguish. The Federal sector, both in its responsibility for Federal benefits for millions of Americans and as the largest employer in the country, is the most critical actor in solidifying national enforcement of child support.

This bill requires Federal agencies to comply with child support garnishment orders within 5 days of receipt where the order appears regular on its face. It provides that Federal agencies which fail to comply with clearly valid garnishment orders within 10 working days after the date wages would have been paid or credited to the employee by the agency will be subject to, and comply with, any civil fine of not more than $1,000 imposed by a State.

The bill provides that an individual owed a child support arrearage determined under a court order or an order of an administrative process established under State law may attach the civil service retirement annuity monies which would otherwise be payable to an employee, Member, or annuitant who owes the support, without the requirement of a separate order specifically directing garnishment of the retirement monies. This streamlined process would, however, only apply when the State provides procedures for notice and expedited hearing if requested by such employee, Member, or annuitant. Payments attached under this paragraph shall be held in escrow pending a determination pursuant to such a hearing, if any.

The bill prohibits the payment of Federal grants, loans, professional licenses, or commercial licenses provided by an agency of the United States to an individual who is in arrears by more than 3 months in the payment of child support, determined under a court order or an order of an administrative process established under State law, and has not entered into or gotten into compliance with a plan or agreement to repay the arrearage. Similarly, an individual who is in arrears by more than 3 months in the payment of child support, determined under such an order, must, as a condition of accepting employment in any position in the Federal Government, enter into or be in compliance with a plan or agreement to pay the arrearage.

Finally, section 5 of the bill, an amendment authorized by the Foreign Affairs Committee, authorizes the Secretary of State to refuse a passport or revoke, restrict, or limit a passport in any case in which the Secretary of State determines or is informed by competent authority that the applicant or passport holder is a noncustodial parent who is the subject of an outstanding State warrant of arrest for nonpayment of child support, where the amount in controversy is not less than $10,000.

Mrs. MORELLA. Mr. Speaker, our children deserve the support of both parents. Our children cannot wait any longer. This bill gives us that head start.

Ms. SNOWE. Mr. Speaker, I rise in support of H.R. 5179, a bill to prevent noncustodial parents who are delinquent in child support obligations to flee the country. This bill closes a loophole that allows deadbeat parents to escape their obligations to their children.

At a time when approximately 25 percent of our Nation's children grow up in single-parent households, delinquent child support payments create irreparable problems—both emotional and financial. The Urban League estimates the potential for child support collections to be $48 billion. States are currently collecting $14 billion annually from noncustodial parents, leaving a $34 billion gap, and with 15 million cases and a growing caseload, there is a definite need for reform.

The bill before you would authorize the Secretary of State to refuse a passport or revoke, restrict, or limit a passport in any case in which the Secretary of State determines or is informed by a competent authority that the applicant or passport holder is a noncustodial parent who is the subject of an outstanding State warrant of arrest for nonpayment of child support, where the amount in controversy is not less than $10,000. Current law provides for other instances in which passports are denied or revoked, such as for default on a Federal loan.

According to the U.S. Commission on Interstate Child Support's report to Congress, there

are over 2.4 million American parents living abroad, with a significant number who have child support obligations. We all are aware of the myriad problems of collecting interstate child support, but historically these difficulties are only magnified when a deadbeat parent relocates to a foreign nation, causing child support enforcement to become more time-consuming and expensive.

I urge my colleagues to support this bill, keeping in mind that the quality of the lives of our children is at stake.

Mrs. SCHROEDER. Mr. Speaker, I rise in strong support of the Child Support Amendments of 1994, H.R. 5177.

The provisions of the bill before us originated from the Child Support Responsibility Act (H.R. 4570), which I introduced on behalf of the Congressional Caucus for Women's Issues last June. H.R. 4570 builds upon the 1992 recommendations of the U.S. Commission on Interstate Child Support. The caucus is fortunate to have two executive committee members who were on the Commission and they have lent their expertise to the legislation. H.R. 4570 is so comprehensive in its approach to child support enforcement it was referred to seven different committees.

Child support enforcement is a pressing issue in our Nation. A majority of Members readily agree that immediate action is needed to strengthen our present child support system. The caucus believes that for many families, child support payments are in reality welfare prevention measures. Initially, we supported moving child support legislation along with welfare reform legislation. However, when it became apparent that time was running out for action on welfare reform in this Congress, the caucus began working to have comprehensive child support enforcement legislation passed. We are able to get the support of the leadership on both sides and the support of the chairman of the Ways and Means Committee. Time simply ran out on moving the larger bill; however, we managed to get several provisions passed by the House.

I thank the gentlewoman from the District of Columbia [Ms. NORTON] for acting so expeditiously on the provisions of H.R. 4570 under the subcommittee's jurisdiction. With the gentlewoman's help, the Post Office and Civil Service Committee became the first committee to approve provisions of caucus' bill.

The bill before us includes important provisions from the larger bill. H.R. 5177 would significantly strengthen the Federal Government's child support enforcement mechanisms. For the first time, individuals will be prohibited from receiving Federal benefits or become employed by the Federal Government if their child support obligations are 3 months in arrears and they refuse to enter into a payment plan for the arrearage. I would like to make clear that the bill will not deny access to any federally means-tested benefits. However, if noncustodial parents refuse to financially support their children, the Federal Government will no longer issue them a professional license or loan them money.

H.R. 5177 also includes a provision from H.R. 4570 under the jurisdiction of the Foreign Affairs Committee. The gentleman from Indiana [Mr. HAMILTON] has agreed to discharge the committee's provisions to the Post Office Committee. This child support enforcement tool would restrict the passports of individuals with child support arrears exceeding $10,000. The Interstate Commission found that collecting child support payments internationally is extremely difficult. This provision would require noncustodial parents to pay up before they fly out.

I want to take a minute to thank the chairman of the Judiciary Committee, the gentleman from Texas [Mr. BROOKS], and the chairman of the Armed Services Subcommittee on Military Forces and Personnel, the gentleman from Missouri [Mr. SKELTON], for their work on the provisions of H.R. 4570 referred to their committees. Provisions of the caucus' bill pertaining to bankruptcy proceeding were incorporated into the bankruptcy reform bill, passed by the House on October 4. On the same day, the House also passed H.R. 5140, a bill which would improve the collection of child support payments owed by military personnel.

With the passage of these four provisions, we have accomplished what was possible this Congress. On the first day of the 104th Congress, we will reintroduce the Child Support Responsibility Act and begin working to pass this much needed legislation.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HUGHES). Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Support Reform Amendments Act of 1994".

SEC. 2. GARNISHMENT OF PAY OF FEDERAL EMPLOYEES.

Subsection (i) of section 5520a of title 5, United States Code, is amended—

(1) by striking out "The provisions" and inserting in lieu thereof "(1) Except as provided in paragraph (2), the provisions"; and

(2) by adding at the end thereof the following:

"(2)(A) Each agency, upon receipt of legal process relating to an employee's legal obligation to provide child support that is regular on its face shall—

"(i) within five working days after the date pay would have been paid or credited to the employee by the agency, comply with the order, notwithstanding subsection (f);

"(ii) forward the amount withheld pursuant to the order to the State or custodial parent specified in the order; and

"(iii) keep records of the amounts so withheld.

"(B) In addition to service provided for under subsection (c), such an order may be served on the agency by first-class mail.

"(C) Each agency shall be subject to, and comply with, any civil fine of not more than $1,000 imposed by a State if the agency receives such an order and fails to comply with the order within 10 working days after the date wages would have been paid or credited to the employee by the agency.".

SEC. 3. ELIMINATION OF SECOND COURT ORDER TO ATTACH RETIREMENT FUNDS FOR CHILD SUPPORT.

(a) CSRS.—Subsection (j) of section 8345 of title 5, United States Code, is amended by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

"(3) Notwithstanding paragraph (1), an individual owed a child support arrearage (determined under a court order or an order of an administrative process established under State law) may attach any interest in payments under this subchapter which would otherwise be payable to an employee, Member, or annuitant who owes the support, without the requirement of a separate order, but only if the State provides procedures for notice and an expedited hearing if requested by such employee, Member, or annuitant. Payments attached under this paragraph shall be held in escrow pending a determination pursuant to such a hearing (if any).".

(b) TSP.—Paragraph (3) of section 8437(e) of such title is amended by adding at the end the following: "An individual owed a child support arrearage (determined under a court order or an order of an administrative process established under State law) may attach any interest in moneys due or payable from the Thrift Savings Fund which would otherwise be payable to an employee, Member, or annuitant who owes the support, without the requirement of a separate order, but only if the State provides procedures for notice and an expedited hearing if requested by such employee, Member, or annuitant. Amounts due or payable which are attached under this paragraph shall be held in escrow pending a determination pursuant to such a hearing (if any).".

(c) FERS.—Section 8467 of such title is amended by adding at the end the following:

"(c) Notwithstanding paragraph (1), an individual owed a child support arrearage (determined under a court order or an order of an administrative process established under State law) may attach any interest in payments under this subchapter which would otherwise be payable to an employee, Member, or annuitant who owes the support, without the requirement of a separate order, but only if the State provides procedures for notice and an expedited hearing if requested by such employee, Member, or annuitant. Payments attached under this paragraph shall be held in escrow pending a determination pursuant to such a hearing (if any).".

SEC. 4. DENIAL OF FEDERAL BENEFITS AND EMPLOYMENT TO CERTAIN PERSONS WITH LARGE CHILD SUPPORT ARREARAGES.

(a) BENEFITS.—Notwithstanding any other provision of law, an agency of the Federal Government may not provide a Federal benefit to any person—

(1) who is in arrears by more than 3 months in the payment of child support, determined under a court order or an order of an administrative process established under Sate law; and

(2) who has not entered into or is not in compliance with a plan or an agreement to pay the arrearages.

(b) EMPLOYMENT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, an individual who is in arrears by more than 3 months in the payment of child support, determined under a court order or an order of an administrative process established under State law, must, as a condition of accepting employment in any position in an agency, enter into or be in compliance with a plan or agreement to pay the arrearages.

(2) REGULATIONS.—Regulations to carry out paragraph (1) shall—

(A) with respect to positions in the executive branch, be prescribed by the President (or designee); and

79-059 O—97 Vol. 140 (Pt. 21) 16

(B) with respect to positions in the legislative branch, be prescribed jointly by the President pro tempore of the Senate and the Speaker of the House of Representatives (or their designees) and in consultation with the heads of the agencies of the legislative branch.

(c) STUDY.—With respect to the judicial branch, the Director of the Administrative Office of the United States Courts shall assess the feasibility of denying Federal benefits and employment to persons with child support arrears exceeding three months.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "child support" has the meaning given such term in section 462 of the Social Security Act;

(2) the term "Federal benefit" means a grant, loan, professional license, or commercial license provided by an agency of the United States, but does not include—

(A) any benefit eligibility for which, or the amount of which, is based, in whole or in part, on the financial means of the applicant or recipient;

(B) loans or grants made for educational purposes; or

(C) loans or grants for job training; and

(3) the term "agency" means any department, agency, or instrumentality in the executive or legislative branches of the Federal Government.

(e) EFFECTIVE DATE.—This section shall take effect as of November 1, 1995.

SEC. 5. DENIAL OF PASSPORTS TO NONCUSTODIAL PARENTS SUBJECT TO STATE ARREST WARRANTS IN CASES OF NONPAYMENT OF CHILD SUPPORT.

The Secretary of State is authorized to refuse a passport or revoke, restrict, or limit a passport in any case in which the Secretary of State determines or is informed by competent authority that the applicant or passport holder is a noncustodial parent who is the subject of an outstanding State warrant of arrest for nonpayment of child support, where the amount in controversy is not less than $10,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include extraneous matter, on H.R. 5179, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

FOREIGN SOVEREIGN IMMUNITIES AMENDMENTS ACT OF 1994

Mr. BROOKS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 934) to amend title 28, United States Code, relating to jurisdictional immunities of foreign states, to grant jurisdiction to the courts of the United States in certain cases involving torture or extrajudicial killing occurring in that state.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. FISH. Mr. Speaker, reserving the right to object, these are amendments to the Foreign Sovereignty Immunities Act.

I would like to ask the chairman of the full committee if this is not a true statement. If the amendment, as I understand it, to H.R. 934 would allow suits for damages in Federal court for personal injury or death which occurred during the Holocaust in World War II. The legislation has been very narrowly drafted to cover only that fact situation.

Is that the gentleman's understanding of the amendment before us?

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, the gentleman is correct.

Mr. Speaker, this legislation represents a narrow yet reasonable response to what appears to be a gap in the law. It provides access to Federal court for U.S. citizens who were victims of the Nazi Holocaust. While I had hoped the House could address this issue in a broader fashion, this bill will provide a measure of justice to at least some of those who suffered reprehensible treatment at the hands of a foreign power.

Mr. FISH. Mr. Speaker, further reserving the right to object, it is my understanding that the only foreign power involved in here is the Federal Republic of Germany.

Mr. BROOKS. I believe that is correct.

Mr. FISH. Mr. Speaker, the minority withdraws its prior objections because of this compromise, but further reserving the right to object, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to commend the distinguished chairman of the committee and ranking member for bringing this measure to the floor to correct an injustice.

Mr. FISH. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I thank the chairman and the ranking minority member. This is a severe injustice, it is narrow in scope, and we are all showing a great deal of compassion and foresight by moving this legislation.

Mr. FISH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill as follows:

H.R. 934

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY FOR CERTAIN CASES INVOLVING TORTURE OR EXTRAJUDICIAL KILLING IN A FOREIGN STATE.

Section 1605(a) of title 28, United States Code, is amended—

(1) by striking "or" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(7) not otherwise encompassed in paragraph (2), in which money damages are sought against a foreign state for personal injury or death of a United States citizen occurring in such foreign state and caused by the torture or extrajudicial killing of that citizen by such foreign state or by any official or employee of such foreign state while acting within the scope of his or her office or employment, except that—

"(A) the court shall decline to hear a claim under this paragraph if the claimant has not exhausted adequate and available remedies in the place in which the conduct giving rise to the claim occurred; and

"(B) an action under this paragraph shall not be maintained unless it is commenced within 10 years after the cause of action accrues.

For purposes of paragraph (7), the term 'torture' and 'extrajudicial killing' have the meanings given those terms in section 3 of the Torture Victim Protection Act of 1991.".

SEC. 2. EXCEPTION TO IMMUNITY FROM ATTACHMENT.

(a) FOREIGN STATE.—Section 1610(a) of title 28, United States Code, is amended—

(1) by striking the period at the end of paragraph (6) and inserting in lieu thereof ", or"; and

(2) by adding at the end thereof the following new paragraph:

"(7) the judgment relates to a claim for which the foreign state is not immune by virtue of section 1605(a)(7) of this chapter, regardless of whether the property is or was involved in the act upon which the claim is based.".

(b) AGENCY OR INSTRUMENTALITY.—Section 1610(b)(2) of such title is amended—

(1) by striking "or (5)" and inserting in lieu thereof "(5), or (7)"; and

(2) by striking "used for the activity" and inserting in lieu thereof "involved in the act".

SEC. 3. APPLICABILITY.

The amendments made by this Act shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BROOKS: Strike all after the enacting clause, and insert the following:

SECTION 1. EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY FOR CERTAIN CASES INVOLVING ACTS OF GENOCIDE IN A FOREIGN STATE.

Section 1605(a) of title 28, United States Code, is amended—

(1) by striking "or" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following:

"(7) not otherwise encompassed in paragraph (2), in which money damages are sought against the Federal Republic of Germany for the personal injury or death of a United States citizen occurring in the predecessor states of the Federal Republic of Germany, or in any territories or areas occupied, annexed or otherwise controlled by those states and caused by an act of genocide committed against that citizen, by such predecessor state or by any official or employee of such predecessor state while acting within the scope of his or her office or employment during World War Two except that—

"(A) an action under this paragraph shall not be maintained unless the individual whose injury or death gave rise to the action was a United States citizen at the time the conduct causing such injury or death occurred;

"(B) the court shall decline to hear a claim under this paragraph if the claimant has not exhausted adequate and available remedies in the places in which the conduct giving rise to the claim occurred; and

"(C) STATUTE OF LIMITATIONS.—An action under this paragraph shall not be maintained unless the cause of action is brought within 18 months after the date of enactment of this paragraph.

For purposes of paragraph (7), the term 'act of genocide' means conduct that would be a violation of section 1091 of title 18 if committed in the United States.".

SEC. 2. EXCEPTION TO IMMUNITY FROM ATTACHMENT.

(a) FOREIGN STATE.—Section 1610(a) of title 28, United States Code, is amended—

(1) by striking the period at the end of paragraph (6) and inserting in lieu thereof ", or"; and

(2) by adding at the end thereof the following new paragraph:

"(7) the judgment relates to a claim for which the foreign state is not immune by virtue of section 1605(a)(7) of this chapter, regardless of whether the property is or was involved in the act upon which the claim is based.".

(b) AGENCY OR INSTRUMENTALITY.—Section 1610(b)(2) of such title is amended—

(1) by striking "or (5)" and inserting in lieu thereof "(5), or (7)"; and

(2) by striking "used for the activity" and inserting in lieu thereof "involved in the act".

SEC. 3. APPLICABILITY.

The amendments made by this Act shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

Mr. BROOKS (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. BROOKS].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be read a third time, was read the third time, and passed.

The title of the bill was amended so as to read:

TITLE AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Amendment to the title offered by Mr. BROOKS: "A bill to amend title 28, United States Code, relating to jurisdictional immunities of foreign states, to grant jurisdiction to the courts of the United States in certain cases involving torture, extrajudicial killing, or genocide occurring in that state.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

□ 1820

FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1994

Mr. MARKEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4522) to amend the Communications Act of 1934 to extend the authorization of appropriations of the Federal Communications Commission, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HUGHES). Is there objection to the request of the gentleman from Massachusetts?

Mr. FIELDS of Texas. Mr. Speaker, reserving the right to object, and I will not object, I would just like to give the gentleman from Massachusetts [Mr. MARKEY] an opportunity to explain the bill, and I yield for that purpose.

Mr. MARKEY. Mr. Speaker, I thank the gentleman very much for yielding.

This bill was introduced by the gentleman from Michigan [Mr. DINGELL], the gentleman from California [Mr. MOORHEAD], along with the gentleman from Texas [Mr. FIELDS], and myself, and reauthorizes the Federal Communications Commission for fiscal year 1995 at the appropriated level of $186 million. This figure reflects the Commission's needs to carry out its mission under the Communications Act and to implement legislation that this Congress has passed.

In addition, the bill will relieve the burden on certain radio operators who obtain a license, such as recreational boaters, and ensures the communications industry bears a fair share of the operations of the Commission and clarifies in a number of instances the authority of the Commission.

The bill also allows the Commission to develop an accounting system as it establishes new fees, and to report to Congress each year on how the activity of the Commission translates into fees. This truth-in-budgeting requirement will force the Commission to justify its fee proposal, and will give this Congress the information it needs to assess the fees established by the Commission.

Mr. Speaker, I want to congratulate the gentleman from Texas [Mr. FIELDS]. We have worked long and hard on this bill. It is bipartisan and unanimously agreed to.

Mr. FIELDS of Texas. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. MOORHEAD], the ranking minority member.

Mr. MOORHEAD. Mr. Speaker, I rise in support of the substitute amendment to H.R. 4522 to reauthorize the Federal Communications Commission for fiscal year 1995 at $186 million. The bill also provides that a portion of the appropriated funds may be raised from application and user fees.

I am pleased that the legislation also contains some disciplinary measures on the FCC and sets up procedures for tighter budget planning by the FCC and for reporting proposed budget adjustments to Congress.

The bill directs the Commission to waive license requirements for maritime personal radio services, which is very important to recreational boat owners.

Among other things, the legislation clarifies the Commission's authority to reject tariffs and its authority to order refunds resulting from carrier rule violations. The bill also adjusts the statute of limitations for forfeiture proceedings against common carriers to conform with the Commission's accounting procedures.

Mr. Speaker, I want to commend Chairman DINGELL, subcommittee Chairman MARKEY and subcommittee ranking Republican FIELDS for their work on this bill. I urge my colleagues to support the bill.

Mr. FIELDS of Texas. Mr. Speaker, further reserving the right to object, I rise in support of the substitute amendment of H.R. 4522. This bipartisan legislation would reauthorize the Federal Communications Commission for fiscal year 1995 at $186 million. The bill further authorizes that a portion of the FCC's budget shall be derived from what is known as "section 8" application fees and "section 9" user fees, and it expands the commission's section 8 and section 9 fee authority to include all executive and legal costs incurred by the Commission.

Mr. Speaker, while expanding the FCC's fee authority, this bill, in response to the concern raised by committee members, also creates a procedure for mandating tighter FCC budget planning so that the authorizing committees will have adequate time to review future proposed increases or adjustments to fee schedules.

Further, it is worth noting that this bill is only a 1 year authorization. Thus, if we determine next year that further scrutiny of the fee schedules is needed, we will be able to look into it next year.

H.R. 4522 also now requires that the Commission waive license requirements for maritime personal radio services if the Commission determines that to do so is in the public interest. This provision will relieve boatowners from the burden of unnecessary fees. The bill also provides for more efficient and flexible inspection of ship radio equipment.

Among other things, the legislation clarifies the Commission's authority to reject tariffs and its authority to order refunds resulting from carrier rule violations. The bill also adjusts the statute of limitations for forfeiture proceedings against common carriers to conform with the Commission's accounting procedures. This provision reflects the agreement worked out between the FCC and the telephone industry. The bill provides authority for the Commission to use outside consultants.

Mr. Speaker, I want to commend the Subcommittee Chairman, Mr. MARKEY, for his leadership on this bill and I urge my colleagues to support the legislation.

Mr. Speaker, I strongly support the gentleman from Massachusett's request.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4522

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Communications Commission Authorization Act of 1994".

SEC. 2. EXTENSION OF AUTHORITY.

Section 6 of the Communications Act of 1934 (47 U.S.C. 156) is amended to read as follows:

"SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for the administration of this Act by the Commission $188,400,000 for fiscal year 1995, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for fiscal year 1995. Of the sum appropriated in each fiscal year under this section, a portion, in an amount determined under section 9(b), shall be derived from fees authorized by section 9.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. MARKEY:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Communications Commission Authorization Act of 1994".

SEC. 2. EXTENSION OF AUTHORITY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 6 of the Communications Act of 1934 (47 U.S.C. 156) is amended to read as follows:

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for the administration of this Act by the Commission $186,000,000 for fiscal year 1995, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for fiscal year 1995. Of the sum appropriated in each fiscal year under this section, a portion, in an amount determined under section 9(b), shall be derived from fees authorized by section 9.".

(b) TRAVEL AND REIMBURSEMENT PROGRAM.—Subsection (g) of section 4 of the Communications Act of 1934 (47 U.S.C. 154) is amended—

(1) by striking paragraph (2), and

(2) by redesignating paragraph (3) as (2).

(c) COMMUNICATIONS SUPPORT FROM OLDER AMERICANS.—Section 6(a) of the Federal Communications Commission Authorization Act of 1988 (47 U.S.C. 154 note) as amended by striking "fiscal years 1992 and 1993" and inserting "fiscal year 1995".

(d) HAWAII MONITORING STATION.—Section 9(a) of the Federal Communications Commission Authorization Act of 1988 (Public Law 100–594; 102 Stat. 3024) is amended by striking "1991, 1992, 1993, and 1994" and inserting "1995,".

SEC. 3. APPLICATION FEES.

(a) SCHEDULE OF APPLICATION FEES FOR PCS.—The schedule of application fees in section 8(g) of such Act is amended by adding, at the end of the portion under the heading "COMMON CARRIER SERVICES", the following new item:

"23. Personal communications services	
"a. Initial or new application	230
"b. Amendment to pending application.	35
"c. Application for assignment or transfer of control.	230
"d. Application for renewal of license.	35
"e. request for special temporary authority.	200
"f. Notification of completion of construction.	35
"g. Request to combine service areas.	50".

(b) VANITY CALL SIGNS.—

(1) LIFETIME LICENSE FEES.—

(A) AMENDMENT.—The schedule of application fees in section 8(g) of such Act is further amended by adding, at the end of the portion under the heading "PRIVATE RADIO SERVICES", the following new item:

"11. Amateur vanity call signs .... 150.00".

(B) TREATMENT OF RECEIPTS.—Moneys received from fees established under the amendment made by this subsection shall be deposited as an offsetting collection in, and credited to, the account providing appropriations to carry out the functions of the Commission.

(2) TERMINATION OF ANNUAL REGULATORY FEES.—The schedule of regulatory fees in section 9(g) of such Act (47 U.S.C. 159(g)) is amended by striking the following item from the fees applicable to the Private Radio Bureau:

"Amateur vanity call-signs ..... 7".

(c) DESCRIPTION OF APPLICATIONS FUNCTIONS.—Section 8(b) of such Act is amended by adding at the end the following new paragraph:

1"(3) Any fees established under this section shall be assessed and collected to recover the costs of performing application activities, including all executive and legal costs incurred by the Commission in the discharge of these activities.".

SEC. 4. REGULATORY FEES.

(a) EXECUTIVE AND LEGAL COSTS.—Section 9(a)(1) of the Communications Act of 1934 (47 U.S.C. 159(a)(1)) is amended by inserting before the period at the end the following: ", and all executive and legal costs incurred by the Commission in the discharge of these functions".

(b) ESTABLISHMENT AND ADJUSTMENT.—Section 9(b) of such Act is amended—

(1) in paragraph (4)(B), by striking "90 days" and inserting "45 days"; and

(2) by adding at the end the following new paragraph:

"(5) EFFECTIVE DATE OF ADJUSTMENTS.—The Commission may continue to collect fees at the prior year's rate until the effective date of any fee adjustment or amendment of that fee under this section."

(c) REGULATORY FEES FOR SATELLITE TV OPERATIONS.—The schedule of regulatory fees in section 9(g) of such Act is amended, in the fees applicable to the mass media bureau, by inserting after each of the items pertaining to construction permits in the fees applicable to VHF commercial TV the following new item:

"Terrestrial television satellite operations ..... 500".

(d) GOVERNMENTAL ENTITIES USE FOR COMMON CARRIER PURPOSES.—Section 9(h) of such Act is amended by adding at the end the following new sentence: "The exceptions provided by this subsection for governmental entities shall not be applicable to any services that are provided on a commercial basis in competition with another carrier.".

(e) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF REGULATORY FEES.—Title I of such Act is amended—

(1) in section 9, by striking subsection (i); and

(2) by inserting after section 9 the following new section:

"SEC. 10. ACCOUNTING SYSTEM AND ADJUSTMENT INFORMATION.

"(a) ACCOUNTING SYSTEM REQUIRED.—The Commission shall develop accounting systems of the purposes of making any adjustments authorized by sections 8 and 9. The Commission shall annually prepare and submit to the Congress an analysis of such systems and shall annually afford interested persons the opportunity to submit comments concerning the allocation of the costs of performing the functions described in section 8(b)(3) and 9(a)(1).

"(b) INFORMATION REQUIRED IN CONNECTION WITH ADJUSTMENT OF APPLICATION AND REGULATORY FEES.—

"(1) SCHEDULE OF REQUESTED AMOUNTS.—No later than May 1 of each calendar year, the Commission shall prepare and transmit to the Committees of Congress responsible for the Commission's authorization and appropriations a detailed schedule of the amounts requested by the President's budget to be appropriated for the ensuing fiscal year for the activities described in sections 8(b)(3) and 9(a)(1), allocated by bureaus, divisions, and offices of the Commission.

"(2) EXPLANATORY STATEMENT.—If the Commission anticipates increases in the application fees or regulatory fees applicable to any applicant, licensee, or unit subject to payment of fees, the Commission shall submit to the Congress by May 1 of such calendar year a statement explaining the relationship between any such increases and either (A) increases in the amounts requested

to be appropriated for Commission activities in connection with such applicants, licensees, or units subject to payment of fees, or (B) additional activities to be performed with respect to such applicants, licensees, or units.

"(3) DEFINITION.—For purposes of this subsection, the term 'amount requested by the President's budget' shall include any adjustments to such requests that are made by May 1 of such calendar year. If any such adjustment is made after May 1, the Commission shall provide such Committees with updated schedules and statements containing the information required by this subsection within 10 days after the date of any such adjustment.".

SEC. 5. INSPECTION OF SHIP RADIO STATIONS.

(a) CONTRACTING OUT INSPECTIONS.—Section 4(f)(3) of the Communications Act of 1934 (47 U.S.C. 154(f)(3)) is amended by adding at the end the following: "Notwithstanding the preceding provisions of this paragraph, the Commission may designate an entity to make the inspections referred to in this paragraph instead of using engineers in charge, radio engineers, or other field employees.".

(b) ANNUAL INSPECTION REQUIRED.—Section 362(b) of the Communications Act of 1934 (47 U.S.C. 360(b)) is amended—

(1) by striking "as may" in the third sentence and inserting "as the Commission determines to", and

(2) by striking "thereby" in the fourth sentence and all that follows and inserting the following: "thereby—

"(1) waive the annual inspection required under this section for a period of up to 90 days for the sole purpose of enabling a vessel to complete its voyage and proceed to a port in the United States where an inspection can be held, or

"(2) waive the annual inspection required under this section for a vessel that is in compliance with the radio provisions of the Safety Convention and that is operating solely in waters beyond the jurisdiction of the United States, but the inspection shall be performed within 30 days after the vessel's return to the United States.".

(c) CONFORMING AMENDMENT.—Section 385 of the Communications Act of 1934 (47 U.S.C. 385) is amended—

(1) by inserting "or an entity designated by the Commission" after "Commission", and

(2) by striking out "as may" and inserting "as the Commission determines to".

SEC. 6. EXPEDITED ITFS PROCESSING.

Section 5(c)(1) of the Communications Act of 1934 (47 U.S.C. 155(c)(1)) is amended by striking the last sentence and inserting the following: "Except for cases involving the authorization of service in the Instructional Television Fixed Service, or as otherwise provided in this Act, nothing in this paragraph shall authorize the Commission to provide for the conduct, by any person or persons other than persons referred to in paragraph (2) or (3) of section 556(b) of title 5, United States Code, of any hearing to which such section applies.".

SEC. 7. TARIFF REJECTION AUTHORITY.

sECTION 203(d) of the Communications Act of 1934 (47 U.S.C. 203(d)) is amended by inserting after the first sentence the following new sentences: "The Commission may, after affording interested parties an opportunity to comment, reject a proposed tariff filing in whole or in part, if the filing or any part thereof is patently unlawful. In evaluating whether a proposed tariff filing is patently unlawful, the Commission may consider additional information filed by the carrier or any interested party and shall presume the facts alleged by the carrier to be true.".

SEC. 8. REFUND AUTHORITY.

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 230. REFUND AUTHORITY.

"In addition to any other provision of this Act under which the Commission may order refunds, the Commission may require by order the refund of such portion of any charge by any carrier or carriers as results from a violation of sections 220 (a), (b), or (d) or 221 (c) or (d) or of any of the rules promulgated pursuant to such sections or pursuant to sections 215, 218, or 219. Such refunds shall be ordered only to the extent that the Commission or a court finds that such violation resulted in unlawful charges and shall be made to such persons or classes of persons as the Commission determines reasonably represent the persons from whom amounts were improperly received by reason of such violation. No refunds shall be required under this section unless—

"(1) the Commission issues an order advising the carrier of its potential refund liability and provides the carrier with an opportunity to file written comments as to why refunds should not be required; and

"(2) such order is issued not later than 5 years after the date the charge was paid.

In the case of a continuing violation, a violation shall be considered to occur on each date that the violation is repeated.".

SEC. 9. LICENSING OF AVIATION, MARITIME, AND PERSONAL RADIO SERVICES BY RULE.

Section 307(e) of the Communications Act of 1934 (47 U.S.C. 307(e)) is amended to read as follows:

"(e)(1) Notwithstanding any license requirement established in this Act, if the Commission determines that such authorization serves the public interest, convenience, and necessity, the Commission may by rule authorize the operation of radio stations without individual licenses in the following radio services: (A) the personal radio services; (B) the aviation radio service for aircraft stations operated on domestic flights when such aircraft are not otherwise required to carry a radio station; and (C) the maritime radio service for ship stations navigated on domestic voyages when such ships are not otherwise required to carry a radio station.

"(2) Any radio station operator who is authorized by the Commission to operate without an individual license shall comply with all other provisions of this Act and with rules prescribed by the commission under this Act.

"(3) For purposes of this subsection, the terms 'personal radio services', 'aircraft station', and 'ship station' shall have the meanings given them by the Commission by rule, except that the term 'personal radio services' shall not include the amateur service.".

SEC. 10. AUCTION TECHNICAL AMENDMENTS.

Section 309(j)(8) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)) is amended—

"(1) by inserting "are authorized to remain available until expended and" after "Such offsetting collections" in the second sentence of subparagraph (B), and

"(2) by adding at the end thereof the following:

"(C) REVENUES ON DEPOSIT.—The Commission is authorized, based on the competitive bidding methodology selected, to provide for the deposit of monies for bids in an interest-bearing account until such time as the Commission accepts a deposit from the high bidder. All interest earned on bid monies received from the winning bidder shall be deposited into the general fund of the Treasury. All interest earned on bid monies deposited from unsuccessful bidders shall be paid to those bidders, less any applicable fees and penalties.".

SEC. 11. FORFEITURES FOR VIOLATIONS IMPERILING SAFETY OF LIFE.

(a) ADMINISTRATIVE SANCTIONS.—Section 312(a) of the Communications Act of 1934 (47 U.S.C. 312(a)) is amended—

(1) by striking "or" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(8) failure to comply with any requirement of this Act or the Commission's rule that imperils the safety of life.".

(b) FORFEITURES.—Section 503(b)(1) of such Act (47 U.S.C. 503(b)(1) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the semicolon at the end of subparagraph (D) and inserting "; or"; and

(3) by adding after subparagraph (D) the following new subparagraph:

"(E) failed to comply with any requirement of this Act or the Commission's rules that imperils the safety of life;".

SEC. 12. USE OF EXPERTS AND CONSULTANTS.

Section 4(f)(1) of the Communications Act of 1934 (47 U.S.C. 154) is amended by adding at the end thereof the following: "The Commission may also procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily rate equivalent to the maximum rate payable for senior-level positions under section 5276 of title 5, United States Code.".

SEC. 13. STATUTE OF LIMITATIONS FOR FORFEITURE PROCEEDINGS AGAINST COMMON CARRIERS.

Section 503(b)(6) of the Communications Act of 1934 (47 U.S.C. 503(b)(6) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) by inserting "and is not a common carrier" after "title III of this Act" in subparagraph (B);

(3) by redesignating subparagraph (B) as subparagraph (C); and

(4) by inserting after subparagraph (A) the following new subparagraph:

"(B) such person is a common carrier and the required notice of apparent liability is issued more than 5 years after the date the violation charged occurred; or".

SEC. 14. UTILIZATION OF FM BAND FOR ASSISTIVE DEVICES FOR HEARING IMPAIRED INDIVIDUALS.

Within 6 months after the date of enactment of this Act, the Federal Communications Commission shall report to the Congress on the existing and future use of the FM band to facilitate the use of auditory assistive devices for individuals with hearing impairments. In preparing such report, the Commission shall consider—

(1) the potential for utilizing FM band auditory assistive devices to comply with the Americans with Disabilities Act;

(2) the impact on such compliance of the vulnerability of such devices to harmful interference from radio licensees; and

(3) alternative frequency allocations that could facilitate such compliance.

SEC. 15. TECHNICAL AMENDMENT.

Section 302(d)(1) of the Communications Act of 1934 (47 U.S.C. 309(d)(1)) is amended—

(1) in subparagraph (A), by striking "allocated to the domestic cellular radio telecommunications service" and inserting "utilized to provide commercial mobile service (as defined in section 332(d))"; and

(2) in subparagraph (C), by striking "cellular" and inserting "commercial mobile service".

Mr. MARKEY (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Massachusetts [Mr. MARKEY].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4522, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

ENERGY POLICY AND CONSERVATION ACT AMENDMENTS ACT OF 1994

Mr. SHARP. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2466) to amend the Energy Policy and Conservation Act to manage the Strategic Petroleum Reserve more effectively, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, and I shall not object, I take this reservation for the purpose of asking the gentleman from Indiana, [Mr. SHARP] to explain the bill, and I yield to the gentleman for that purpose.

Mr. SHARP. Mr. Speaker, this is a simple extension of the existing authority with respect to the U.S. Government's ability to use the Strategic Petroleum Reserve to protect our economy in the time of an emergency crisis, and also to participate in the International Energy Agency. All parties, political and otherwise, fully agree that we should get this done, and the news today about Iraq makes it all the more imperative that we not let this authority lapse at this time.

So we make no changes in the existing law, even though we worked and hoped to make the changes. This gives an 18-month extension of the current authority.

Mr. MOORHEAD. Mr. Speaker, further reserving the right to object, I support this bill, which reauthorizes certain programs under the Energy Policy and Conservation Act. These programs provide the authorization to operate, maintain and drawdown the strategic petroleum reserve and for the U.S. to participate in the international energy agreement.

These programs expired on September 30th of this year. Significantly, if the strategic petroleum reserve authorization is not renewed, the President will lack the authority to draw down the strategic petroleum reserve in the event of an energy emergency. It would be irresponsible for us to adjourn without reauthorizing this program.

Thus, Mr. Speaker, I strongly support this bill and I urge my colleagues to support it.

Mr. Speaker, the gentleman from Indiana, who is now retiring from Congress, has worked very hard in this particular field to fill the petroleum reserve and many other things concerning energy over the last number of years. We have had an opportunity to work close together on a lot of energy issues, and I think we have a lot of bills out that will do a lot of good for the country.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2466

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Energy Policy and Conservation Act Amendments Act of 1994".

TITLE I—ENERGY POLICY AND CONSERVATION

SEC. 101. SHORT TITLE.

This title may be cited as the "Energy Policy and Conservation Act Amendments of 1994".

SEC. 102. TITLE I AMENDMENTS.

Part D of title I of the Energy Policy and Conservation Act is amended in section 181 (42 U.S.C. 6251), by striking "September 30, 1994" each time it appears and inserting "June 30, 1996".

SEC. 103. TITLE D AMENDMENTS.

Part D of title II of the Energy Policy and Conservation Act is amended in section 281 (42 U.S.C. 6285), by striking "September 30, 1994" each time it appears and inserting "June 30, 1996".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ILLINOIS LAND CONSERVATION ACT OF 1994

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture, the Committee on Armed Services, and the Committee on Energy and Commerce be discharged from further consideration of the bill (H.R. 4946) to establish the Midewin National Tallgrass Prairie in the State of Illinois, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4946

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the "Illinois Land Conservation Act of 1994".

(b) DEFINITIONS.—For purposes of this Act:

(1) The term "Administrator" means the Administrator of the United States Environmental Protection Agency.

(2) The term "agricultural purposes" means the use of land for row crops, pasture, hay, and grazing.

(3) The terms "applicable law" and "applicable laws" mean all applicable Federal, State, and local laws, regulations, and requirements, including but not limited to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.), the Clean Water Act (33 U.S.C. 1251 et seq.) and the Clean Air Act (42 U.S.C. 7401 et seq.), and any amendments and implementing regulations of such Acts, and any other laws, regulations, and requirements related to protection of human health or the environment.

(4) The terms "applicable environmental law" and "applicable environmental laws" mean all applicable Federal, State, and local laws, regulations, and requirements related to protection of human health or the environment, including but not limited to those stated in section 1(b)(3).

(5) The term "Arsenal" means the Joliet Army Ammunition Plant located in the State of Illinois.

(6) The acronym "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.), as amended.

(7) The term "hazardous substance" has the meaning given such term by section 101(14) of CERCLA (42 U.S.C. 9601(14)).

(8) The abbreviation "MNP" means the Midewin National Tallgrass Prairie established pursuant to section 4 and managed as a part of the National Forest System.

(9) The term "person" has the meaning given that term by section 101(21) of CERCLA (42 U.S.C. 9601(21)).

(10) The term "pollutant or contaminant" has the meaning given such term by section 101(33) of CERCLA (42 U.S.C. 9601(33)).

(11) The term "response action" has the meaning given the term "response" by section 101(25) of CERCLA (42 U.S.C. 9601(25)).

(12) The term "national cemetery" means a cemetery established and operated as part of the Department of Veterans Affairs National Cemetery System and subject to the

provisions of chapter 24 of title 38, United States Code.

SEC. 2. TRANSFER OF MANAGEMENT RESPONSIBILITIES AND JURISDICTION OVER THE JOLIET ARSENAL.

(a) PRINCIPLES OF TRANSFER.—

(1) The Congress hereby ratifies in principle the proposals generally identified by the land use plan which was developed by the Joliet Arsenal Citizen Planning Commission and unanimously approved on April 8, 1994.

(2) The area constituting the MNP shall be transferred, without reimbursement, to the Secretary of Agriculture.

(3) Management by the Secretary of Agriculture of those portions of the Arsenal so transferred shall be in accordance with section 4.

(4) This Act does not change in any fashion the responsibilities or liabilities of any person under any applicable environmental law except that the Secretary of Agriculture shall not be liable or responsible for contamination resulting from or related to the condition of the property existing prior to transfer of the property, including but not limited to migration of hazardous substances, pollutants, contaminants, or petroleum products or their derivatives disposed during activities of the Department of the Army.

(5) The Secretary of the Army shall be responsible for the upkeep and maintenance of all fences, guard houses, and other security facilities, as well as the costs of security personnel on all portions of the Arsenal that have not been transferred to the Secretary of Agriculture.

(6) The Secretary of the Army, the Secretary of Agriculture, and the Administrator are individually and collectively authorized to enter into cooperative agreements and memoranda of understanding among each other and with other affected Federal, State and local governments, private organizations and corporations for the purposes of implementing this Act and carrying out the purposes for which the MNP is established.

(b) INTERIM ACTIVITIES OF THE SECRETARY OF AGRICULTURE.—Prior to transfer and subject to such reasonable terms and conditions as the Secretary of the Army may prescribe, the Secretary of Agriculture may enter upon the Arsenal property for purposes related to planning, resource inventory, fish and wildlife habitat manipulation (which may include prescribed burning), and other such activities consistent with the purposes for which the MNP is established. Except as provided in section 2(a)(4), the Secretary of Agriculture shall not be liable or responsible in any way under CERCLA or any other applicable environmental law for environmental conditions related to any such interim activities.

(c) TRANSFER OF JURISDICTION.—Jurisdiction over lands comprising the Arsenal shall be transferred as follows:

(1) Within 6 months of enactment of this Act and in accordance with section 2(a), the Secretary of the Army shall effect the transfer of those portions of the Arsenal property identified for transfer to the Secretary of Agriculture pursuant to section 2(c)(2) and to the Secretary of Veterans Affairs pursuant to section 5.

(2) The lands so transferred pursuant to paragraph (1) of subsection (c) shall be identified on a map or maps which shall be agreed to by the Secretary of the Army and the Secretary of Agriculture. Generally, the land to be transferred to the Secretary of Agriculture shall be all the real property and improvements comprising the Arsenal, except for lands and facilities described in section 2(d) or designated for disposal under section 5.

(3) All costs of necessary surveys for the transfer of jurisdiction of properties among Federal agencies shall be shared equally by the Secretary of the Army and the Secretary of the Department to whom the land is being transferred. For lands transferred to a non-Federal agency pursuant to section 5, the Army shall pay the survey costs.

(d) PROPERTY USED FOR ENVIRONMENTAL CLEANUP PURPOSES.—The Secretary of the Army shall retain jurisdiction, authority, and control over real property at the Arsenal to be used for water treatment; the treatment, storage, or disposal of any hazardous substance, pollutant or contaminant, petroleum products or their derivatives; or other purposes related to any response action at the Arsenal and other action required under any other applicable environmental law to remediate contamination or conditions of non-compliance at the Arsenal. The Secretary of the Army shall consult with the Secretary of Agriculture regarding the identification and management of the real property retained under this paragraph and ensure that activities carried out on that property are consistent, to the extent practicable, with the purposes for which the MNP is to be established under section 4(c), and consistent with the provisions of sections 4 (a), (b), and (d)–(i). In the case of any conflict between management of the property by the Secretary of Agriculture and any response action or action required under applicable law to remediate petroleum products or their derivatives, the response action or other action shall take priority.

SEC. 3. CONTINUATION OF RESPONSIBILITY AND LIABILITY OF THE SECRETARY OF THE ARMY FOR ENVIRONMENTAL CLEANUP.

(a) RESPONSIBILITY.—The Secretary of the Army shall, with respect to the real property at the Arsenal, remain liable for and continue to carry out—

(1) all response actions required under CERCLA and other applicable provisions of law at or related to the property, and

(2) all actions required under any other applicable law to remediate petroleum products or their derivatives (including motor oil and aviation fuel).

The liabilities and responsibilities of the Secretary of the Army described in the preceding sentence shall not transfer under any circumstances to the Secretary of Agriculture. The Secretary of Agriculture shall consult with the Secretary of the Army with respect to the Secretary of Agriculture's management of real property subject to any such response action or other action at the property being carried out by or under the authority of the Secretary of the Army under such provisions of law.

(b) LIABILITY.—(1) Subject to subsections (b)(3) and (b)(4), nothing in this Act shall relieve, and no action may be taken under this Act to relieve, the Secretary of the Army or any other person from any obligation or other liability that they may have at the Arsenal under CERCLA and other laws.

(2) After the transfer of jurisdiction under section 2(c), the Secretary of the Army shall retain any obligation or other liability at the Arsenal that it may have under CERCLA and other applicable laws and shall be accorded all easements and access as may be reasonably required to carry out such obligation or other liability.

(3) Subject to subsection (b)(4), the Secretary of Agriculture shall not be responsible or liable for any costs of response actions required under CERCLA at or related to the Arsenal, or, with respect to non-compliance at or related to the Arsenal by the Secretary of the Army of any applicable environmental law, for any costs, penalties, fines, costs of actions necessary to remedy such non-compliance, or costs of other obligations. The Secretary of Agriculture shall not be responsible or liable for any contamination resulting from or related to conditions of the property existing prior to transfer of the property, including contamination arising from the operations of the Department of the Army and its contractors. Contamination shall include but not be limited to migration of hazardous substances, pollutants, contaminants, or petroleum products or their derivatives disposed during activities of the Department of the Army.

(4) The Secretary of Agriculture shall be responsible and liable only for and only to the extent of any other contamination affirmatively introduced into the environment at the Arsenal by the Secretary of Agriculture or the Department of Agriculture. The Secretary of Agriculture shall consult with the Secretary of the Army prior to undertaking any activities that may disturb the property to ensure that such activities will not exacerbate contamination problems or interfere with performance by the Secretary of the Army of response actions at the property.

(c) DEGREE OF CLEANUP.—Nothing in this Act shall be construed to restrict or lessen the degree of cleanup at the Arsenal required to be carried out under applicable law. All response actions and other actions required under any other statute to remediate petroleum products or their derivatives (including motor oil and aviation fuel) carried out at the Arsenal shall attain a degree of cleanup of hazardous substances, pollutants, contaminants, and petroleum products or their derivatives that, at a minimum, is sufficient to fully meet the purposes set forth in section 4(c) for which the MNP will be established.

(d) PAYMENT OF RESPONSE ACTION COSTS.—Any Federal department or agency that had or has operations at the Arsenal resulting in the release or threatened release of hazardous substances, pollutants, or contaminants shall pay the cost of related response actions or related actions under other statutes to remediate petroleum products or their derivatives, including motor oil and aviation fuel.

(e) CONSULTATION.—In carrying out response actions at the Arsenal, the Secretary of the Army shall consult with the Secretary of Agriculture to ensure that such actions are carried out in a manner consistent with sections 4 (a), (b), and (d)–(i), and, to the extent practicable, consistent with the purposes set forth in section 4(c) for which the MNP will be established.

SEC. 4. ESTABLISHMENT OF THE MIDEWIN NATIONAL TALLGRASS PRAIRIE.

(a) ESTABLISHMENT.—On the effective date of the transfer of jurisdiction under section 2(c), there is thereby established the Midewin National Tallgrass Prairie consisting of the real property so transferred for administration by the Secretary of Agriculture.

(b) ADMINISTRATION.—(1) The Secretary of Agriculture shall manage the MNP as a part of the National Forest System in accordance with this Act and the laws, rules and regulations pertaining to the National Forests: *Provided*, That the Bankhead-Jones Farm Tenant Act of 1937 (7 U.S.C. 1010–1012) shall not apply to the MNP.

(2) Notwithstanding the provisions of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), monies appropriated from the Land and Water Conservation Fund shall be available for acquisition of lands and interests therein for the MNP.

(3) In order to expedite the administration and public use of the MNP, the Secretary of Agriculture may conduct management activities at the MNP to effectuate the purposes for which the MNP is established, as set forth in subsection (c), in advance of the development of a land and resource management plan for the MNP.

(4) In developing a land and resource management plan for the MNP, the Secretary of Agriculture shall consult with the Illinois Department of Conservation and local governments adjacent to the MNP and provide an opportunity for public comment. Any parcel transferred to the Secretary of Agriculture, pursuant to section 2(d) and subsequent to the development of a land and resource management plan for the MNP, may be managed in accordance with such plan without need for an amendment thereto.

(c) PURPOSES OF THE MIDEWIN NATIONAL TALLGRASS PRAIRIE.—The MNP is established to be managed for National Forest purposes, including the following:

(1) To conserve and enhance populations and habitats of fish, wildlife, and plants, including populations of grassland birds, raptors, passerines, and marsh and water birds.

(2) To restore and enhance, where practicable, habitat for species listed as proposed, threatened or endangered under the Endangered Species Act.

(3) To provide fish and wildlife oriented public uses at levels compatible with the conservation, enhancement and restoration of native wildlife and plants and their habitats.

(4) To provide opportunities for scientific research.

(5) To provide opportunities for environmental and land use education.

(6) To manage the land and water resources of the MNP in a manner that will conserve and enhance the natural diversity of native fish, wildlife, and plants.

(7) To conserve and enhance the quality of aquatic habitat.

(8) To provide for public recreation insofar as such recreation is compatible with the other purposes for which the MNP is established.

(d) PROHIBITION AGAINST THE CONSTRUCTION OF NEW THROUGH ROADS.—No new construction of any highway, public road, or any part of the interstate system, whether Federal, State, or local, shall be permitted through or across any portion of the MNP. Nothing herein shall preclude construction and maintenance of roads for use within the MNP, or the granting of authorizations for utility rights-of-way under applicable Federal law, or preclude such access as is necessary. Nothing herein shall preclude necessary access by the Secretary of the Army for purposes of restoration and cleanup as provided in this Act.

(e) AGRICULTURAL LEASES AND SPECIAL USE AUTHORIZATIONS.—Within the MNP, use of the lands for agricultural purposes shall be permitted subject to the following terms and conditions:

(1) If at the time of transfer of jurisdiction pursuant to section 2 there exists any lease issued by the Department of the Army, Department of Defense, or any other agency thereof, for agricultural purposes upon the parcel transferred, the Secretary of Agriculture, upon transfer of jurisdiction, shall convert the lease to a special use authorization, the terms of which shall be identical in substance to the lease that existed prior to the transfer, including the expiration date and any payments owed the United States.

(2) The Secretary of Agriculture may issue special use authorizations to persons for use of the MNP for agricultural purposes. Such special use authorizations shall require payment of a rental fee, in advance, that is based on the fair market value of the use allowed. Fair market value shall be determined by appraisal or a competitive bidding process. Special use authorizations issued pursuant to this paragraph shall include terms and conditions as the Secretary of Agriculture may deem appropriate.

(3) No agricultural special use authorization shall be issued for agricultural purposes which has a term extending beyond the date twenty years from the date of enactment of this Act: *Provided*, That nothing in this Act shall preclude the Secretary from issuing agricultural special use authorizations or grazing permits which are effective after twenty years from the date of enactment of this Act for purposes primarily related to erosion control, provision for food and habitat for fish and wildlife, or other resource management activities consistent with the purposes of this Act.

(f) FEES.—The Secretary is authorized to charge reasonable fees for the admission, occupancy and use of the MNP and may prescribe a fee schedule providing for reduced or a waiver of fees for persons or groups engaged in authorized activities including those providing volunteer services, research, or education: *Provided*, That the Secretary shall permit admission, occupancy and use at no additional charge for persons possessing a valid Golden Eagle Passport or Golden Age Passport.

(g) SALVAGE OF IMPROVEMENTS.—The Secretary of Agriculture may sell for salvage value any facilities and improvements which have been transferred to the Secretary of Agriculture pursuant to this Act.

(h) MIDEWIN NATIONAL TALLGRASS PRAIRIE RESTORATION FUND.—Monies received pursuant to subsection (e) shall be subject to distribution to the State of Illinois and affected counties pursuant to the Acts of May 23, 1908 and March 1, 1911, as amended (16 U.S.C. 500). All monies not so distributed pursuant to said Acts, and all other monies collected pursuant to subsections (f) and (g) of this section shall be covered into the Treasury and constitute a special fund to be known as the Midewin National Tallgrass Prairie Restoration Fund ("Fund"). Deposits in this fund are appropriated and made available, without need for further appropriation, until expended, for use, with or without funds otherwise appropriated, for restoration and administration of the MNP, including but not limited to: construction of a visitor and education center; restoration of ecosystems; construction of recreational facilities such as trails; construction of administrative offices; and operation and maintenance.

(i) COOPERATION WITH STATES, LOCAL GOVERNMENTS AND OTHER ENTITIES.—In the management of the MNP, the Secretary is authorized and encouraged to cooperate with appropriate Federal, State and local governmental agencies, private organizations and corporations. Such cooperation may include cooperative agreements as well as the exercise of the existing authorities of the Secretary under the Cooperative Forestry Assistance Act of 1978, as amended, and the Forest and Rangeland Renewable Resources Research Act of 1978, as amended. The objects of such cooperation may include public education, land and resource protection, and cooperative management among government, corporate and private landowners in a manner which furthers the purposes of this Act. Activities conducted pursuant to this subsection shall be exempt from the requirements of the Federal Advisory Committee Act (5 U.S.C. Appendix 2) and the rules and regulations promulgated thereunder.

SEC. 5. DISPOSAL OF CERTAIN REAL PROPERTY AT THE ARSENAL FOR INDUSTRIAL DEVELOPMENT, A NATIONAL VETERANS CEMETERY, AND A COUNTY LANDFILL.

(a) PROPERTY DESIGNATED FOR DISPOSAL UNDER THIS SECTION.—The following areas of real property at the Arsenal are designated for disposal under this section:

(1) An area of real property consisting of approximately 1,900 acres located at the Arsenal, the approximate legal description of which includes part of section 30, Jackson Township, T34N R10E, and sections or part of sections 24, 25, 26, 35, and 36 Channahon Township, T34N R9E, Will County, Illinois, as depicted in the Arsenal Land Use Concept to be conveyed to the Village of Elwood, Illinois for the purpose of an industrial park. Any funds received by the Village of Elwood from the sale or other transfer of this property, or portions thereof, less any costs expended for improvements thereon, shall be remitted to the Department of the Army. Any sale or transfer of this property by the Village of Elwood for the development of the industrial park shall be at fair market value, as determined in accordance with Federal appraisal standards and procedures.

(2) An area of real property consisting of approximately 1,100 acres, the approximate legal description of which includes part of sections 16, 17, 18 Florence Township, T33N R10E, Will County, Illinois, as depicted in the Arsenal Land Use Concept to be conveyed to the City of Wilmington, Illinois, for the purpose of an industrial park. Any funds received by the City of Wilmington from the sale or other transfer of this property, or portions thereof, less any costs expended for improvements thereon, shall be remitted to the Department of the Army. Any sale or transfer of this property by the City of Wilmington for the development of the industrial park shall be at fair market value, as determined in accordance with Federal appraisal standards and procedures.

(3) An area of real property consisting of approximately 425 acres, the approximate legal description of which includes part of sections 8 and 17, Florence Township, T33N R10E, Will County, Illinois, as depicted in the Arsenal Land Use Concept to be conveyed to the County of Will to be operated as a landfill by the County: *Provided*, That such additional acreage shall be added to the landfill as is necessary to reasonably accommodate needs for the disposal of refuse and other materials from the restoration and cleanup of only the Arsenal property as provided for in this Act: *Provided further*, That the use of this additional acreage by any agency of the Federal Government or its agents or assigns shall be at no cost to the Federal Government.

(4) An area of real property consisting of approximately 910 acres, the approximate legal description of which includes part of sections 30 and 31 Jackson Township, T34N R10E, and including part of sections 25 an 36 Channahon Township, T34N R9E, Will County, Illinois, as depicted in the Arsenal Land

Use Concept to be transferred to the Department of Veterans Affairs in accordance with all provisions of section 2337, Public Law 100–180.

(5) Pursuant to the requirements of subsection (b) and section 2(a), the Secretary of the Army shall transfer to the Administrator of the General Services Administration the following areas: Manufacturing Area—Study Area 1—Southern Ash Pile, Study Area 2—Explosive Burning Ground, Study Area 3—Flashing Grounds, Study Area 4—Lead Azide Area, Study Area 10—Toluene Tank Farms, Study Area 11—Landfill, Study Area 12—Sellite Manufacturing Area, Study Area 14—Former Pond Area, Study Area 15—Sewage Treatment Plant. Load Assemble Packing Area—Group 61: Study Area L1, Explosive Burning Ground: Study Area L2, Demolition Area: Study Area L3, Landfill Area: Study Area L4, Salvage Yard: Study Area L5, Group 1: Study Area L7, Group 2: Study Area L8, Group 3: Study Area L9, Group 3A: Study Area L10, Doyle Lake: Study Area L12, Group 68: Study Area L13, Group 4: Study Area L14, Group 5: Study Area L15, Group 8: Study Area L18, Group 9: Study Area L19, Group 20, Study Area L20, Group 25: Study Area L22, Group 27: Study Area L23, Group 62: Study Area L25, Group 64: Study Area L27, Group 65: Study Area L28, Extraction Pits: Study Area L31, PVC Area: Study Area L33, Former Burning Area: Study Area L34, Fill Area: Study Area L35, including all associated inventoried buildings and structures as identified in the Joliet Army Ammunition Plant Plantwide Building and Structures Report and the contaminate study sites for both the Manufacturing and Load Assembly and Packing sides of the Joliet Arsenal as delineated in the Dames and Moore Final Report, Phase 2 Remedial Investigation Manufacturing (MFG) Area Joliet Army Ammunition Plant Joliet, Illinois (May 30, 1993, Contract No. DAAA15–90–D–0015 task order No. 6 prepared for: United States Army Environmental Center); and excepting the two industrial parks, national cemetery and landfill described in subsections (a)(1), (a)(2), (a)(3), and (a)(4).

(b) TRANSFER OF LANDS IN SUBSECTION (a)(5).—Within 6 months of satisfying all cleanup and other requirements contained in section 120(h) of the CERCLA and in accordance with the requirements of section 2(a), the Secretary of the Army shall offer the Secretary of Agriculture the option of accepting a transfer of the areas described in subsection (a)(5), without reimbursement, to be added to the MNP as described in section 4 and subject to the terms and conditions, including the limitations on liability, contained in this Act. In the event the Secretary of Agriculture declines such offer, the property shall be disposed of as surplus property under the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(c) ENVIRONMENTAL QUALITY OF THE PROPERTY.—(1) Nothing in this section shall be construed to restrict or lessen the degree of cleanup required to be carried out under applicable law at the property designated for disposal under this section.

(2) The disposal of real property under this section shall be carried out in compliance with all the provisions of section 120(h) of the CERCLA and any other applicable law.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. DE LA GARZA:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Illinois Land Conservation Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Definitions.
Sec. 3. Transfer of management responsibilities and jurisdiction over the Arsenal.
Sec. 4. Continuation of responsibility and liability of the Secretary of the Army for environmental cleanup.
Sec. 5. Establishment of the Midewin National Tallgrass Prairie.
Sec. 6. Disposal of certain real property at the Arsenal for a national veterans cemetery and a county landfill and to the Administrator of General Services.
Sec. 7. Degree of environmental cleanup.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term "Administrator" means the Administrator of the United States Environmental Protection Agency.

(2) The term "agricultural purposes" means the use of land for row crops, pasture, hay, and grazing.

(3) The term "Arsenal" means the Joliet Army Ammunition Plant located in the State of Illinois.

(4) The acronym "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(5) The term "environmental law" means all applicable Federal, State, and local laws, regulations, and requirements related to protection of human health, natural and cultural resources, or the environment, including CERCLA, the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), and the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

(6) The term "hazardous substance" has the meaning given such term by section 101(14) of CERCLA (42 U.S.C. 9601(14)).

(7) The abbreviation "MNP" means the Midewin National Tallgrass Prairie established pursuant to section 5 and managed as a part of the National Forest System.

(8) The term "national cemetery" means a cemetery established and operated as part of the National Cemetery System of the Department of Veterans Affairs and subject to the provisions of chapter 24 of title 38, United States Code.

(9) The term "person" has the meaning given such term by section 101(21) of CERCLA (42 U.S.C. 9601(21)).

(10) The term "pollutant or contaminant" has the meaning given such term by section 101(33) of CERCLA (42 U.S.C. 9601(33)).

(11) The term "release" has the meaning given such term by section 101(22) of CERCLA (42 U.S.C. 9601(22))

(12) The term "response action" has the meaning given such term by section 101(25) of CERCLA (42 U.S.C. 9601(25)).

SEC. 3. TRANSFER OF MANAGEMENT RESPONSIBILITIES AND JURISDICTION OVER THE ARSENAL.

(a) PRINCIPLES OF TRANSFER.—

(1) LAND USE PLAN.—The Congress ratifies in principle the proposals generally identified by the land use plan which was developed by the Joliet Arsenal Citizen Planning Commission and unanimously approved on April 8, 1994.

(2) TRANSFER WITHOUT REIMBURSEMENT.—The area constituting the MNP shall be transferred, without reimbursement, to the Secretary of Agriculture.

(3) MANAGEMENT OF MNP.—Management by the Secretary of Agriculture of those portions of the Arsenal transferred to the Secretary under this Act shall be in accordance with section 5 establishing the MNP.

(4) SECURITY MEASURES.—The Secretary of the Army, the Secretary of Agriculture, and the Secretary of Veterans Affairs, shall each provide and maintain physical and other security measures on such portion of the Arsenal as is under the administrative jurisdiction of such Secretary. Such security measures (which may include fences and natural barriers) shall include measures to prevent members of the public from gaining unauthorized access to such portions of the Arsenal as are under the administrative jurisdiction of such Secretary and that may endanger health or safety.

(5) COOPERATIVE AGREEMENTS.—The Secretary of the Army, the Secretary of Agriculture, and the Administrator are individually and collectively authorized to enter into cooperative agreements and memoranda of understanding among each other and with other affected Federal agencies, State and local governments, private organizations, and corporations to carry out the purposes for which the MNP is established.

(b) INTERIM ACTIVITIES OF THE SECRETARY OF AGRICULTURE.—Prior to transfer and subject to such reasonable terms and conditions as the Secretary of the Army may prescribe, the Secretary of Agriculture may enter upon the Arsenal property for purposes related to planning, resource inventory, fish and wildlife habitat manipulation (which may include prescribed burning), and other such activities consistent with the purposes for which the MNP is established.

(c) PHASED TRANSFER OF JURISDICTION.—Jurisdiction over lands comprising the Arsenal shall be transferred as follows:

(1) INITIAL TRANSFER.—Within 6 months after the date of the enactment of this Act, the Secretary of the Army shall effect the transfer of those portions of the Arsenal property identified for transfer to the Secretary of Agriculture pursuant to subsection (d) and to the Secretary of Veterans Affairs pursuant to section 6(a)(2). In the case of the Arsenal property to be transferred to the Secretary of Agriculture, the Secretary of the Army shall transfer to the Secretary of Agriculture only those portions for which the Secretary of the Army and the Administrator concur that no further action is required under any environmental law and which therefore have been eliminated from the areas to be further studied pursuant to the Defense Environmental Restoration Program for the Arsenal. Within 4 months after the date of the enactment of this Act, the Secretary of the Army and the Administrator shall provide to the Secretary of Agriculture all existing documentation supporting such finding and all existing information relating to the environmental conditions of the portions of the Arsenal to be transferred to the Secretary of Agriculture pursuant to this paragraph.

(2) ADDITIONAL TRANSFERS.—The Secretary of the Army shall transfer in accordance with section 6(b) to the Secretary of Agriculture any portion of the property generally identified in subsection (d) and not transferred pursuant to paragraph (1) after the Secretary of the Army and the Administrator concur that no further action is required at that portion of property under any environmental law and that such portion is therefore eliminated from the areas to be further studied pursuant to the Defense Environmental Restoration Program for the Arsenal. At least 2 months before any transfer under this paragraph, the Secretary of the Army and the Administrator shall provide to the Secretary of Agriculture all existing documentation supporting such finding and all existing information relating to the environmental conditions of the portion of the Arsenal to be transferred. Transfer of jurisdiction pursuant to this paragraph may be accomplished on a parcel-by-parcel basis. This paragraph, paragraph (1), and their requirements shall not in any way affect the responsibilities and liabilities of the Secretary of the Army specified in section 4.

(d) IDENTIFICATION OF PORTIONS FOR TRANSFER FOR MNP.—The lands to be transferred under subsection (c) shall be identified on a map or maps which shall be agreed to by the Secretary of the Army and the Secretary of Agriculture. Generally, the land to be transferred to the Secretary of Agriculture shall be all the real property and improvements comprising the Arsenal, except for lands and facilities described in subsection (e) or designated for disposal under section 6.

(e) PROPERTY USED FOR ENVIRONMENTAL CLEANUP.—

(1) RETENTION.—The Secretary of the Army shall retain jurisdiction, authority, and control over real property at the Arsenal to be used for—

(A) water treatment;

(B) the treatment, storage, or disposal of any hazardous substance, pollutant or contaminant, hazardous material, or petroleum products or their derivatives;

(C) other purposes related to any response action at the Arsenal; and

(D) other actions required at the Arsenal under any environmental law to remediate contamination or conditions of noncompliance with any environmental law.

(2) CONDITIONS.—The Secretary of the Army shall consult with the Secretary of Agriculture regarding the identification and management of the real property retained under this subsection and ensure that activities carried out on that property are consistent, to the extent practicable, with the purposes for which the MNP is established, as specified in subsection (c) of section 5, and with the other provisions of such section.

(3) PRIORITY OF RESPONSE ACTIONS.—In the case of any conflict between management of the property by the Secretary of Agriculture and any response action or other action required under environmental law to remediate petroleum products or their derivatives, the response action or other such action shall take priority.

(f) SURVEYS.—All costs of necessary surveys for the transfer of jurisdiction of properties among Federal agencies shall be shared equally by the Secretary of the Army and the Secretary of the Department receiving the property. For lands transferred to a non-Federal agency pursuant to section 6, the Secretary of the Army shall pay the survey costs.

SEC. 4. CONTINUATION OF RESPONSIBILITY AND LIABILITY OF THE SECRETARY OF THE ARMY FOR ENVIRONMENTAL CLEANUP.

(a) RESPONSIBILITY.—The liabilities and responsibilities of the Secretary of the Army under any environmental law shall not transfer under any circumstances to the Secretary of Agriculture as a result of the property transfers made under section 3 or section 6(b), or as a result of implementation of section 3(b). With respect to the real property at the Arsenal, the Secretary of the Army shall remain liable for and continue to carry out—

(1) all response actions required under CERCLA and other environmental law at or related to the property; and

(2) all actions required under any other environmental law to remediate petroleum products or their derivatives (including motor oil and aviation fuel).

(b) LIABILITY.—

(1) IN GENERAL.—Nothing in this Act shall be construed to effect, modify, amend, repeal, alter, limit or otherwise change, directly or indirectly, the responsibilities or liabilities under any applicable environmental law of any person (including the Secretary of Agriculture), except as provided in paragraph (3) with respect to the Secretary of Agriculture.

(2) LIABILITY OF SECRETARY OF THE ARMY.—The Secretary of the Army shall retain any obligation or other liability at the Arsenal that the Secretary may have under CERCLA and other environmental laws. Following transfer of any portions of the Arsenal pursuant to this Act, the Secretary of the Army shall be accorded all easements and access to such property as may be reasonably required to carry out such obligation or satisfy such liability.

(3) SPECIAL RULES FOR SECRETARY OF AGRICULTURE.—The Secretary of Agriculture shall not be responsible or liable under any environmental law for matters which are in any way related directly or indirectly to activities of the Secretary of the Army, or any party acting under the authority of the Secretary in connection with the Defense Environmental Restoration Program, at the Arsenal and which are for any of the following:

(A) Costs of response actions required under CERCLA at or related to the Arsenal.

(B) Costs, penalties, or fines related to noncompliance with any environmental law at or related to the Arsenal or related to the presence, release, or threat of release of any hazardous substance, pollutant, contaminant, hazardous waste or hazardous material of any kind at or related to the Arsenal, including contamination resulting from migration of hazardous substances, pollutants, contaminants, hazardous materials, or petroleum products or their derivatives disposed during activities of the Department of the Army.

(C) Costs of actions necessary to remedy such noncompliance or other problem specified in paragraph (B).

(c) PAYMENT OF RESPONSE ACTION COSTS.—Any Federal department or agency that had or has operations at the Arsenal resulting in the release or threatened release of hazardous substances, pollutants, or contaminants shall pay the cost of related response actions or related actions under other statutes to remediate petroleum products or their derivatives, including motor oil and aviation fuel.

(d) CONSULTATION.—The Secretary of Agriculture shall consult with the Secretary of the Army with respect to the Secretary of Agriculture's management of real property included in the MNP subject to any response action or other action at the Arsenal being carried out by or under the authority of the Secretary of the Army under any environmental law. The Secretary of Agriculture shall consult with the Secretary of the Army prior to undertaking any activities on the MNP that may disturb the property to ensure that such activities will not exacerbate contamination problems or interfere with performance by the Secretary of the Army of response actions at the property. In carrying out response actions at the Arsenal, the Secretary of the Army shall consult with the Secretary of Agriculture to ensure that such actions are carried out in a manner consistent with the purposes for which the MNP is established, as specified in subsection (c) of section 5, and the other provisions of such section.

SEC. 5. ESTABLISHMENT OF THE MIDEWIN NATIONAL TALLGRASS PRAIRIE.

(a) ESTABLISHMENT.—On the effective date of the initial transfer of jurisdiction of portions of the Arsenal to the Secretary of Agriculture under section 3(c)(1), the Secretary of Agriculture shall establish the Midewin National Tallgrass Prairie, which shall—

(1) be administered by the Secretary of Agriculture; and

(2) consist of the real property so transferred and such other portions of the Arsenal subsequently transferred under section 3(c)(2).

(b) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of Agriculture shall manage the MNP as a part of the National Forest System in accordance with this Act and the laws, rules and regulations pertaining to the National Forests, except that the Bankhead-Jones Farm Tenant Act of 1937 (7 U.S.C. 1010–1012) shall not apply to the MNP.

(2) LAND ACQUISITION FUNDS.—Notwithstanding section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9), monies appropriated from the Land and Water Conservation Fund established under section 2 of such Act (16 U.S.C. 460*l*–5) shall be available for acquisition of lands and interests in land for inclusion in the MNP.

(3) ACQUISITION OF PRIVATE LANDS.—Acquisition of private lands for inclusion in the MNP shall be on a willing seller basis only.

(4) INITIAL MANAGEMENT ACTIVITIES.—In order to expedite the administration and public use of the MNP, the Secretary of Agriculture may conduct management activities at the MNP to effectuate the purposes for which the MNP is established, as set forth in subsection (c), in advance of the development of a land and resource management plan for the MNP.

(5) LAND AND RESOURCE MANAGEMENT PLAN.—In developing a land and resource management plan for the MNP, the Secretary of Agriculture shall consult with the Illinois Department of Conservation and local governments adjacent to the MNP and provide an opportunity for public comment. Any parcel transferred to the Secretary of Agriculture under this Act after the development of a land and resource management plan for the MNP may be managed in accordance with such plan without need for an amendment to the plan.

(c) PURPOSES OF THE MIDEWIN NATIONAL TALLGRASS PRAIRIE.—The MNP is established to be managed for National Forest purposes, including the following:

(1) To conserve and enhance populations and habitats of fish, wildlife, and plants, including populations of grassland birds, raptors, passerines, and marsh and water birds.

(2) To restore and enhance, where practicable, habitat for species listed as proposed, threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(3) To provide fish and wildlife oriented public uses at levels compatible with the conservation, enhancement and restoration of native wildlife and plants and their habitats.

(4) To provide opportunities for scientific research.

(5) To provide opportunities for environmental and land use education.

(6) To manage the land and water resources of the MNP in a manner that will conserve and enhance the natural diversity of native fish, wildlife, and plants.

(7) To conserve and enhance the quality of aquatic habitat.

(8) To provide for public recreation insofar as such recreation is compatible with the other purposes for which the MNP is established.

(d) PROHIBITION AGAINST THE CONSTRUCTION OF NEW THROUGH ROADS.—No new construction of any highway, public road, or any part of the interstate system, whether Federal, State, or local, shall be permitted through or across any portion of the MNP. Nothing herein shall preclude construction and maintenance of roads for use within the MNP, or the granting of authorizations for utility rights-of-way under applicable Federal law, or preclude such access as is necessary. Nothing herein shall preclude necessary access by the Secretary of the Army for purposes of restoration and cleanup as provided in this Act.

(e) AGRICULTURAL LEASES AND SPECIAL USE AUTHORIZATIONS.—Within the MNP, use of the lands for agricultural purposes shall be permitted subject to the following terms and conditions:

(1) If at the time of transfer of jurisdiction under section 3 there exists any lease issued by the Department of the Army, Department of Defense, or any other agency thereof, for agricultural purposes upon the parcel transferred, the Secretary of Agriculture, upon transfer of jurisdiction, shall convert the lease to a special use authorization, the terms of which shall be identical in substance to the lease that existed prior to the transfer, including the expiration date and any payments owed the United States.

(2) The Secretary of Agriculture may issue special use authorizations to persons for use of the MNP for agricultural purposes. Such special use authorizations shall require payment of a rental fee, in advance, that is based on the fair market value of the use allowed. Fair market value shall be determined by appraisal or a competitive bidding process. Special use authorizations issued pursuant to this paragraph shall include terms and conditions as the Secretary of Agriculture may deem appropriate.

(3) No agricultural special use authorization shall be issued for agricultural purposes which has a term extending beyond the date twenty years from the date of enactment of this Act, except that nothing in this Act shall preclude the Secretary from issuing agricultural special use authorizations or grazing permits which are effective after twenty years from the date of enactment of this Act for purposes primarily related to erosion control, provision for food and habitat for fish and wildlife, or other resource management activities consistent with the purposes of the MNP.

(f) TREATMENT OF RENTAL FEES.—Monies received pursuant to subsection (e) shall be subject to distribution to the State of Illinois and affected counties pursuant to the Acts of May 23, 1908, and March 1, 1911 (16 U.S.C. 500). All monies not so distributed pursuant to such Acts shall be covered into the Treasury and shall constitute a special fund, which is hereby appropriated and made available until expended, to cover the cost to the United States of such prairie-improvement work as the Secretary of Agriculture may direct. Any portion of any deposit made to the fund which the Secretary of Agriculture determines to be in excess of the cost of doing such work shall be transferred, upon such determination, to miscellaneous receipts, Forest Service Fund, as a National Forest receipt of the fiscal year in which such transfer is made.

(g) USER FEES.—The Secretary is authorized to charge reasonable fees for the admission, occupancy, and use of the MNP and may prescribe a fee schedule providing for reduced or a waiver of fees for persons or groups engaged in authorized activities including those providing volunteer services, research, or education. The Secretary shall permit admission, occupancy, and use at no additional charge for persons possessing a valid Golden Eagle Passport or Golden Age Passport.

(h) SALVAGE OF IMPROVEMENTS.—The Secretary of Agriculture may sell for salvage value any facilities and improvements which have been transferred to the Secretary of Agriculture pursuant to this Act.

(i) TREATMENT OF USER FEES AND SALVAGE RECEIPTS.—Monies collected pursuant to subsections (g) and (h) shall be covered into the Treasury and constitute a special fund to be known as the Midewin National Tallgrass Prairie Restoration Fund ("Fund"). Deposits in this fund shall be available, subject to appropriation, until expended for use for restoration and administration of the MNP, including construction of a visitor and education center, restoration of ecosystems, construction of recreational facilities (such as trails), construction of administrative offices, and operation and maintenance of the MNP.

(j) COOPERATION WITH STATES, LOCAL GOVERNMENTS AND OTHER ENTITIES.—In the management of the MNP, the Secretary is authorized and encouraged to cooperate with appropriate Federal, State and local governmental agencies, private organizations and corporations. Such cooperation may include cooperative agreements as well as the exercise of the existing authorities of the Secretary under the Cooperative Forestry Assistance Act of 1978 and the Forest and Rangeland Renewable Resources Research Act of 1978. The objects of such cooperation may include public education, land and resource protection, and cooperative management among government, corporate and private landowners in a manner which furthers the purposes of this Act.

SEC. 6. DISPOSAL OF CERTAIN REAL PROPERTY AT THE ARSENAL FOR A NATIONAL VETERANS CEMETERY AND A COUNTY LANDFILL AND TO THE ADMINISTRATOR OF GENERAL SERVICES.

(a) PROPERTY DESIGNATED FOR DISPOSAL UNDER THIS SECTION.—The following areas of real property at the Arsenal are designated for disposal under this section:

(1) An area of real property consisting of approximately 425 acres, the approximate legal description of which includes part of sections 8 and 17, Florence Township, T33N R10E, Will County, Illinois, as depicted in the Arsenal Land Use Concept to be conveyed to the County of Will, without compensation, to be operated as a landfill by the County: *Provided*, That such additional acreage shall be added to the landfill as is necessary to reasonably accommodate needs for the disposal of refuse and other materials from the restoration and cleanup of only the Arsenal property as provided for in this Act: *Provided further*, That the use of this additional acreage by any agency of the Federal Government or its agents or assigns shall be at no cost to the Federal Government. The Secretary of the Army may require such additional terms and conditions in connection with the conveyance under this paragraph as the Secretary considers appropriate to protect the interests of the United States.

(2) An area of real property consisting of approximately 910 acres, the approximate legal description of which includes part of sections 30 and 31 Jackson Township, T34N R10E, and including part of sections 25 an 36 Channahon Township, T34N R9E, Will County, Illinois, as depicted in the Arsenal Land Use Concept to be transferred without reimbursement to the Department of Veterans.

(3) The following areas are designated for disposal pursuant to subsection (b): Manufacturing Area—Study Area 1—Southern Ash Pile, Study Area 2—Explosive Burning Ground, Study Area 3—Flashing Grounds, Study Area 4—Lead Azide Area, Study Area 10—Toluene Tank Farms, Study Area 11—Landfill, Study Area 12—Sellite Manufacturing Area, Study Area 14—Former Pond Area, Study Area 15—Sewage Treatment Plant. Load Assemble Packing Area—Group 61: Study Area L1, Explosive Burning Ground: Study Area L2, Demolition Area: Study Area L3, Landfill Area: Study Area L4, Salvage Yard: Study Area L5, Group 1: Study Area L7, Group 2: Study Area L8, Group 3: Study Area L9, Group 3A: Study Area L10, Doyle Lake: Study Area L12, Group 68: Study Area L13, Group 4: Study Area L14, Group 5: Study Area L15, Group 8: Study Area L18, Group 9: Study Area L19, Group 20, Study Area L20, Group 25: Study Area L22, Group 27: Study Area L23, Group 62: Study Area L25, Group 64: Study Area L27, Group 65: Study Area L28, Extraction Pits: Study Area L31, PVC Area: Study Area L33, Former Burning Area: Study Area L34, Fill Area: Study Area L35, including all associated inventoried buildings and structures as identified in the Joliet Army Ammunition Plant Plantwide Building and Structures Report and the contaminate study sites for both the Manufacturing and Load Assembly and Packing sides of the Joliet Arsenal as delineated in the Dames and Moore Final Report, Phase 2 Remedial Investigation Manufacturing (MFG) Area Joliet Army Ammunition Plant Joliet, Illinois (May 30, 1993. Contract No. DAAA15-90-D-0015 task order No. 6 prepared for: United States Army Environmental Center); and excepting the national cemetery and landfill described in paragraphs (1) and (2).

(b) INITIAL OFFER TO SECRETARY OF AGRICULTURE.—Within 6 months after the construction and installation of any remedial design approved by the Administrator and required for any lands described in subsection (a)(3), the Administrator shall provide to the Secretary of Agriculture all existing information regarding the implementation of such remedy, including information regarding its effectiveness. Within 3 months after the Administrator provides such information to the Secretary of Agriculture, the Secretary of the Army shall offer the Secretary of Agriculture the option of accepting a transfer of the areas described in subsection (a)(3), without reimbursement, to be added to the MNP and subject to the terms and conditions, including the limitations on

liability, contained in this Act. In the event the Secretary of Agriculture declines such offer, the property may be disposed of as the Army would ordinarily dispose of such property under applicable provisions of law. Any sale or other transfer of property conducted pursuant to this subsection may be accomplished on a parcel-by-parcel basis.

SEC. 7. DEGREE OF ENVIRONMENTAL CLEANUP.

(a) IN GENERAL.—Nothing in this Act shall be construed to restrict or lessen the degree of cleanup at the Arsenal required to be carried out under provisions of any environmental law.

(b) RESPONSE ACTION.—The establishment of the MNP shall not restrict or lessen in any way response action or degree of cleanup under CERCLA or other environmental law, or any response action required under any environmental law to remediate petroleum products or their derivatives (including motor oil and aviation fuel), required to be carried out under the authority of the Secretary of the Army at the Arsenal and surrounding areas.

(c) ENVIRONMENTAL QUALITY OF PROPERTY.—Any contract for sale, deed, or other transfer of real property under section 6 shall be carried out in compliance with all applicable provisions of section 120(h) of the CERCLA and other environmental laws.

Mr. DE LA GARZA (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Speaker, this bill deals with the Joliet Army Ammunition Plant facility in Illinois, and it is to be used for environmental and civic and health use in this area.

Mr. SANGMEISTER. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Illinois.

Mr. SANGMEISTER. Mr. Speaker, it is with great enthusiasm that I rise today in support of H.R. 4946, a bill which will establish the first national tall grass prairie east of the Mississippi River. This is an exciting grass-roots, bi-partisan, community effort. This bill will convert what was once one of the largest ammunition producing plants in the country, the Joliet Army Ammunition Plant, into a massive conservation and recreation area for future generations to enjoy. In addition—this bill will create one of the finest and largest national veterans cemetery in the Nation—something veterans in Illinois have worked towards for many, many years.

Let me paint you a picture of what we are talking about: the Arsenal's 23,500 acres lie at the heart of a conservation area which eventually could be linked to existing State parks to create a 40,000 acre conservation and recreation complex to service over 8 million people in the Chicagoland area.

The Arsenal produced tons of ammunition and explosives for World War II, Korea and the Vietnam conflicts. However, most of the land was never fully developed. Today, it is one of the richest natural areas of its size in the midwest: possessing an abundance of rare and unusual plant species, wetlands, forests, prairie groves, and remnants of the fabled Illinois tall grass prairie.

With the ever-shrinking availability of open space in the city of Chicago and its surrounding suburbs, these 23,500 acres present a once in a lifetime opportunity for developing outdoor recreation programs and environmental education facilities for the third largest metropolitan area in the United States.

The untiring efforts of the Departments of Army, Agriculture, and Veterans Affairs, the Forest Service and U.S.E.P.A., and O.M.B. and the administration, the two Senators from Illinois, the respected minority leader in the House, the Governor of Illinois and the Mayor of Chicago have all contributed to making this project, and this bill, a reality.

However, H.R. 4946 is not some top-down bureaucratic venture; it has come directly from the people of my district and my State. The plan for the Arsenal's future began 2 years ago with the creation of the Joliet Arsenal Citizens Planning Commission. This Commission—comprised of a variety of mayors, State representatives, environment and conservation groups, agriculture, economic, and State interests—developed a land use plan which was unanimously approved by every member of the Commission. It is their vision for what has been called an "ecological wonderland" that is at the heart and soul of this bill.

Mr. Speaker, H.R. 4946 is an extraordinary "win-win" situation for my district, the State of Illinois and the Nation. I urge my colleagues to support this project by voting for H.R. 4946.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

□ 1830

ECONOMIC DEVELOPMENT REAUTHORIZATION ACT OF 1994

Mr. WISE. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation and the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the bill (H.R. 5243) to amend the Public Works and Economic Development Act of 1965 to reauthorize economic development program, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SHARP). Is there objection to the request of the gentleman from West Virginia?

Mr. DUNCAN. Mr. Speaker, reserving the right to object, and I will not object, I yield to the distinguished chairman of the Subcommittee on Economic Development, the gentleman from West Virginia [Mr. WISE], for a brief explanation of the bill.

Mr. WISE. Mr. Speaker, for the first time in 14 years, Congress has a realistic opportunity to reauthorize the Economic Development Administration with adoption of H.R. 5243. This bill mirrors S. 2257, a bill which we hope Senators BAUCUS, Chair of the Environment and Public Works Committee, and Senator CHAFEE, the Committee's ranking member, will bring to the Floor of the other body very shortly.

Many people are responsible for this historic moment and I would like to take this opportunity to thank the subcommittee's ranking member SUSAN MOLINARI and our full committee chairman NORM MINETA and its ranking member BUD SHUSTER for all of their hard work on this bill. I would also like to thank members of the Banking Committee, particularly full committee chairman GONZALEZ and ranking member LEACH and Banking Subcommittee chairman KANJORSKI and ranking member RIDGE for their efforts on this bill. Moreover, I want to thank Environment and Public Works chairman BAUCUS and ranking member CHAFEE for their ongoing efforts to reauthorize EDA. Finally, I want to thank Secretary of Commerce Ron Brown for his leadership on these issues and his articulation of EDA's role in the administration's efforts to help our distressed communities.

The Economic Development Administration has embarked on a new beginning. Last May, the House overwhelmingly passed H.R. 2442, a bill which closely reflects the bill we take up today. During debate of H.R. 2442 on the House floor, I asked "Who are you going to call"—when you need to put a water system into an industrial park; when the Defense Department decides that it must close your community's No. 1 employer, its military base; or when your community is hit by a devastating flood, earthquake, or hurricane? Three hundred and twenty-eight Members of the House, from both sides of the aisle, said they were going to call the Economic Development Administration and with that vote we overwhelmingly passed H.R. 2442, the Economic Development Reauthorization Act of 1994.

H.R. 5243 authorizes the Economic Development Administration for a period of 3 years through fiscal year 1997. Several of the provisions contained in the bill address past criticisms of EDA. Gone are the inefficient bureaucracies;

gone are the archaic eligibility requirements; and gone are the time-consuming and cumbersome approval processes.

However, the Economic Development Reauthorization Act of 1994 does not only improve EDA's existing programs it builds upon them. H.R. 5243 includes programs which will help communities meet the economic development challenges of the 1990's. For instance, H.R. 5243 includes a competitive communities pilot program which will encourage local communities, private businesses, labor organizations, and the Federal Government to forge partnerships to help distressed communities build the necessary competitive industrial base to meet today's economic challenges. With EDA's assistance, high-growth businesses will become the anchors of our distressed communities.

Using this additional tool, together with EDA's public works, defense conversion, and technical assistance programs, these communities will be able to encourage business start-ups of high-growth companies; enable existing businesses and industries to flourish; create jobs; and compete on a global scale.

I thank the gentleman for yielding and I urge adoption of H.R. 5243.

Mr. DUNCAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. MINETA], the distinguished chairman of the full committee.

Mr. MINETA. Mr. Speaker, I thank the gentleman for yielding.

I, too, rise in strong support of H.R. 5243, the Economic Development Reauthorization Act of 1994.

In doing so, I join with Congressman WISE, Chair of the Subcommittee on Economic Development, in commending the efforts of all those individuals who have worked to bring this legislation forward. Moreover, I would like to take this opportunity to pay special tribute to the gentleman from West Virginia for his leadership on this bill. I also appreciate the cooperation and assistance of the ranking Republican on the subcommittee, Ms. MOLINARI. With adoption of H.R. 5243, Congress will be able to reauthorize the Economic Development Administration for the first time in more than a decade.

Although our Nation's economy has improved in recent months, desperate conditions continue to exist in too many of America's inner cities and distressed rural communities. These communities, suffering from the problems of crime, poverty, drugs, unemployment, and homelessness, have become the home of a marginal class of Americans who are no longer able to share in the American dream.

This bill renews the Economic Development Administration's efforts to ensure that all communities have the opportunity to share in our economic future and all Americans share in the dream. H.R. 5243 launches EDA on a mission founded on reform, responsibility, efficiency, and accountability.

In addition, the bill builds upon EDA's existing programs to further empower communities to carry out innovative strategies to promote economic growth. For instance, the Competitive Communities pilot program of H.R. 5243 will help communities which are outside the mainstream of economic growth create high-wage jobs in globally competitive businesses and develop the necessary industrial base for the future.

These reforms of EDA's existing programs, together with the new economic development tools of H.R. 5243, will better enable the Economic Development Administration to help our distressed communities help themselves and better compete in the global marketplace. In this way, we can ensure that our Nation's economic development programs are second to none.

I thank the gentleman for yielding and I urge adoption of H.R. 5243, and, again, applaud the distinguished Gentleman from West Virginia for making this historic moment possible.

Mr. DUNCAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Pennsylvania [Mr. KANJORSKI].

Mr. KANJORSKI. Mr. Speaker, I want to take this opportunity to congratulate the chairman of the Committee on Public Works and Transportation, the gentleman from California [Mr. MINETA], the chairman of the Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ], the chairman of the subcommittee, the gentleman from West Virginia [Mr. WISE], the Committee on Public Works and Transportation, and the members of my subcommittee, who have worked hard over the last year.

This is an opportunity for this Congress to show not only that those on this side of the aisle have been very effective in working together to try to get this bill through and completed, but also it shows cooperation with the other side of the aisle, that economic development is very important in this country. It had overwhelming support in the House in May when it passed the House by a margin of almost 3 to 1.

This bill, unfortunately, does not include some of the work that we would have liked to have seen in the original House bill, but it does narrow the focus, make the agency much more efficient, effective, and user-friendly.

Particularly I would like to thank the ranking members of the full committee and the subcommittee, and particularly my ranking Member, the gentleman from Pennsylvania (Mr. RIDGE). He and I struggled for well over a year in putting our contributions into this bill, and I think it will go a long way toward paving the way for economic development in the United States, towards the 21st century.

This is an historic moment. We are about to pass a bill that will authorize the Department of Commerce's Economic Development Administration (EDA) for the first time since 1980.

EDA was created in 1965 to help communities recover from serious economic dislocations. During the 1960s and 1970s, the EDA aided numerous economically distressed communities throughout the nation in their efforts to get back on their feet. Even though its budget was drastically cut during the 1980s, EDA continued to play an important role in helping communities, especially rural communities, respond to economic distress.

In recent years, EDA has been called upon once again to meet rapidly growing demands for assistance from an increasing number of regions and communities experiencing a wide range of economic difficulties.

The EDA has been playing a major role in natural disaster relief. It is helping communities from Florida, to Kansas, to Los Angeles, to Hawaii recover from the hurricanes, floods, fires, and earthquakes that have plagued this country over the last couple of years.

EDA is a key agency involved in implementing the economic diversification and conversion efforts of communities and businesses throughout the nation hurt by defense contract cutbacks and military base closures.

EDA is helping numerous other rural and urban communities suffering from long-term economic decline, or from sudden economic shocks due to major plant closings, as they struggle to build sustainable economies that are competitive in the global economy.

In May of this year, the House passed H.R. 2442, the *Economic Development Reauthorization Act of 1994* by a three-to-one margin, illustrating the broad bipartisan support for this measure. The Senate Committee on Environment and Public Works recently reported out S. 2257 which contains most of the provisions in Title I of the House-passed bill. That bill is expected to be taken up under unanimous consent before adjournment; however, the other body is proceeding toward adjournment as a slower pace than the House.

Therefore, the House Committee on Banking, Finance and Urban Affairs has joined with the Committee on Public Works and Transportation to introduce in the House a bill which is identical to S. 2257. By adopting this new bill in the House now, we will not be faced with the unpleasant prospect that the Senate does not act on its bill until after the House has adjourned and therefore have the reauthorization die.

Although there are some things in the House-passed legislation that I personally would liked to have seen retained in the Senate bill, S. 2257—and by extension, the new measure we are now introducing—is a good and important bill. It not only reauthorizes EDA, but helps to further efforts already underway to significantly retool the agency, to make it far more effective, responsive, and user-friendly:

It tightens EDA's eligibility criteria for targeting its assistance grants, so that only communities with genuine economic distress can qualify.

It requires the EDA to dramatically expedite its processing of grants applications, reducing the response time to just 60 days.

It requires performance evaluations of the agency's technical and planning assistance programs.

It expands the category of eligible recipients so that innovative community development corporations and other not-for-profit economic development organizations can now qualify for EDA assistance.

It creates an Office of Strategic Economic Development Planning and Policy to support research, evaluation, and demonstration projects on "best practices" in economic development, and to develop both short- and long-term policies regarding economic development issues. The Office is in particular directed to study and evaluate innovative economic development financing tools, such as loan guarantees. This important new office will enable EDA to take a leadership role in fostering the development and diffusion of state-of-the-art knowledge and approaches to economic development at the Federal, State and local level.

S. 2257 also requires that the new Office establish and lead a new Federal Coordinating Council for Economic Development comprised of representatives of all Federal agencies engaged in economic development activities. To overcome the current fragmentation of such programs within the Federal Government, this effort will attempt to develop a unified framework for designing and implementing a government-wide strategy for addressing economic development issues.

It authorizes a new Office of Economic Development Information, which expands the roles and responsibilities of an existing conversion information clearinghouse created last year by administrative action.

It authorizes EDA's new competitive communities pilot program. This initiative will provide assistance to distressed communities in a national competition, with awards given to the best proposals for stimulating new private sector business activities, including the modernization, expansion, recruitment, and development of high-growth industries that generate new long-term jobs.

It requires the Secretary to issue and implement regulations that will effectively prioritize allocations by the EDA based on the level of distress of an area, rather than on preference for geographic area or a specific type of economic distress.

It makes it easier for EDA to provide support to communities with military base closures, even before an installation has actually closed, thus giving communities adequate time to make and implement their response strategies.

It defederalizes EDA revolving loan funds after the initial repayment of loans, thus removing some of the burden of Federal regulations on further utilization of these funds for new economic development projects.

It allows loans and other financial instruments in an EDA revolving loan fund to be sold to a third party. This also will expand the utility of these funds for new economic development activities within the region in which the loan fund operates.

This impressive list includes only some of the innovative provisions in this legislation that I believe will help EDA become one of the most effective Federal agencies in this Government. I therefore strongly urge my colleagues to vote for this bill, which will make the reauthorization of the Economic Development Administration a reality for the first time in 14 years.

Mr. DUNCAN. Mr. Speaker, further reserving the right to object, I yield to my friend, the gentleman from Erie, PA [Mr. RIDGE], the next Governor of Pennsylvania.

Mr. RIDGE. Mr. Speaker, I thank the gentleman for yielding.

I want to thank my colleague, the gentleman from Pennsylvania, with whom I have had the pleasure and privilege of chairing the subcommittee.

I would just tell my colleagues that the appropriation of this $415 million in this measure, given both the technical amendments we have made to the EDA proposal, streamlining the application process, expanding these dollars through loan guarantees, using them to leverage more private dollars, providing for the sale of these loans to the secondary market; we are going to recycle these Federal dollars so we will again expand a little bit further the pool of these resources to help communities combat either long-term economic decline, deal with defense conversion, deal with natural-disaster relief.

Again, the technical changes, as well as the changes that we brought into this EDA Program to expand the pool of resources through loan guarantees and through recycling and securitization, really enhance this authorization.

I am grateful to my colleagues for giving me the opportunity to participate in the dialog. More importantly, I am grateful for the opportunity to work with them during the past 2 years to make substantial improvements in this economic development tool.

Mr. DUNCAN. Mr. Speaker, further reserving the right to object, I thank especially our outstanding chairman, the gentleman from California [Mr. MINETA], for his explanation of this bill, along with the chairman of the subcommittee, the gentleman from West Virginia [Mr. WISE], for his help, and the other gentlemen who spoke.

At this time I will state that there is no Member on this side of the aisle who has any objection to this bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Economic Development Reauthorization Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Direct and supplementary grants.
Sec. 3. Grants for public works facilities.
Sec. 4. Repeal of financial assistance for sewer facilities.
Sec. 5. Relationship of overall economic development plan to public works and development facility loans.
Sec. 6. Elimination of overall economic development program.
Sec. 7. Redevelopment area loan program.
Sec. 8. Technical assistance, research, and information.
Sec. 9. Business outreach center demonstration project.
Sec. 10. Office of Strategic Economic Development Planning and Policy.
Sec. 11. Office of Economic Development Information.
Sec. 12. Authorization of appropriations for technical assistance, research, and information.
Sec. 13. Redevelopment areas.
Sec. 14. Annual review.
Sec. 15. Economic development districts.
Sec. 16. Equity between rural and urban areas.
Sec. 17. Applications for assistance.
Sec. 18. Performance evaluations of grant recipients.
Sec. 19. Transfer of funds.
Sec. 20. Extension of benefits.
Sec: 21. Supervision of Regional Counsels.
Sec. 22. Purpose.
Sec. 23. Definition of eligible recipient.
Sec. 24. Base closings and realignments.
Sec. 25. Outreach to communities adversely affected by closures and realignments of military installations.
Sec. 26. Treatment of revolving loan funds.
Sec. 27. Sale of financial instruments in revolving loan funds.
Sec. 28. Competitive communities pilot program.
Sec. 29. Special economic development and adjustment assistance.
Sec. 30. Compliance with Buy American Act.
Sec. 31. Regulatory relief.

SEC. 2. DIRECT AND SUPPLEMENTARY GRANTS.

(a) GRANTS.—Section 101(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "representing any redevelopment area or part thereof" and inserting "acting in cooperation with an official of a local government"; and

(2) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "acquisition, construction" and inserting "acquisition, design, engineering, construction";

(B) by striking subparagraph (C) and inserting the following new subparagraph:

"(C) the area for which the project is to be undertaken has an approved overall economic development plan as provided in section 402 and such project is consistent with such plan; and"; and

(C) in subparagraph (D)—

(i) by striking "so designated under section 401(a)(6)," and inserting "described in section 401(a)(7),"; and

(ii) by striking "area." and inserting "area; and".

(b) CONSIDERATIONS FOR SUPPLEMENTARY GRANTS.—Section 101(c) of such Act is amended—

(1) in the second and third sentences, by striking "designated as such under section 401(a)(6) of this Act." and inserting "described in section 401(a)(7)."; and

(2) in the last sentence—

(A) by striking "the area, the" and inserting "the area and the"; and

(B) by striking ", and the amount of such" and all that follows and inserting a period.

SEC. 3. GRANTS FOR PUBLIC WORKS FACILITIES.

Section 105 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3135) is amended to read as follows:

"SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $195,000,000 for each of fiscal years 1995 through 1997. Such sums shall remain available until expended. Not less than 15 percent and not more than 35 percent of the amounts appropriated for any of fiscal years 1995 through 1997 under this section shall be expended in redevelopment areas described in section 401(a)(7).".

SEC. 4. REPEAL OF FINANCIAL ASSISTANCE FOR SEWER FACILITIES.

(a) IN GENERAL.—Title I of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131–3137) is amended—

(1) by repealing section 106;

(2) by redesignating section 107 as section 104; and

(3) by moving such section 104 to appear after section 103.

(b) CONFORMING AMENDMENT.—Section 211(b)(3) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 211(b)(3)) is amended in the last sentence by striking "Notwithstanding" and all that follows through "education-related" and inserting "An education-related".

SEC. 5. RELATIONSHIP OF OVERALL ECONOMIC DEVELOPMENT PLAN TO PUBLIC WORKS AND DEVELOPMENT FACILITY LOANS.

Section 201(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "representing any redevelopment area thereof" and inserting "acting in cooperation with an official of a local government"; and

(2) by striking paragraph (5) and inserting the following new paragraph:

"(5) such area has an approved overall economic development plan as provided in section 402 and the project for which financial assistance is sought is consistent with such plan.".

SEC. 6. ELIMINATION OF OVERALL ECONOMIC DEVELOPMENT PROGRAM.

Section 202(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3142(b)) is amended—

(1) in paragraph (1), by striking "Such financial assistance shall not be extended" and inserting "The applicant for such financial assistance shall include, in the application of the applicant for such assistance, an assurance that the assistance will not be used"; and

(2) in paragraph (10), by striking "there shall be submitted to and approval of the Secretary an overall program for the economic development of the area and" and inserting "the applicant shall submit to the Secretary under section 402, and obtain approval of, an overall economic development plan and there is".

SEC. 7. REDEVELOPMENT AREA LOAN PROGRAM.

(a) IN GENERAL.—Section 204(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144(a)) is amended by striking the last two sentences.

(b) CONFORMING AMENDMENTS.—

(1) Section 2 of the Act entitled "An Act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for title I through IV through fiscal year 1971", approved July 6, 1970 (42 U.S.C. 3162 note) is repealed.

(2) Section 6 of the Act entitled "An Act to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for a one-year period", approved June 18, 1973 (42 U.S.C. 3162 note) is amended—

(A) in subsection (a), by striking "(a)"; and

(B) by striking subsection (b).

SEC. 8. TECHNICAL ASSISTANCE, RESEARCH, AND INFORMATION.

Section 301(a)(1) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3151(a)(1)) is amended by striking "areas which he has designated as redevelopment areas under this Act," and inserting "redevelopment areas,".

SEC. 9. BUSINESS OUTREACH CENTER DEMONSTRATION PROJECT.

Section 303 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3152) is amended to read as follows:

"SEC. 303. BUSINESS OUTREACH CENTER DEMONSTRATION PROJECT.

"(a) DEFINITION.—As used in this section, the term 'isolated small business' means a small business that is unable to effectively access small business services provided by a Federal, State, or local government due to linguistic, cultural, or geographic barriers, as determined by the Secretary.

"(b) DEMONSTRATION PROJECT.—Using funds made available under this title, the Secretary shall conduct a demonstration project in each of fiscal years 1995 through 1997 for the purpose of demonstrating methods of assisting isolated small businesses to access small business services provided by Federal, State, and local governments.

"(c) ESTABLISHMENT OF CENTERS.—In conducting the demonstration project under this section, the Secretary shall establish 3 business outreach centers. At least 1 of the centers shall be located in a rural area.

"(d) DUTIES OF CENTERS.—Each business outreach center established under this section shall—

"(1) provide a one-stop clearinghouse to assist isolated small businesses in accessing small business services provided by Federal, State, and local governments; and

"(2) improve efficiency in the delivery of such services.

"(e) SERVICES TO BE PROVIDED.—Each business outreach center established under this section shall provide each of the following services:

"(1) Outreach to isolated small businesses.

"(2) Assessment of the need of isolated small businesses for assistance services.

"(3) Referral of isolated small businesses to small business assistance agencies.

"(4) Preparation of materials required by isolated small businesses for participation in small business assistance programs.

"(5) Case management to ensure follow-up and quality control of business services.

"(6) Coordination of networking among isolated small businesses.

"(7) Quality control of small business assistance services.".

SEC. 10. OFFICE OF STRATEGIC ECONOMIC DEVELOPMENT PLANNING AND POLICY.

Title III of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3151–3153) is amended by adding at the end the following new section:

"SEC. 305. OFFICE OF STRATEGIC ECONOMIC DEVELOPMENT PLANNING AND POLICY.

"(a) ESTABLISHMENT.—The Secretary shall establish in the Economic Development Administration an Office of Strategic Economic Development Planning and Policy (referred to in this section as the 'Office').

"(b) DIRECTOR.—The Office shall be headed by a Director, who shall be appointed by the Secretary and who shall report to the Assistant Secretary for Economic Development.

"(c) DUTIES.—The duties of the Director are as follows:

"(1) RESEARCH, EVALUATION, AND DEMONSTRATION PROJECTS.—The Director shall support research, evaluation, and demonstration projects to study and assess best practices in economic development and to examine trends and changes in economic conditions that affect regional development. The Director shall conduct a study of innovative economic development financing tools, including loan guarantees, rural development investment zones, and other measures, that may be employed to further economic development of States, regions, and localities.

"(2) POLICY DEVELOPMENT.—The Director shall develop and submit to the Secretary recommendations on both short- and long-term policies regarding economic development issues and programs, to help foster the diffusion of innovative, best practices in economic development throughout the Department of Commerce.

"(3) INFORMATION AND COORDINATION.—The Director shall establish procedures to ensure that the Economic Development Administration assumes a central role in developing and promoting means of greater coordination among States, regions, and local communities in the design and implementation of Federal economic development programs, and to foster coordination among Federal economic development programs, to reduce duplication and fragmentation of Federal economic development efforts.

"(d) FEDERAL COORDINATING COUNCIL FOR ECONOMIC DEVELOPMENT.—

"(1) IN GENERAL.—There is established a Federal Coordinating Council for Economic Development (referred to in this subsection as the 'Council').

"(2) COMPOSITION OF THE COUNCIL.—

"(A) IN GENERAL.—The Council shall be composed of representatives from Federal agencies, appointed by the heads of the agencies, involved in matters that affect regional economic development. The Secretary shall determine the Federal agencies that are involved in matters that affect regional economic development.

"(B) VACANCIES.—Any vacancy in the Council shall not affect the powers of the Council, but shall be filled in the same manner as the original appointment.

"(3) DUTIES.—The Council shall assist the Secretary in providing a unifying framework for economic development efforts and shall develop a governmentwide strategic plan for economic development. The Council shall work to improve coordination of Federal economic development efforts to eliminate duplication and to direct Federal resources to improve economic conditions.

"(4) TRAVEL EXPENSES.—The members of the Council shall not receive compensation for service on the Council but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the homes or regular places of business of the members in the performance of services for the Council.

"(5) FACILITIES, SUPPLIES, AND PERSONNEL.—

"(A) IN GENERAL.—Upon the request of the Council, the Secretary shall provide to the Council any facilities, supplies, and personnel necessary for the Council to carry out the responsibilities of the Council under this subsection.

"(B) DETAILS.—In the case of a detail of a Federal Government employee under paragraph (1), the employee may be detailed to the Council without reimbursement. The detail shall be without interruption or loss of civil service status or privilege.

"(6) HEARINGS.—The Council may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Council considers advisable to carry out this subsection.

"(7) INFORMATION FROM FEDERAL AGENCIES.—The Council may secure directly from any Federal department or agency such information as the Council considers necessary to carry out this subsection. Upon request of the Council, the head of such department or agency shall furnish such information to the Council.

"(8) POSTAL SERVICES.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(9) TERMINATION.—The Council shall terminate 1 year after the date of the establishment of the Council.".

SEC. 11. OFFICE OF ECONOMIC DEVELOPMENT INFORMATION.

Title III of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3151–3153) (as amended by section 10) is further amended by adding at the end the following new section:

"SEC. 306. OFFICE OF ECONOMIC DEVELOPMENT INFORMATION.

"(a) ESTABLISHMENT.—The Secretary shall establish an Office of Economic Development Information (referred to in this section as the 'Office') within the Office of Strategic Economic Development Planning and Policy.

"(b) RESPONSIBILITIES.—The Office shall—

"(1) serve as a central information clearinghouse on matters relating to economic development, economic adjustment, disaster recovery, industrial retention, and defense reinvestment programs and activities of the Federal and State governments, including political subdivisions of the States; and

"(2) help potential and actual applicants for economic development, economic adjustment, disaster recovery, industrial retention, and defense reinvestment assistance under Federal, State, and local laws in locating and applying for such assistance, including financial and technical assistance.

"(c) INFORMATION DATA BASES.—

"(1) USES.—The Office shall develop information data bases for use by Federal departments and agencies, State and local governmental agencies, public and private entities, and individuals to assist such agencies, entities, and individuals in the process of identifying and applying for assistance and resources under economic development, economic adjustment, disaster recovery, industrial retention, and defense reinvestment programs and activities of the Federal, State, and local governments.

"(2) SPECIFIC KINDS OF INFORMATION REQUIRED TO BE INCLUDED.—The data bases shall include each of the following kinds of information:

"(A) A comprehensive compilation of all relevant information concerning available economic development, economic adjustment, disaster recovery, industrial retention, and defense reinvestment programs of the Federal Government, including key contact personnel, descriptions of the application process, eligibility requirements and criteria, selection and followup procedures, and other such relevant information.

"(B) A compilation of major State and local governmental economic development, economic adjustment, disaster recovery, industrial retention, and defense reinvestment assistance programs, including lists of appropriate offices, officers, and contact personnel connected with, or involved in, such programs.

"(C) A compilation of relevant and available economic data and trends, including information about the national, regional, and local impacts of trade agreements, defense spending and downsizing, technological change, and other sources of substantial economic dislocation.

"(D) A compilation of case studies and best practices in economic development, adjustment, and reinvestment.

"(E) A compilation of technology utilization programs, assistance, and resources.

"(F) A compilation of published works (books, reports, articles, videos, and tapes), and selected texts of such works, related to all facets of economic development, economic adjustment, and defense reinvestment.

"(G) A compilation of information on case studies on early warning and intervention efforts.

"(3) POINTS OF PUBLIC ACCESS.—

"(A) IN GENERAL.—The Office shall establish several means to ensure easy access by the public and others to such data bases, and to ensure that the data bases be as accessible, user-friendly, culturally neutral, and affordable as possible.

"(B) MEANS OF ACCESS.—Access to the data services of the Office shall include each of the following means:

"(i) A toll-free nationwide telephone number to provide direct phone access to the public.

"(ii) On-line electronic access through existing computer network services and publicly available computer data base access facilities, such as at repository libraries and by direct call-in via modem.

"(iii) Printed manuals and orientation materials.

"(iv) Periodic orientation workshops available to the public.

"(v) On-call information specialists to address special problems requiring person-to-person assistance.

"(d) INTERAGENCY COORDINATION.—The Secretary shall enter into such agreements and understandings as may be necessary with other Federal departments and agencies to coordinate the accomplishment of the objectives of this section.".

SEC. 12. AUTHORIZATION OF APPROPRIATIONS FOR TECHNICAL ASSISTANCE, RESEARCH, AND INFORMATION.

Title III of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3151–3153) (as amended by section 11) is further amended by adding at the end the following new section:

"SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $50,000,000 for each of fiscal years 1995 through 1997. Such sums shall remain available until expended.".

SEC. 13. REDEVELOPMENT AREAS.

Section 401 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161) is amended to read as follows:

"SEC. 401. AREA ELIGIBILITY.

"(a) CERTIFICATION.—An applicant seeking assistance under title I or II to undertake a project for an area shall certify, as part of an application for such assistance, that the area on the date of submission of such application meets 1 or more of the following criteria:

"(1) The per capita income of the area is 80 percent or less of the per capita income of the United States.

"(2) The average rate of unemployment in the area (seasonally adjusted), as determined by the Secretary of Labor for the most recent 24-month period for which statistics are available, minus the national average rate of unemployment (seasonally adjusted), as so determined, is equal to or exceeds 1 percent.

"(3) The average rate of unemployment in the area (seasonally adjusted), as determined by the Secretary of Labor for the most recent 12-month period for which statistics are available, minus the national average rate of unemployment (seasonally adjusted), as so determined, is equal to or exceeds 2 percent.

"(4) The area has experienced or is about to experience a sudden economic dislocation resulting in job loss that is significant both in terms of the number of jobs eliminated and the effect on the rate of unemployment in the area (if information on such rate is available), as such rate is determined by the Secretary of Labor.

"(5) The population growth rate of the United States, as determined by the Secretary of Commerce for an appropriate period, minus the population growth rate of the area, as so determined, is equal to or exceeds 3 percent.

"(6) The area has experienced a decline in total employment that is equal to or exceeds 2 percent over the most recent 5-year period for which statistics are available, as such employment is determined by the Secretary of Labor, acting through the Commissioner of Labor Statistics.

"(7) The area is a community or neighborhood (defined without regard to political or other subdivisions or boundaries) that the Secretary determines has 1 or more of the following conditions:

"(A) A large concentration of low-income persons.

"(B) A rural or urban area having substantial outmigration or substantial economic deterioration and unemployment.

"(C) Substantial unemployment.

"(b) DOCUMENTATION.—

"(1) DATA AND STATISTICS.—A certification made under subsection (a) shall be supported by Federal data, if available, and in other cases by data available through the appropriate State government. The applicant shall use the most recent statistics available to support the certification.

"(2) ACCEPTANCE OF DATA.—The Secretary shall accept the data unless the Secretary determines that the data are inaccurate.

"(c) SPECIAL RULE.—With respect to a redevelopment area described in subsection (a)(7)—

"(1) the project to be carried out in the area shall not be subject to section 101(a)(1)(A);

"(2) the area shall not be subject to section 101(a)(1)(C); and

"(3) the area shall not be considered to be a redevelopment area for purposes of section 403(a)(1)(B).

"(d) PRIOR DESIGNATION.—Any designation of a redevelopment area for the purposes of this Act that was made before the date of enactment of the Economic Development Reauthorization Act of 1994 shall not be effective after such date.

"(e) DEFINITION.—As used in this Act, the term 'redevelopment area' means an area that is the subject of a certification that is—

"(1) described in subsection (a); and

"(2) submitted by an applicant as part of an application for assistance—

"(A) that is described in subsection (a); and

"(B) for which the applicant obtains the approval of the Secretary.".

SEC. 14. ANNUAL REVIEW.

(a) IN GENERAL.—Section 402 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3162) is amended to read as follows:

"SEC. 402. OVERALL ECONOMIC DEVELOPMENT PLAN AND INVESTMENT STRATEGY.

"(a) OVERALL ECONOMIC DEVELOPMENT PLAN AND INVESTMENT STRATEGY.—The Secretary may provide assistance under title I or II to an applicant for a project to be undertaken in an area only if the applicant has prepared and submitted to the Secretary, and obtained approval of, an overall economic development plan or an investment strategy. Such an overall economic development plan or investment strategy shall—

"(1) identify the economic development problems to be addressed using such assistance;

"(2) identify past, present, and projected further economic development investments in such area and public and private participants and sources of funding for such investments; and

"(3) set forth a strategy for addressing the economic development problems identified pursuant to paragraph (1) and describe how the strategy will solve such problems.

"(b) APPLICATION REQUIREMENTS.—In submitting an application for assistance under title I or II, an applicant shall describe how the proposed project implements the plan or strategy, provide estimates of costs and timetables for completion for the project, and provide a summary of public and private resources expected to be available for the project.

"(c) EXISTING PLANS AND INVESTMENT STRATEGIES.—To the maximum extent practicable, the Secretary shall approve under subsection (a) overall economic development plans, and overall economic development programs, that were approved by the Secretary under this Act before the date of enactment of the Economic Development Reauthorization Act of 1994 and that substantially meet the requirements of this section.

"(d) DEFINITION.—As used in this Act, the term 'economic development plan' includes—

"(1) a plan or program described in subsection (c) and submitted for approval under subsection (a); and

"(2) an investment strategy submitted for approval under subsection (a) in lieu of such a plan.".

(b) CONFORMING AMENDMENTS.—

(1) TRADE ACT OF 1974.—Section 273(c)(2) of the Trade Act of 1974 (19 U.S.C. 2373(c)(2)) is amended—

(A) by striking "overall economic development program" and inserting "overall economic development plan or investment strategy"; and

(B) by striking "section 202(b)(10)" and inserting "section 402".

(2) COMMUNITY ECONOMIC DEVELOPMENT ACT OF 1981.—Section 626(b)(1) of the Community Economic Development Act of 1981 (42 U.S.C. 9815(b)(1)) is amended—

(A) by striking "Public" and inserting "Public";

(B) by striking "overall economic development program" and inserting "overall economic development plan or investment strategy"; and

(C) by striking "section 202(b)(10)" and inserting "section 402".

SEC. 15. ECONOMIC DEVELOPMENT DISTRICTS.

(a) RELATIONSHIP TO OVERALL ECONOMIC DEVELOPMENT PLANS.—Section 403 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3171) is amended—

(1) in subsections (a)(1)(C), (a)(1)(D), (a)(2)(A), (a)(3)(A), (a)(4)(B), (e), and (i) by striking "overall economic development program" and inserting "overall economic development plan";

(2) in subsection (a)(1)(D), by striking "program" the second place the term appears and inserting "plan"; and

(3) in subsections (b) and (b)(2)(B), by striking "overall economic development programs" and inserting "overall economic development plans".

(b) RELATIONSHIP TO REDEVELOPMENT AREA.—Section 403(a)(4) of such Act is amended by striking "(designated under section 401)".

(c) ECONOMIC DEVELOPMENT DISTRICT DEFINED.—Section 403(d) of such Act is amended by adding at the end the following new sentence: "Such term includes any economic development district designated by the Secretary under this section before the date of enactment of the Economic Development Reauthorization Act of 1994, unless the Secretary terminates the designation.".

(d) FUNDING.—Section 403 of such Act is amended—

(1) by striking subsection (g) and inserting the following new subsection:

"(g) Amounts authorized to be appropriated under other sections of this Act shall be available for purposes of carrying out paragraphs (3) and (4) of subsection (a).";

(2) by striking subsection (h); and

(3) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

SEC. 16. EQUITY BETWEEN RURAL AND URBAN AREAS.

Title IV of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161 et seq.) is amended by adding at the end the following new part:

"PART E—EQUITY BETWEEN RURAL AND URBAN AREAS

"SEC. 406. ALLOCATIONS BASED ON THE LEVEL OF ECONOMIC DISTRESS OF AN AREA.

"Not later than 6 months after the date of enactment of the Economic Development Reauthorization Act of 1994, the Secretary shall issue and implement regulations containing criteria and procedures to prioritize allocations of Federal assistance made under this Act, so that, notwithstanding any other provision of this Act, the level of economic distress of an area, not a preference for a geographic area or a specific type of economic distress, is the primary factor considered by the Secretary in determining whether the area receives an allocation of Federal assistance under this Act.".

SEC. 17. APPLICATIONS FOR ASSISTANCE.

(a) EXPEDITED PROCESSING.—Title VI of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3201–3204) is amended by adding at the end the following new section:

"SEC. 605. EXPEDITED PROCESSING OF APPLICATIONS.

"(a) GUIDELINES.—Not later than 60 days after the date of enactment of this section, the Assistant Secretary for Economic Development shall—

"(1) develop and publish in the Federal Register guidelines that establish procedures to expedite the processing of applications for assistance under this Act; and

"(2) transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report containing such guidelines.

"(b) CONTENTS.—Guidelines to be developed and published under subsection (a) shall, at a minimum, provide for—

"(1) increased reliance on self-certification by applicants for such assistance to establish compliance with other Federal laws;

"(2) greater use of uniform application forms and procedures;

"(3) delegation of decisionmaking authority to regional offices of the Economic Development Administration; and

"(4) reduction in the time and number of reviews conducted by offices of the Department of Commerce other than the Economic Development Administration.".

(b) UNIFORM APPLICATION FORM.—Title VI of such Act (as amended by subsection (a)) is further amended by adding at the end the following new section:

"SEC. 606. UNIFORM APPLICATION FORM.

"(a) DEVELOPMENT.—The Secretary shall, in cooperation with the heads of appropriate Federal departments and agencies, develop a general, simplified application form for grant assistance under this Act that may be used by all Federal departments and agencies that provide grant assistance.

"(b) REPORT.—Not later than 180 days after the date of enactment of this section, the Secretary shall transmit to Congress a report on use of the form developed pursuant to subsection (a) by Federal departments and agencies.".

SEC. 18. PERFORMANCE EVALUATIONS OF GRANT RECIPIENTS.

Title VI of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3201–3204) (as amended by subsections (a) and (b) of section 17) is further amended by adding at the end the following new section:

"SEC. 607. PERFORMANCE EVALUATIONS OF GRANT RECIPIENTS.

"(a) IN GENERAL.—At least once every 2 years, the Secretary shall conduct an evaluation of each university center receiving assistance under title III (referred to in this section as a 'university center') and economic development district receiving grant assistance under this Act to assess the performance and contribution toward job creation of the recipient.

"(b) CRITERIA.—

"(1) ESTABLISHMENT.—The Secretary shall establish criteria for use in conducting evaluations under subsection (a).

"(2) CRITERIA FOR UNIVERSITY CENTERS.—The criteria for evaluation of a university center shall, at a minimum, provide for an assessment of the contribution of the center to providing technical assistance, conducting applied research, and disseminating results of the activities of the center.

"(3) CRITERIA FOR ECONOMIC DEVELOPMENT DISTRICTS.—The criteria for evaluation of an economic development district shall, at a minimum, provide for an assessment of management standards, financial accountability, and program performance.

"(c) PEER REVIEW.—In conducting an evaluation of a university center under subsection (a), the Secretary shall provide for the participation in the evaluation of at least 1 other university center on a cost-reimbursement basis.".

SEC. 19. TRANSFER OF FUNDS.

Section 708 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3218) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of law, the Secretary may accept such transfers of funds from other departments and agencies of the Federal Government as the Secretary determines to be appropriate and use such funds to carry out objectives of this Act, if the Secretary uses the funds to carry out objectives for which (and in accordance with the terms under which) the funds are specifically authorized and appropriated. Not more than 5 percent of such funds may be transferred to the account relating to salaries and expenses of the Economic Development Administration.".

SEC. 20. EXTENSION OF BENEFITS.

Section 715 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3225) is amended by striking "such areas as may be designated as 'redevelopment areas' or 'economic development centers' under the authority of section 401 or 403 of this Act:" and inserting "redevelopment areas and such areas as may be designated as 'economic development centers' under section 403:".

SEC. 21. SUPERVISION OF REGIONAL COUNSELS.

Title VII of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3211–3226) is amended by adding at the end the following new section:

"SEC. 717. SUPERVISION OF REGIONAL COUNSELS.

"The Secretary shall take such actions as may be necessary to ensure that individuals serving as Regional Counsels of the Economic Development Administration report directly to their respective Regional Directors, except that the General Counsel shall have authority to make determinations relating to the technical legal ability of the individuals.".

SEC. 22. PURPOSE.

The first sentence of section 901 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241) is amended by striking "It is the purpose of this title" and inserting "The purposes of title I and of this title are".

SEC. 23. DEFINITION OF ELIGIBLE RECIPIENT.

Section 902 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3242) is amended to read as follows:

"SEC. 902. DEFINITION.

"As used in this title, the term 'eligible recipient' means a redevelopment area, an economic development district, an Indian tribe, a State, a city or other political subdivision of a State, a consortium of such political subdivisions, a public or private nonprofit organization, or a public or private nonprofit association.".

SEC. 24. BASE CLOSINGS AND REALIGNMENTS.

Section 903 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3243) is amended—

(1) in the matter following subparagraph (B) of subsection (a)(1), by striking "unemployment compensation (in accordance with subsection (d) of this section), rent supplements, mortgage payment assistance, research," and inserting "administrative expenses, industrial retention,"; and

(2) by adding at the end the following new subsection:

"(e)(1) In any case in which the Secretary determines that a need exists for assistance under subsection (a) due to the closure or realignment of a military installation, or for an industrial, a community, or a workforce adjustment due to a reduction in amounts made available under or termination of a defense contract, the Secretary may make such assistance available to an eligible recipient for a project to be carried out on the military installation, for a project to be carried out in a community adversely affected by the closure or realignment, or for defense conversion activities.

"(2) Notwithstanding any other provision of law, the Secretary may provide to an eligible recipient any assistance available under this title for a project to be carried out on a military installation that is closed or scheduled for closure or realignment, or for defense conversion activities, without requiring that the eligible recipient have title to the property on which the installation is located or the activities will be carried out, or a leasehold interest in the property, for any specified term.".

SEC. 25. OUTREACH TO COMMUNITIES ADVERSELY AFFECTED BY CLOSURES AND REALIGNMENTS OF MILITARY INSTALLATIONS.

Title IX of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241–3245) is amended—

(1) by redesignating section 905 as section 909; and

(2) by inserting after section 904 the following new section:

"SEC. 905. OUTREACH TO COMMUNITIES ADVERSELY AFFECTED BY CLOSURES AND REALIGNMENTS OF MILITARY INSTALLATIONS.

"(a) DESIGNATION OF AGENCY REPRESENTATIVES.—The Assistant Secretary for Economic Development shall designate for each State in which communities are adversely affected by closures and realignments of military installations, an individual to serve as a representative of the Economic Development Administration. Such individual may be the State Economic Development Agency Representative or another qualified individual.

"(b) RESPONSIBILITIES.—Individuals appointed as agency representatives under subsection (a) shall provide outreach and technical assistance, to communities adversely affected by closures and realignments of military installations, on obtaining assistance from the Economic Development Administration.".

SEC. 26. TREATMENT OF REVOLVING LOAN FUNDS.

Title IX of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241–3245) (as amended by section 25) is further amended by inserting after section 905 the following new section:

"SEC. 906. TREATMENT OF REVOLVING LOAN FUNDS.

"(a) IN GENERAL.—An amount made available through a grant made under this title that is used by an eligible recipient to establish a revolving loan fund shall not be treated, except as provided by subsection (b), as an amount derived from Federal funds for the purposes of any Federal law after such amount is loaned from the fund to a borrower and repaid to the fund.

"(b) EXCEPTIONS.—An amount described in subsection (a) that is loaned from a revolving loan fund to a borrower and repaid to the fund—

"(1) may be used only for a project that is consistent with the purposes of this title; and

"(2) shall be subject to the financial management, accounting, reporting, and auditing requirements that were originally applicable to such amount on the date on which the Secretary made the amount available to the recipient through a grant described in subsection (a).

"(c) REGULATIONS.—Not later than 30 days after the date of enactment of this section, the Secretary shall issue regulations to carry out subsection (a).

"(d) PUBLIC REVIEW AND COMMENT.—Before issuing any final guidelines or administrative manuals governing the operation of revolving loan funds established using amounts from grants made under this title, the Secretary shall provide reasonable opportunity for public review of and comment on such guidelines and administrative manuals.".

SEC. 27. SALE OF FINANCIAL INSTRUMENTS IN REVOLVING LOAN FUNDS.

Title IX of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241–3245) (as amended by section 26) is further amended by inserting after section 906 the following new section:

"SEC. 907. SALE OF FINANCIAL INSTRUMENTS IN REVOLVING LOAN FUNDS.

"Any loan, loan guarantee, or other financial instrument in the portfolio of a revolving loan fund described in section 906 may be sold, at the discretion of the grant recipient that established the fund, to a third party. The proceeds of the sale—

"(1) shall be deposited in the fund and only used for projects that are consistent with the purposes of this title; and

"(2) shall be subject to the financial management, accounting, reporting, and auditing requirements that were originally applicable to the financial instrument on the date on which the financial instrument was entered into.".

SEC. 28. COMPETITIVE COMMUNITIES PILOT PROGRAM.

Title IX of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241–3245) (as amended by section 27) is further amended by inserting after section 907 the following new section:

"SEC. 908. COMPETITIVE COMMUNITIES PILOT PROGRAM.

"(a) DEFINITION.—As used in this section, the term 'eligible intermediary recipient' means—

"(1) a redevelopment area or an economic development district established under title IV;

"(2) an Indian tribe;

"(3) a public-private entity sponsored by a State or other political subdivision of a State, or by a community division of a State;

"(4) a community development corporation;

"(5) a public or private not-for-profit corporation; and

"(6) a consortium of recipients described in any of paragraphs (1) through (5);

that demonstrates the financial expertise, ability, and legal authority to provide the investment for a transaction, as well as the ability to develop and implement an overall economic development plan as provided in section 402.

"(b) PROGRAM.—The Secretary may establish a competitive communities pilot program and, in carrying out the program, may make grants, loans, or loan guarantees directly to or for the benefit of any eligible recipients (including eligible intermediary recipients) for the purpose of investing in identified business transactions that will create opportunities for long-term employment in economically distressed communities.

"(c) APPLICATIONS.—To be eligible to receive financial assistance under this section, a person or an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(d) PANEL OF EXPERTS.—The Secretary shall establish a panel of experts to review applications submitted to the Secretary under subsection (c). The panel shall consist of 7 members as follows:

"(1) The Secretary (or the designee of the Secretary).

"(2) The Assistant Secretary for Economic Development.

"(3) 1 Regional Director of the Economic Development Administration, appointed by the Secretary.

"(4) 1 State Economic Development Representative, appointed by the Secretary.

"(5) 3 private citizens with economic development and business expertise, appointed by the Secretary.

"(e) CRITERIA FOR SELECTION.—The Secretary shall select recipients to receive financial assistance under this section, based on the quality of the applications submitted and the extent to which the applications describe activities to encompass investment initiatives that promote public and private sector partnerships to advance the competitiveness of the economy of local communities through the creation of long-term sustainable employment opportunities.

"(f) DEADLINES.—

"(1) ACTION ON APPLICATIONS.—In the case of each application submitted under subsection (c) that is received by a deadline established and published in the Federal Register, the Secretary shall approve or disapprove the application on or before the 60th day after the deadline.

"(2) USE OF ASSISTANCE.—Any agreement relating to an amount of financial assistance under this section that is entered into by the Secretary and an eligible recipient under the program shall require that the eligible recipient provide assistance to businesses using the amount on or before the 90th day after the date of receipt of such amount or shall return any remaining portion of such amount to the Secretary for subsequent awards under the program.".

SEC. 29. SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE.

Section 909 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3245) (as redesignated by section 25(1)) is amended to read as follows:

"SEC. 909. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $50,000,000 for each of fiscal years 1995 through 1997. Such sums shall remain available until expended.

"(b) ADDITIONAL AMOUNTS.—In addition to the appropriations authorized by subsection (a), there are authorized to be appropriated to carry out this title $120,000,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 and 1997, to provide assistance for activities related to closures and realignments of military installations and for defense conversion activities and to provide assistance in the case of a natural disaster. Such sums shall remain available until expended.

"(c) SET-ASIDE FOR COMPETITIVE COMMUNITIES PILOT PROGRAM.—Of the amounts appropriated under subsections (a) and (b), not more

than $40,000,000 shall be available for fiscal year 1995 to carry out section 908, of which not more than $15,000,000 shall be available from amounts appropriated under subsection (a) and not more than $25,000,000 shall be available from amounts appropriated under subsection (b).".

SEC. 30. COMPLIANCE WITH BUY AMERICAN ACT.

None of the funds made available under this title, or any amendment made by this title, may be expended to acquire articles, materials, or supplies, or to procure services, in violation of the applicable provisions of sections 2 through 4 of title III of the Act of March 3, 1933 (commonly known as the "Buy American Act") (41 U.S.C. 10a–10b–1).

SEC. 31. REGULATORY RELIEF.

The Assistant Secretary for Economic Development, acting on a petition from an entity impacted adversely by a Federal regulation on a matter of economic development described in the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), shall notify the officer who is the head of the department or agency that issued and administers the regulation and suggest that the officer waive regulations that interfere with economic development. Nothing in this section shall be construed to preempt the authority of the head of a department or agency to waive regulations. Nothing in this section shall be construed to affect the ability of the Assistant Secretary for Economic Development to carry out the duties of the Assistant Secretary, as otherwise provided by law.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WISE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5243, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

THEODORE LEVIN COURTHOUSE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2395) to designate the United States Courthouse in Detroit, MI, as the "Theodore Levin Courthouse", and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

□ 1840

The SPEAKER pro tempore (Mr. SHARP). Is there objection to the request of the gentleman from Ohio?

Mr. DUNCAN. Mr. Speaker, reserving the right to object, and I shall not object, at this time I yield to my good friend, the chairman of the Subcommittee on Public Buildings and Grounds, the gentleman from Ohio [Mr. TRAFICANT], for a brief explanation of the bill.

Mr. TRAFICANT. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of the bill, S. 2395, as amended, to designate the Federal building in Detroit, MI, as the Theodore Levin U.S. Courthouse.

The gentleman from Michigan, Chairman DINGELL, and the gentlewoman from Michigan, Miss COLLINS, have been strong supporters of this legislation.

Mr. Speaker, Judge Levin was a man who had great dignity, compassion, and superior intellect. He championed and supported unpopular causes, particularly on issues associated with immigration and alien's rights, and unfair sentencing practices. He was nominated in 1946 by President Truman to serve as the U.S. District Judge for the Eastern District of Michigan, and served for almost 25 years, retiring in 1970.

Probably most important, he was a devoted family man, husband and father.

It is with great pleasure that I support S. 2395 as amended and urge my colleagues to join me in support of this legislation.

Mr. DUNCAN. Further reserving the right to object, Mr. Speaker, everyone on this side of the aisle is in strong support of this legislation that the building be named after the very distinguished uncle of our colleague, the gentleman from Michigan, [Mr. LEVIN]. I thank the gentleman from Ohio [Mr. TRAFICANT] for his explanation of the bill. I support this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. THEODORE LEVIN FEDERAL BUILDING AND COURTHOUSE.

(a) REDESIGNATION.—The courthouse facility located at 231 West Lafayette, in Detroit, Michigan, shall be known and designated as the "Theodore Levin Courthouse".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to be courthouse facility referred to in subsection (a) shall be deemed to be a reference to the "Theodore Levin Courthouse".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2395, the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

OCEANS ACT OF 1994

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be discharged from further consideration of the bill (H.R. 4852) to provide congressional approval of a governing international fishery agreement, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. FIELDS of Texas. Mr. Speaker, reserving the right to object, and I will not object, I take this reservation in order to give the distinguished gentleman from New Jersey [Mr. HUGHES] an opportunity to explain the bill.

Mr. Speaker, I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Speaker, earlier today, in an effort to try and expedite Senate action on a number of Merchant Marine and Fisheries Committee bills pending before the other body, Chairman STUDDS sought unanimous consent for a package of legislation that could then be approved by the Senate and forwarded to the President for signature.

This motion was objected to, but I am happy to now return on behalf of the committee with a package that has been worked out and should cause no Member to object.

I will not repeat the explanation given by Chairman STUDDS as to the contents of this package but will tell Members that the concerns raised by the gentlemen from Louisiana and Pennsylvania have been accommodated.

We have dropped from the towing safety title the language requiring merchant mariners documents for industry crew members. We have also dropped language dealing with the definition of offshore supply vessels, and language in the NOAA authorization title questioned by Mr. WALKER.

Mr. Speaker, adoption of the bill will make our waterways safer, protect the lives of young boaters, encourage scientific research, support the tremendous efforts of our U.S. Coast Guard, and continue and improve several important fisheries laws.

Adoption of this bill right now is our only chance to make all of this happen. I urge its approval.

Mr. FIELDS of Texas. Mr. Speaker, continuing my reservation, I yield to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. I thank the gentleman from Texas for yielding to me.

First of all, Mr. Speaker, I want to thank the gentleman from Louisiana [Mr. TAUZIN], and others for working out a compromise on this legislation so that this very important bill concerning the Coast Guard and the freight forwarders industry is able to move through this body.

Mr. Speaker, this freight forwarding section of the bill is very important to

the ocean freight forwarder of this country who have been set aside and shut out for more than 10 years. We are taking the step now to give them the opportunity to share in collecting the fees, as have everybody else in the shipping industry.

So the freight forwarder compensation language is so important that again I thank the gentleman from Louisiana [Mr. TAUZIN] and others for this opportunity.

Mr. FIELDS of Texas. Mr. Speaker, continuing my reservation of objection, I would just like to point out to my colleagues in the House that this may be one of the last speeches by the gentlewomen from Maryland [Mrs. BENTLEY] and I think it is highly appropriate that this speech occurs on this particular piece of legislation. There has not been a stronger advocate for the domestic maritime industry than the gentlewoman from Maryland, and she will be sorely missed by the Committee on Merchant Marine and Fisheries.

Mrs. BENTLEY. Mr. Speaker. I thank the gentleman from Texas for his kind words. Let me say I am not going to let you be far away from me.

Mr. FIELDS of Texas. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Louisiana [Mr. TAUZIN.].

Mr. TAUZIN. I thank the gentleman for yielding.

Let me also confirm indeed we have reached agreement on a package that we hope will be acceptable to the Senate now.

Mr. Speaker, I point out to the Members of the House that one of the items that is contained in the bill is a very important section on towing vessels safety that is designed to increase the margins of safety in inland waterways of our country.

Mr. Speaker, it was about a year ago that we had the awful Amtrak accident in Alabama which cost the lives of some of our citizens and called to our attention the need for drastic changes in the ways in which the inland waterways operate.

The bill contains some very important steps in improving the safety of waterways, it contains some very important reform in the way the Coast Guard regulates the maritime industry. Indeed it allows for much more efficiency in self-regulation, and we want to again commend this package to the floor of the House and urge its adoption under this unanimous consent request.

And I thank the gentleman from Texas [Mr. FIELDS] and the gentleman from New Jersey [Mr. HUGHES]. In particular I want to thank my dear friend, Mr. HUGHES, and wish him the best of luck in all his future endeavors. And I also thank the members of the committee and subcommittee.

Mr. FIELDS of Texas. Mr. Speaker, I rise in support of the H.R. 4852, the Oceans Act of 1994, as amended.

Mr. Speaker, this is bipartisan legislation developed by the Merchant Marine and Fisheries Committee. It includes several important international fisheries provisions, which will allow the United States to remain a leader in conservation and management.

We have included in this legislation provisions to: implement the recommendations of the U.N.'s Conference of the Food and Agriculture Organization to establish a licensing and reporting system for United States fishing vessels which engage in fishing operations on the high seas; implement the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries and allow the United States to participate in the Northwest Atlantic Fisheries Organization; approve the governing international fishery agreement between the United States and the Republic of Lithuania; require a report to Congress on the status of monitoring and research programs to support the conservation and management of Atlantic bluefin tuna and other highly migratory species; reauthorize and expand the ability of the Fishermen's Protective Act to reimburse fishermen for the loss of their vessels and catch if seized illegally by a foreign government or to reimburse them if they are forced to pay an illegal transit fee by a foreign government; and require that United States fishermen comply with international fishery agreements that govern fisheries management in the Central Sea of Okhotsk.

Title VII of this bill authorizes funds for the Coast Guard for fiscal year 1995 at the level requested by the President, plus $13 million to fund the bridge administration program, and an additional $21 million for drug interdiction activities. Titles VIII through X contain important provisions to improve vessel and navigation safety and improve Coast Guard personnel management.

Title XI of this bill contains the text of H.R. 3786, the Recreational Boating Safety Improvement Act of 1994. This bill is one of my highest priorities, and I am pleased that the most important requirements of my bill, H.R. 2812, are incorporated into the bill. This legislation will save lives and reduce the number of injuries that occur on America's waterways each year.

Title XII, the Coast Guard Regulatory Reform Act of 1993, is intended to simplify U.S. construction requirements to reduce the regulatory burden on the U.S. maritime industry without compromising safety. These provisions were developed by the Coast Guard, industry representatives, and the Merchant Marine and Fisheries Committee. They will streamline shipbuilding requirements for all the U.S. maritime industry and allow it to become more competitive internationally.

Title XIII, the United States Passenger Vessel Development Act, is designed to promote the construction and operation of domestic passenger ships that will operate out of U.S. ports and cater to Americans.

Title XIV contains the provisions of the Boating Improvement Act of 1994, to establish a reasonable, stable funding method for the State boating safety program. The Boating Improvement Act is supported by all the affected groups, including the National Association of Boating Law Administrators, the American League of Anglers and Boaters, and the Boat Owners Association of the United States.

I also support the remaining titles of this bill, which will improve towing vessel safety and offshore supply vessel shipbuilding opportunities, and address various miscellaneous problems. I am pleased that title XX of this bill contains my amendments to maintain the President's proposed level of Coast Guard drug interdiction and to require a complete cost accounting of Coast Guard expenses related to Haiti.

Title XIX of this bill contains an authorization for the ocean and coastal programs of the National Oceanic and Atmospheric Administration [NOAA] for fiscal years 1995 and 1996. In addition to NOAA's National Ocean Service programs, ocean and Great Lakes research, selected fisheries programs, and general administrative support, the title also improves the Saltonstall-Kennedy program; encourages dual use of military oceanographic assets; amends the boundary of the Flower Garden Banks National Marine Sanctuary; improves congressional oversight of NOAA's fleet modernization activities; and authorizes the National Undersea Research Program.

These programs contribute to America's understanding and wise use of the greatest resource of the Earth—our oceans. I note that through the outstanding leadership of Oceanography Subcommittee Chairman SOLOMON ORTIZ that the Gulf of Mexico finally receives its due in this bill. The authorization of a National Undersea Research Program Center for the gulf, a study using satellites to help pinpoint sea turtles, and the consideration of an offshore platform as a research facility in the only gulf national marine sanctuary are all a result of his tireless work. Chairman ORTIZ has also been extremely responsive to the views of all members of the Merchant Marine Committee on NOAA matters.

I also want to commend Oceanography Subcommittee ranking Republican member CURT WELDON for his efforts on behalf of NOAA, especially his work on the use of military resources for civilian oceanographic research. This is a new but potentially fruitful avenue for the committee. Finally, committee Chairman STUDDS has helped steer our course to the floor to ensure NOAA's future.

The Merchant Marine and Fisheries Committee has completed action in a

fair, bipartisan manner, on matters that are extremely important to our maritime industry and to the safety of our citizens. Mr. Speaker, I urge my colleagues to overwhelmingly enact H.R. 4852 and express my highest compliments to our distinguished chairman, GERRY STUDDS, for his outstanding leadership on this important legislation.

I urge my colleagues to support this legislation and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey.

There was no objection.

The Clerk read the bill, as follows:

H.R. 4852

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823), the governing international fishery agreement between the Government of the United States of America and the Government of the Republic of Lithuania, as contained in the message to Congress from the President of the United States dated July 18, 1994, is approved by the Congress as a governing international fishery agreement for the purposes of such Act and shall enter into force and effect with respect to the United States on the date of enactment of this Act.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. HUGHES:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Oceans Act of 1994".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—HIGH SEAS FISHERIES LICENSING

SEC. 101. SHORT TITLE.

This title may be cited as the "High Seas Fisheries Licensing Act of 1994".

SEC. 102. PURPOSE.

It is the purpose of this Act—

(1) to implement the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993; and

(2) to establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas.

SEC. 103. DEFINITIONS.

As used in this Act—

(1) The term "Agreement" means the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, adopted by the Conference of the Food and Agriculture Organization of the United Nations on November 24, 1993.

(2) The term "FAO" means the Food and Agriculture Organization of the United Nations.

(3) The term "high seas" means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States.

(4) The term "high seas fishing vessel" means any vessel of the United States used or intended for use —

(A) on the high seas;

(B) for the purpose of the commercial exploitation of living marine resources; and

(C) as a harvesting vessel, as a mother ship, or as any other support vessel directly engaged in a fishing operation.

(5) The term "international conservation and management measures" means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law, as reflected in the 1982 United Nations Convention on the Law of the Sea, and that are recognized by the United States. Such measures may be adopted by global, regional, or sub-regional fisheries organizations, subject to the rights and obligations of their members, or by treaties or other international agreements.

(6) The term "length" means —

(A) for any high seas fishing vessel built after July 18, 1982, 96 percent of the total length on a waterline at 85 percent of the least molded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that is greater. In ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline; and

(B) for any high seas fishing vessel built before July 18, 1982, registered length as entered on the vessel's documentation.

(7) The term "person" means any individual (whether or not a citizen of or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(8) The term "Secretary" means the Secretary of Commerce.

(9) The term "vessel of the United States" means—

(A) a vessel documented under chapter 121 of title 46, United States Code, or numbered in accordance with chapter 123 of title 46, United States Code;

(B) a vessel owned in whole or part by—

(i) the United States or a territory, commonwealth, or possession of the United States;

(ii) a State or political subdivision thereof;

(iii) a citizen or national of the United States; or

(iv) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States;

unless the vessel has been granted the nationality of a foreign nation in accordance with article 92 of the 1982 United Nations Convention on the Law of the Sea and a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States authorized to enforce applicable provisions of the United States law; and

(C) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation.

(10) The terms "vessel subject to the jurisdiction of the United States" and "vessel without nationality" have the same meaning as in section 1903(c) of title 46 United States Code Appendix.

SEC. 104. LICENSING.

(a) IN GENERAL.—No high seas fishing vessel shall engage in harvesting operations on the high seas unless the vessel has on board a valid license issued under this section.

(b) ELIGIBILITY.—

(1) Any vessel of the United States is eligible to receive a license under this section, unless the vessel was previously authorized to be used for fishing on the high seas by a foreign nation, and

(A) the foreign nation suspended such authorization because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or

(B) the foreign nation, within the last three years preceding application for a license under this section, withdrew such authorization because the vessel undermined the effectiveness of international conservation and management measures.

(2) The restriction in paragraph (1) does not apply if ownership of the vessel has changed since the vessel undermined the effectiveness of international conservation and management measures, and the new owner has provided sufficient evidence to the Secretary demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of, the vessel.

(3) The restriction in paragraph (1) does not apply if the Secretary makes a determination that issuing a license would not subvert the purposes of the Agreement.

(4) The Secretary may not issue a license to a vessel unless the Secretary is satisfied that the United States will be able to exercise effectively its responsibilities under the Agreement with respect to that vessel.

(c) APPLICATION.—

(1) The owner or operator of a high seas fishing vessel may apply for a license under this section by completing an application form prescribed by the Secretary.

(2) The application form shall contain—

(A) the vessel's name, previous names (if known), official numbers, and port of record;

(B) the vessel's previous flags (if any);

(C) the vessel's International Radio Call Sign (if any);

(D) the names and addresses of the vessel's owners and operators;

(E) where and when the vessel was built;

(F) the type of vessel;

(G) the vessel's length; and

(H) any other information the Secretary requires.

(d) CONDITIONS.—The Secretary shall establish such conditions and restrictions on each license issued under this section as are necessary and appropriate to carry out the obligations of the United States under the Agreement, including but not limited to the following:

(1) The vessel shall be marked in accordance with the FAO Standard Specifications for the Marking and Identification of Fishing Vessels, or with regulations issued under section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855); and

(2) The license holder shall report such information as the Secretary by regulation requires, including area of fishing operations

and catch statistics. The Secretary shall promulgate regulations concerning conditions under which information submitted under this paragraph may be released.

(e) FEES.—

(1) The Secretary may by regulation establish the level of fees to be charged for licenses issued under this section. The amount of any fee charged for a license issued under this section may not exceed the administrative costs incurred in issuing such licenses. The licensing fee shall be in addition to any fee required under any regional licensing regime applicable to high seas fishing vessels.

(2) The fees authorized by paragraph (1) shall be collected and credited to the Operations, Research and Facilities account of the National Oceanic and Atmospheric Administration. Fees collected under this subsection shall be available for the necessary expenses of the National Oceanic and Atmospheric Administration in implementing this Act, and shall remain available until expended.

(f) DURATION.—A license issued under this section is valid for the period specified in regulations issued under section 105(d). A license issued under this section is void in the event the vessel is no longer eligible for U.S. documentation, such documentation is revoked or denied, or the vessel is deleted from such documentation.

SEC. 105. RESPONSIBILITIES OF THE SECRETARY.

(a) RECORD.—The Secretary shall maintain an automated file or record of high seas fishing vessels issued licenses under section 104, including all information submitted under section 104(c)(2).

(b) INFORMATION TO FAO.—The Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall—

(1) make available to FAO information contained in the record maintained under subsection (a);

(2) promptly notify FAO of changes in such information;

(3) promptly notify FAO of additions to or deletions from the record, and the reason for any deletion;

(4) convey to FAO information relating to any license granted under section 104(b)(3), including the vessel's identity, owner or operator, and factors relevant to the Secretary's determination to issue the license;

(5) report promptly to FAO all relevant information regarding any activities of high seas fishing vessels that undermine the effectiveness of international conservation and management measures, including the identity of the vessels and any sanctions imposed; and

(6) provide the FAO a summary of evidence regarding any activities of foreign vessels that undermine the effectiveness of international conservation and management measures.

(c) INFORMATION TO FLAG NATIONS.—If the Secretary, in cooperation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, has reasonable grounds to believe that a foreign vessel has engaged in activities undermining the effectiveness of international conservation and management measures, the Secretary shall—

(1) provide to the flag nation information, including appropriate evidentiary material, relating to those activities; and

(2) when such foreign vessel is voluntarily in a United States port, promptly notify the flag nation and, if requested by the flag nation, make arrangements to undertake such lawful investigatory measures as may be considered necessary to establish whether the vessel has been used contrary to the provisions of the Agreement.

(d) REGULATIONS.—The Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out the purposes of the Agreement and this title. The Secretary shall coordinate such regulations with any other entities regulating high seas fishing vessels, in order to minimize duplication of license application and reporting requirements. To the extent practicable, such regulations shall also be consistent with regulations implementing fishery management plans under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(e) NOTICE OF INTERNATIONAL CONSERVATION AND MANAGEMENT MEASURES.—The Secretary, in consultation with the Secretary of State, shall publish in the Federal Register, from time to time, a notice listing international conservation and management measures recognized by the United States.

SEC. 106. UNLAWFUL ACTIVITIES.

It is unlawful for any person subject to the jurisdiction of the United States—

(1) to use a high seas fishing vessel on the high seas in contravention of international conservation and management measures described in section 105(e);

(2) to use a high seas fishing vessel on the high seas, unless the vessel has on board a valid license issued under section 104;

(3) to use a high seas fishing vessel in violation of the conditions or restrictions of a license issued under section 104;

(4) to falsify any information required to be reported, communicated, or recorded pursuant to this title or any regulation issued under this title, or to fail to submit in a timely fashion any required information, or to fail to report to the Secretary immediately any change in circumstances that has the effect of rendering any such information false, incomplete, or misleading;

(5) to refuse to permit an authorized officer to board a high seas fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this title or any regulation issued under this title;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with an authorized officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detention for any act prohibited by this section;

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section;

(9) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any living marine resource taken or retained in violation of this title or any regulation or license issued under this title; or

(10) to violate any provision of this title or any regulation or license issued under this title.

SEC. 107. ENFORCEMENT PROVISIONS.

(a) DUTIES OF SECRETARIES.—This title shall be enforced by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, or of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under this section may (if the agreement so provides), authorize officers to enforce the provisions of this title or any regulation or license issued under this title.

(b) DISTRICT COURT JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title. In the case of Guam, and any Commonwealth, territory, or possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii.

(c) POWERS OF ENFORCEMENT OFFICERS.—

(1) Any officer who is authorized under subsection (a) to enforce the provisions of this title may—

(A) with or without a warrant or other process—

(i) arrest any person, if the officer has reasonable cause to believe that such person has committed an act prohibited by paragraph (6), (7), (8), or (9) of section 106;

(ii) board, and search or inspect, any high seas fishing vessel;

(iii) seize any high seas fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this title or any regulation or license issued under this title;

(iv) seize any living marine resource (wherever found) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 106;

(v) seize any other evidence related to any violation of any provision of this title or any regulation or license issued under this title;

(B) execute any warrant or other process issued by any court of competent jurisdiction; and

(C) exercise any other lawful authority.

(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in his presence, or for a felony cognizable under the laws of the United States, if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

(d) ISSUANCE OF CITATIONS.—If any authorized officer finds that a high seas fishing vessel is operating or has been operated in violation of any provision of this title, such officer may issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (c). If a permit has been issued pursuant to this title for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

SEC. 108. CIVIL PENALTIES AND LICENSE SANCTIONS.

(a) CIVIL PENALTIES.—

(1) Any person who is found by the Secretary, after notice and opportunity for a

hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 106 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(2) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(b) LICENSE SANCTIONS.—

(1) In any case in which—

(A) a vessel of the United States has been used in the commission of an act prohibited under section 106;

(B) the owner or operator of a vessel or any other person who has been issued or has applied for a license under section 104 has acted in violation of section 106; or

(C) any amount in settlement of a civil forfeiture imposed on a high seas fishing vessel or other property, or any civil penalty or criminal fine imposed on a high seas fishing vessel or on an owner or operator of such a vessel or on any other person who has been issued or has applied for a license under any fishery resource statute enforced by the Secretary, has not been paid and is overdue, the Secretary may—

(i) revoke any license issued to or applied for by such vessel or person under this title, with or without prejudice to the issuance of subsequent licenses;

(ii) suspend such license for a period of time considered by the Secretary to be appropriate;

(iii) deny such license; or

(iv) impose additional conditions and restrictions on such license.

(2) In imposing a sanction under this subsection, the Secretary shall take into account—

(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

(3) Transfer of ownership of a high seas fishing vessel, by sale or otherwise, shall not extinguish any license sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any license sanction that will be in effect or pending with respect to the vessel at the time of the transfer. The Secretary may waive or compromise a sanction in the case of a transfer pursuant to court order.

(4) In the case of any license that is suspended under this subsection for nonpayment of a civil penalty or criminal fine, the Secretary shall reinstate the license upon payment of the penalty or fine and interest thereon at the prevailing rate.

(5) No sanctions shall be imposed under this subsection unless there has been prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this section or otherwise.

(c) HEARING.—For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed under subsection (a) or against whose vessel a license sanction is imposed under subsection (b) (other than a license suspension for nonpayment of penalty or fine) may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such penalty or sanction. The Secretary shall promptly file in such court a certified copy of the record upon which such penalty or sanction was imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(e) COLLECTION.—

(1) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(2) A high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 106 shall be liable in rem for any civil penalty assessed for such violation under subsection (a) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

SEC. 109. CRIMINAL OFFENSES.

(a) OFFENSES.—A person is guilty of an offense if the person commits any act prohibited by paragraph (6), (7), (8), or (9) of section 106.

(b) PUNISHMENT.—Any offense described in subsection (a) is a class A misdemeanor punishable by a fine under title 18, United States Code, or imprisonment for not more than one year, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any authorized officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18, United States Code, or imprisonment for not more than 10 years, or both.

SEC. 110. FORFEITURES.

(a) IN GENERAL.—Any high seas fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any living marine resources (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 106 (other than an act for which the issuance of a citation under section 107 is a sufficient sanction) shall be subject to forfeiture to the United States. All or part of such vessel may, and all such living marine resources (or the fair market value thereof) shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) JURISDICTION OF DISTRICT COURTS.—Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) JUDGMENT.—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to —

(1) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(2) the disposition of such property or the proceeds from the sale thereof; and

(3) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.

(d) PROCEDURE.—

(1) Any officer authorized to serve any process in rem that is issued by a court under section 107(b) shall—

(A) stay the execution of such process; or

(B) discharge any living marine resources seized pursuant to such process;

upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any living marine resources seized pursuant to this title may be sold, subject to the approval of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) REBUTTABLE PRESUMPTION.—For purposes of this section, all living marine resources found on board a high seas fishing vessel and which are seized in connection with an act prohibited by section 106 are presumed to have been taken or retained in violation of this title, but the presumption can be rebutted by an appropriate showing of evidence to the contrary.

SEC. 111. EFFECTIVE DATE.

This title shall take effect 120 days after the date of enactment of this Act.

TITLE II—IMPLEMENTATION OF CONVENTION ON FUTURE MULTILATERAL COOPERATION IN THE NORTHWEST ATLANTIC FISHERIES

SEC. 201. SHORT TITLE.

This title may be cited as the "Northwest Atlantic Fisheries Convention Act of 1994".

SEC. 202. REPRESENTATION OF UNITED STATES UNDER CONVENTION.

(a) COMMISSIONERS.—

(1) APPOINTMENTS, GENERALLY.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the General Council and the Fisheries Commission, who shall each—

(A) be known as a "United States Commissioner to the Northwest Atlantic Fisheries Organization"; and

(B) serve at the pleasure of the Secretary.

(2) REQUIREMENTS FOR APPOINTMENTS.—

(A) The Secretary shall ensure that of the individuals serving as Commissioners—

(i) at least 1 is appointed from among representatives of the commercial fishing industry;

(ii) 1 (but no more than 1) is an official of the Government; and

(iii) 1, other than the individual appointed under clause (ii), is a voting member of the New England Fishery Management Council.

(B) The Secretary may not appoint as a Commissioner an individual unless the individual is knowledgeable and experienced concerning the fishery resources to which the Convention applies.

(3) TERMS.—

(A) The term of an individual appointed as a Commissioner—

(i) shall be specified by the Secretary at the time of appointment; and

(ii) may not exceed 4 years.

(B) An individual who is not a Government official may not serve more than 2 consecutive terms as a Commissioner.

(b) ALTERNATE COMMISSIONERS.—

(1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Commissioner at a meeting of the General Council or the Fisheries Commission, designate an individual to serve as an Alternate Commissioner.

(2) FUNCTIONS.—An Alternate Commissioner may exercise all powers and perform all duties of the Commissioner for whom the Alternate Commissioner is designated, at any meeting of the General Council or the Fisheries Commission for which the Alternate Commissioner is designated.

(c) REPRESENTATIVES.—

(1) APPOINTMENT.—The Secretary shall appoint not more than 3 individuals to serve as the representatives of the United States on the Scientific Council, who shall each be known as a "United States Representative to the Northwest Atlantic Fisheries Organization Scientific Council".

(2) ELIGIBILITY FOR APPOINTMENT.—

(A) The Secretary may not appoint an individual as a Representative unless the individual is knowledgeable and experienced concerning the scientific issues dealt with by the Scientific Council.

(B) The Secretary shall appoint as a Representative at least 1 individual who is an official of the Government.

(3) TERM.—An individual appointed as a Representative—

(A) shall serve for a term of not to exceed 4 years, as specified by the Secretary at the time of appointment;

(B) may be reappointed; and

(C) shall serve at the pleasure of the Secretary.

(d) ALTERNATE REPRESENTATIVES.—

(1) APPOINTMENT.—The Secretary may, for any anticipated absence of a duly appointed Representative at a meeting of the Scientific Council, designate an individual to serve as an Alternate Representative.

(2) FUNCTIONS.—An Alternate Representative may exercise all powers and perform all duties of the Representative for whom the Alternate Representative is designated, at any meeting of the Scientific Council for which the Alternate Representative is designated.

(e) EXPERTS AND ADVISERS.—The Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives may be accompanied at meetings of the Organization by experts and advisers.

(f) COORDINATION AND CONSULTATION.—

(1) IN GENERAL.—In carrying out their functions under the Convention, Commissioners, Alternate Commissioners, Representatives, and Alternate Representatives shall—

(A) coordinate with the appropriate Regional Fishery Management Councils established by section 302 of the Magnuson Act (16 U.S.C. 1852); and

(B) consult with the committee established under section 208.

(2) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to coordination and consultations under this subsection.

SEC. 203. REQUESTS FOR SCIENTIFIC ADVICE.

(a) RESTRICTION.—The Representatives may not make a request or specification described in subsection (b)(1) or (2), respectively, unless the Representatives have first—

(1) consulted with the appropriate Regional Fishery Management Councils; and

(2) received the consent of the Commissioners for that action.

(b) REQUESTS AND TERMS OF REFERENCE DESCRIBED.—The requests and specifications referred to in subsection (a) are, respectively—

(1) any request, under Article VII(1) of the Convention, that the Scientific Council consider and report on a question pertaining to the scientific basis for the management and conservation of fishery resources in waters under the jurisdiction of the United States within the Convention Area; and

(2) any specification, under Article VIII(2) of the Convention, of the terms of reference for the consideration of a question referred to the Scientific Council pursuant to Article VII(1) of the Convention.

SEC. 204. AUTHORITIES OF SECRETARY OF STATE WITH RESPECT TO CONVENTION.

The Secretary of State may, on behalf of the Government of the United States—

(1) receive and transmit reports, requests, recommendations, proposals, and other communications of and to the Organization and its subsidiary organs;

(2) object, or withdraw an objection, to the proposal of the Fisheries Commission;

(3) give or withdraw notice of intent not to be bound by a measure of the Fisheries Commission;

(4) object or withdraw an objection to an amendment to the Convention; and

(5) act upon, or refer to any other appropriate authority, any other communication referred to in paragraph (1).

SEC. 205. INTERAGENCY COOPERATION.

(a) AUTHORITIES OF SECRETARY.—In carrying out the provisions of the Convention and this title, the Secretary may arrange for cooperation with other agencies of the United States, the States, the New England and the Mid-Atlantic Fishery Management Councils, and private institutions and organizations.

(b) OTHER AGENCIES.—The head of any Federal agency may—

(1) cooperate in the conduct of scientific and other programs, and furnish facilities and personnel, for the purposes of assisting the Organization in carrying out its duties under the Convention; and

(2) accept reimbursement from the Organization for providing such services, facilities, and personnel.

SEC. 206. RULEMAKING.

The Secretary shall promulgate regulations as may be necessary to carry out the purposes and objectives of the Convention and this title. Any such regulation may be made applicable, as necessary, to all persons and all vessels subject to the jurisdiction of the United States, wherever located.

SEC. 207. PROHIBITED ACTS AND PENALTIES.

(a) PROHIBITION.—It is unlawful for any person or vessel that is subject to the jurisdiction of the United States—

(1) to violate any regulation issued under this title or any measure that is legally binding on the United States under the Convention;

(2) to refuse to permit any authorized enforcement officer to board a fishing vessel that is subject to the person's control for purposes of conducting any search or inspection in connection with the enforcement of this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention;

(3) forcibly to assault, resist, oppose, impede, intimidate, or interfere with any authorized enforcement officer in the conduct of any search or inspection described in paragraph (2);

(4) to resist a lawful arrest for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this section; or

(6) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that the other person has committed an act prohibited by this section.

(b) CIVIL PENALTY.—Any person who commits any act that is unlawful under subsection (a) shall be liable to the United States for a civil penalty, or may be subject to a permit sanction, under section 308 of the Magnuson Act (16 U.S.C. 1858).

(c) CRIMINAL PENALTY.—Any person who commits an act that is unlawful under paragraph (2), (3), (4), or (6) of subsection (a) shall be guilty of an offense punishable under section 309(b) of the Magnuson Act (16 U.S.C. 1859(b)).

(d) CIVIL FORFEITURE.—

(1) IN GENERAL.—Any vessel (including its gear, furniture, appurtenances, stores, and cargo) used in the commission of an act that is unlawful under subsection (a), and any fish (or the fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act that is unlawful under subsection (a), shall be subject to seizure and forfeiture as provided in section 310 of the Magnuson Act (16 U.S.C. 1860).

(2) DISPOSAL OF FISH.—Any fish seized pursuant to this title may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed by regulations issued by the Secretary.

(e) ENFORCEMENT.—The Secretary and the Secretary of the department in which the

Coast Guard is operating shall enforce the provisions of this title and shall have the authority specified in sections 311(a), (b)(1), and (c) of the Magnuson Act (16 U.S.C. 1861(a), (b)(1), and (c)) for that purpose.

(f) JURISDICTION OF COURTS.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this section and may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interests of justice.

SEC. 208. CONSULTATIVE COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of State and the Secretary, shall jointly establish a consultative committee to advise the Secretaries on issues related to the Convention.

(b) MEMBERSHIP.—(1) The membership of the Committee shall include representatives from the New England and Mid-Atlantic Fishery Management Councils, the States represented on those Councils, the Atlantic States Marine Fisheries Commission, the fishing industry, the seafood processing industry, and others knowledgeable and experienced in the conservation and management of fisheries in the Northwest Atlantic Ocean.

(2) TERMS AND REAPPOINTMENT.—Each member of the consultative committee shall serve for a term of two years and shall be eligible for reappointment.

(c) DUTIES OF THE COMMITTEE.—Members of the consultative committee may attend—

(1) all public meetings of the General Council or the Fisheries Commission;

(2) any other meetings to which they are invited by the General Council or the Fisheries Commission; and

(3) all nonexecutive meetings of the United States Commissioners.

(d) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the consultative committee established under this section.

SEC. 209. ADMINISTRATIVE MATTERS.

(a) PROHIBITION ON COMPENSATION.—A person shall not receive any compensation from the Government by reason of any service of the person as—

(1) a Commissioner, Alternate Commissioner, Representative, or Alternative Representative;

(2) an expert or adviser authorized under section 202(e); or

(3) a member of the consultative committee established by section 208.

(b) TRAVEL AND EXPENSES.—The Secretary of State shall, subject to the availability of appropriations, pay all necessary travel and other expenses of persons described in subsection (a)(1) and of not more than six experts and advisers authorized under section 202(e) with respect to their actual performance of their official duties pursuant to this title, in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(c) STATUS AS FEDERAL EMPLOYEES.—A person shall not be considered to be a Federal employee by reason of any service of the person in a capacity described in subsection (a), except for purposes of injury compensation and tort claims liability under chapter 81 of title 5, United States Code, and chapter 17 of title 28, United States Code, respectively.

SEC. 210. DEFINITIONS.

In this title the following definitions apply:

(1) AUTHORIZED ENFORCEMENT OFFICER.—The term "authorized enforcement officer" means a person authorized to enforce this title, any regulation issued under this title, or any measure that is legally binding on the United States under the Convention.

(2) COMMISSIONER.—The term "Commissioner" means a United States Commissioner to the Northwest Atlantic Fisheries Organization appointed under section 202(a).

(3) CONVENTION.—The term "Convention" means the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, done at Ottawa on October 24, 1978.

(4) FISHERIES COMMISSION.—The term "Fisheries Commission" means the Fisheries Commission provided for by Articles II, XI, XII, XIII, and XIV of the Convention.

(5) GENERAL COUNCIL.—The term "General Council" means the General Council provided for by Article II, III, IV, and V of the Convention.

(6) MAGNUSON ACT.—The term "Magnuson Act" means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(7) ORGANIZATION.—The term "Organization" means the Northwest Atlantic Fisheries Organization provided for by Article II of the Convention.

(8) PERSON.—The term "person" means any individual (whether or not a citizen or national of the United States), and any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State).

(9) REPRESENTATIVE.—The term "Representative" means a United States Representative to the Northwest Atlantic Fisheries Scientific Council appointed under section 202(c).

(10) SCIENTIFIC COUNCIL.—The term "Scientific Council" means the Scientific Council provided for by Articles II, VI, VII, VIII, IX, and X of the Convention.

(11) SECRETARY.—The term "Secretary" means the Secretary of Commerce.

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, including use for payment as the United States contribution to the Organization as provided in Article XVI of the Convention, $500,000 for each of the fiscal years 1994, 1995, 1996, 1997, and 1998.

TITLE III—GOVERNING INTERNATIONAL FISHERY AGREEMENT

SEC. 301. AGREEMENT WITH LITHUANIA.

Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823), the governing international fishery agreement between the Government of the United States of America and the government of the Republic of Lithuania, as contained in the message to Congress from the President of the United States dated July 18, 1994, is approved as a governing international fishery agreement for the purposes of such Act and shall enter into force and effect with respect to the United States on the date of enactment of this Act.

TITLE IV—ATLANTIC TUNAS CONVENTION ACT

SEC. 401. SHORT TITLE.

This title may be cited as the "Atlantic Tunas Convention Authorization Act of 1994".

SEC. 402. RESEARCH AND MONITORING ACTIVITIES.

(a) REPORT TO CONGRESS.—The Secretary of Commerce shall, within 90 days after the date of enactment of this Act, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives—

(1) identifying current governmental and nongovernmental research and monitoring activities on Atlantic bluefin tuna and other highly migratory species;

(2) describing the personnel and budgetary resources allocated to such activities; and

(3) explaining how each activity contributes to the conservation and management of Atlantic bluefin tuna and other highly migratory species.

(b) RESEARCH AND MONITORING PROGRAM.—Section 3 of the Act of September 4, 1980 (16 U.S.C. 971i) is amended—

(1) by amending the section heading to read as follows:

"SEC. 3. RESEARCH ON ATLANTIC HIGHLY MIGRATORY SPECIES.";

(2) by inserting "(a) BIENNIAL REPORT ON BLUEFIN TUNA.—" before "The Secretary of Commerce shall"; and

(3) by adding at the end the following:

"(b) HIGHLY MIGRATORY SPECIES RESEARCH AND MONITORING.—

"(1) Within 6 months after the date of enactment of the Atlantic Tunas Convention Authorization Act of 1994, the Secretary of Commerce, in cooperation with the advisory committee established under section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) and in consultation with the United States Commissioners on the International Commission for the Conservation of Atlantic Tunas (referred to elsewhere in this section as the 'Commission') and the Secretary of State, shall develop and implement a comprehensive research and monitoring program to support the conservation and management of Atlantic bluefin tuna and other highly migratory species that shall—

"(A) identify and define the range of stocks of highly migratory species in the Atlantic Ocean, including Atlantic bluefin tuna; and

"(B) provide for appropriate participation by nations which are members of the Commission.

"(2) The program shall provide for, but not be limited to—

"(A) statistically designed cooperative tagging studies;

"(B) genetic and biochemical stock analyses;

"(C) population censuses carried out through aerial surveys of fishing grounds;

"(D) adequate observer coverage and port sampling of commercial and recreational fishing activity;

"(E) collection of comparable real-time data on commercial and recreational catches and landings through the use of permits, logbooks, landing reports for charter operations and fishing tournaments, and programs to provide reliable reporting of the catch by private anglers;

"(F) studies of the life history parameters of Atlantic bluefin tuna and other highly migratory species;

"(G) integration of data from all sources and the preparation of data bases to support management decisions; and

"(H) other research as necessary.

"(3) In developing a program under this section, the Secretary shall provide for comparable monitoring of all United States fishermen to which the Atlantic Tunas Convention Act applies with respect to effort and species composition of catch and discards. The Secretary through the Secretary of State shall encourage other member nations to adopt a similar program.".

SEC. 403. ADVISORY COMMITTEE PROCEDURES.

Section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) is amended—

(1) by inserting "(a)" before "There"; and

(2) by adding at the end the following:

"(b)(1) A majority of the members of the advisory committee shall constitute a quorum, but one or more such members designated by the advisory committee may hold meetings to provide for public participation and to discuss measures relating to the United States implementation of Commission recommendations.

"(2) The advisory committee shall elect a Chairman for a 2-year term from among its members.

"(3) The advisory committee shall meet at appropriate times and places at least twice a year, at the call of the Chairman or upon the request of the majority of its voting members, the United States Commissioners, the Secretary, or the Secretary of State.

"(4)(A) The Secretary shall provide to the advisory committee in a timely manner such administrative and technical support services as are necessary for the effective functioning of the committee.

"(B) The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

"(5) The advisory committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures.

"(6) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee.".

SEC. 404. REGULATIONS.

Section 6(c)(3) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(3)) is amended by adding "or fishery mortality level" after "quota of fish" in the last sentence.

SEC. 405. FINES AND PERMIT SANCTIONS.

Section 7(e) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971(e)) is amended to read as follows:

"(e) The civil penalty and permit sanctions of section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858) are hereby made applicable to violations of this section as if they were violations of section 307 of that Act.".

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS.

"Sec. 10. There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, the following sums:

"(1) For fiscal year 1994, $2,750,000, of which $50,000 are authorized in the aggregate for the advisory committee established under section 4 and the species working groups established under section 4A, and $1,500,000 are authorized for research activities under this Act.

"(2) For fiscal year 1995, $4,000,000, of which $62,000 are authorized in the aggregate for such advisory committee and such working groups, and $2,500,000 are authorized for such research activities.

"(3) For fiscal year 1996, $4,000,000 of which $75,000 are authorized in the aggregate for such advisory committee and such working groups, and $2,500,000 are authorized for such research activities.".

SEC. 407. REPORT AND CERTIFICATION.

The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended by adding at the end thereof the following:

"ANNUAL REPORT.

"Sec. 11. Not later than April 1, 1995, and annually thereafter, the Secretary shall prepare and transmit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, that—

"(1) details for the previous 10-year period the catches and exports to the United States of highly migratory species (including tunas, swordfish, marlin and sharks) from nations fishing on Atlantic stocks of such species that are subject to management by the Commission;

"(2) identifies those fishing nations whose harvests are inconsistent with conservation and management recommendations of the Commission;

"(3) describes reporting requirements established by the Secretary to ensure that imported fish products are in compliance with all international management measures, including minimum size requirements, established by the Commission and other international fishery organizations to which the United States is a party; and

"(4) describes actions taken by the Secretary under section 12.

"CERTIFICATION

"Sec. 12. (a) If the Secretary determines that vessels of any nation are harvesting fish which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the convention area in a manner or under circumstances which would tend to diminish the effectiveness of the conservation recommendations of the Commission, the Secretary shall certify such fact to the President.

"(b) Such certification shall be deemed to be a certification for the purposes of section 8 of the Fishermen's Protective Act (22 U.S.C. 1978).

"(c) Upon certification under subsection (a), the Secretary shall promulgate regulations under section 6(c)(4) with respect to a nation so certified.".

SEC. 408. SENSE OF THE CONGRESS REGARDING CONSERVATION AND MANAGEMENT OF ATLANTIC BLUEFIN TUNA.

(a) Finding.—The Congress finds the following:

(1) Atlantic bluefin tuna are a valuable commercial and recreational fishery of the United States.

(2) Many other countries also harvest Atlantic bluefin tuna in the Atlantic Ocean and the Mediterranean Sea.

(3) The International Commission for the Conservation of Atlantic Tunas (hereinafter in this section referred to as the "Commission"), was established in 1969 to develop conservation and management recommendations for Atlantic bluefin tuna and other highly migratory species in the Atlantic Ocean and the Mediterranean Sea.

(4) The Commission adopted conservation and management recommendations in 1974 to ensure the recovery and sustainability of Atlantic bluefin tuna throughout the Atlantic Ocean and the Mediterranean Sea.

(5) In 1981, the Commission adopted a management strategy for Atlantic bluefin tuna predicated on a hypothesis that 2 stocks of the fish existed: a western stock found in the Atlantic west of 45 degrees west longitude (hereinafter in this section referred to as the "45 degree line"), and an eastern stock found in the Atlantic Ocean east of the 45 degree line and in the Mediterranean Sea.

(6) Since 1981, the Commission has adopted additional, more restrictive conservation and management recommendations for Atlantic bluefin tuna for countries that harvest bluefin tuna west of the 45 degree line, including a 25 percent quota reduction since 1991 with an additional 40 percent quota reduction scheduled for 1995.

(7) The United States and other Commission members that harvest bluefin tuna west of the 45 degree line have implemented all conservation and management recommendations adopted by the Commission for Atlantic bluefin tuna west of the 45 degree line.

(8) Many other Commission members do not comply with the conservation and management recommendations adopted by the Commission for Atlantic bluefin tuna east of the 45 degree line.

(9) A recent National Academy of Sciences review of the scientific data used by the Commission concluded that the available data is consistent with a 1-stock management strategy for bluefin tuna in the North Atlantic.

(10) The National Academy of Sciences review also found that abundance of Atlantic bluefin tuna in the western Atlantic has remained stable since 1988, in contrast to the roughly 50 percent decline in abundance reported by the Commission.

(11) The continued unrestricted harvesting of Atlantic bluefin tuna east of the 45 degree line and in the Mediterranean Sea will undermine the conservation recommendations being implemented west of the line to rebuild Atlantic bluefin tuna.

(12) In order to successfully rebuild the Atlantic bluefin tuna stock, conservation and management recommendations must be adopted and implemented throughout the Atlantic Ocean and the Mediterranean Sea.

(b) Sense of Congress.—It is the sense of the Congress that—

(1) the United States and the Commission should continue to promote the conservation and management of Atlantic bluefin tuna throughout the Atlantic Ocean and Mediterranean Sea and develop a program to rebuild Atlantic bluefin tuna that requires the participation of all nations that harvest this species;

(2) the United States should ensure that the scientific findings and recommendations of the National Academy of Sciences Atlantic bluefin tuna review panel are made available to and included in the considerations of the Commission's scientific advisory panel;

(3) the United States should oppose any further quota reductions for nations harvesting Atlantic bluefin tuna west of the 45 degree line and insist that all nations harvesting Atlantic bluefin tuna west and east of the 45 degree line implement comparable conservation and rebuilding programs for the Atlantic bluefin tuna resource;

(4) the continued harvesting by fishermen from any country which is a member of the Commission and which does not comply with the conservation and management recommendations of the Commission will be considered by the Congress to diminish the effectiveness of an international fishery conservation program and, as such, will be considered by the Congress to be subject to the embargo provision in section 6 of the Atlantic Tunas Convention Act;

(5) the United States should encourage other nations with significant markets for Atlantic bluefin tuna to prohibit the importation of that species from harvesting nations which do not comply with the conservation and management recommendations adopted by the Commission; and

(6) the United States should encourage the Commission to adopt recommendations encouraging the use of trade actions by member nations as enforcement measures when the actions of a nation are undermining the effectiveness of conservation and management recommendations of the Commission.

TITLE V—FISHERMEN'S PROTECTIVE ACT

SEC. 501. FINDINGS.

The Congress finds that—

(1) customary international law and the United Nations Convention on the Law of the Sea guarantee the right of passage, including innocent passage, to vessels through the waters commonly referred to as the "Inside Passage" off the Pacific Coast of Canada;

(2) Canada recently required all commercial fishing vessels of the United States to pay 1,500 Canadian dollars to obtain a "license which authorizes transit" through the Inside Passage;

(3) this action was inconsistent with international law, including the United Nations Convention on the Law of the Sea, and, in particular, Article 26 of that Convention, which specifically prohibits such fees, and threatened the safety of United States commercial fishermen who sought to avoid the fee by traveling in less protected waters;

(4) the Fishermen's Protective Act of 1967 provides for the reimbursement of vessel owners who are forced to pay a license fee to secure the release of a vessel which has been seized, but does not permit reimbursement of a fee paid by the owner in advance in order to prevent a seizure;

(5) Canada required that the license fee be paid in person in 2 ports on the Pacific Coast of Canada, or in advance by mail;

(6) significant expense and delay was incurred by commercial fishing vessels of the United States that had to travel from the point of seizure back to one of those ports in order to pay the license fee required by Canada, and the costs of that travel and delay can not be reimbursed under the Fishermen's Protective Act;

(7) the Fishermen's Protective Act of 1967 should be amended to permit vessel owners to be reimbursed for fees required by a foreign government to be paid in advance in order to navigate in the waters of that foreign country if the United States considers that fee to be inconsistent with international law;

(8) the Secretary of State should seek to recover from Canada any amounts paid by the United States to reimburse vessel owners who paid the transit license fee;

(9) the United States should review its current policy with respect to anchorage by commercial fishing vessels of Canada in waters of the United States off Alaska, including waters in and near the Dixon Entrance, and should accord such vessels the same treatment that commercial fishing vessels of the United States are accorded for anchorage in the waters of Canada off British Columbia;

(10) the President should ensure that, consistent with international law, the United States Coast Guard has available adequate resources in the Pacific Northwest and Alaska to provide for the safety of United States citizens, the enforcement of United States law, and to protect the rights of the United States and keep the peace among vessels operating in disputed waters;

(11) the President should continue to review all agreements between the United States and Canada to identify other actions that may be taken to convince Canada that any reinstatement of the transit license fee would be against Canada's long-term interests, and should immediately implement any actions which the President deems appropriate if Canada reinstates the fee;

(12) the President should continue to convey to Canada in the strongest terms that the United States will not now, nor at any time in the future, tolerate any action by Canada which would impede or otherwise restrict the right of passage of vessels of the United States in a manner inconsistent with international law; and

(13) the United States should redouble its efforts to seek expeditious agreement with Canada on appropriate fishery conservation and management measures that can be implemented through the Pacific Salmon Treaty to address issues of mutual concern.

SEC. 502. AMENDMENT TO THE FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) The Fishermen's Protective Act of 1967 (22 U.S.C. 1971 et seq.) is amended by adding at the end the following new section:

"Sec. 11. (a) In any case on or after June 15, 1994, in which a vessel of the United States exercising its right of passage is charged a fee by the government of a foreign country to engage in transit passage between points in the United States (including a point in the exclusive economic zone or in an area over which jurisdiction is in dispute), and such fee is regarded by the United States as being inconsistent with international law, the Secretary of State shall reimburse the vessel owner for the amount of any such fee paid under protest.

"(b) In seeking such reimbursement, the vessel owner shall provide, together with such other information as the Secretary of State may require—

"(1) a copy of the receipt for payment;

"(2) an affidavit attesting that the owner or the owner's agent paid the fee under protest; and

"(3) a copy of the vessel's certificate of documentation.

"(c) Requests for reimbursement shall be made to the Secretary of State within 120 days after the date of payment of the fee, or within 90 days after the date of enactment of this section, whichever is later.

"(d) Such funds as may be necessary to meet the requirements of this section may be made available from the unobligated balances of previously appropriated funds remaining in the Fishermen's Guaranty Fund established under section 7 and the Fishermen's Protective Fund established under section 9. To the extent that requests for reimbursement under this section exceed such funds, there are authorized to be appropriated such sums as may be needed for reimbursements authorized under subsection (a).

"(e) The Secretary of State shall take such action as the Secretary deems appropriate to make and collect claims against the foreign country imposing such fee for any amounts reimbursed under this section.

"(f) For purposes of this section, the term 'owner' includes any charterer of a vessel of the United States.

"(g) This section shall remain in effect until October 1, 1995.".

(b) The Fishermen's Protective Act of 1967 (22 U.S.C. 1971 et seq.) is further amended by adding at the end the following:

"Sec. 12. (a) If the Secretary of State finds that the government of any nation imposes conditions on the operation or transit of United States fishing vessels which the United States regards as being inconsistent with international law or an international agreement, the Secretary of State shall certify that fact to the President.

"(b) Upon receipt of a certification under subsection (a), the President shall direct the heads of Federal agencies to impose similar conditions on the operation or transit of fishing vessels registered under the laws of the nation which has imposed conditions on United States fishing vessels.

"(c) For the purposes of this section, the term 'fishing vessel' has the meaning given that term in section 2101(11a) of title 46, United States Code.

"(d) It is the sense of the Congress that any action taken by any Federal agency under subsection (b) should be commensurate with any conditions certified by the Secretary of State under subsection (a).".

SEC. 503. REAUTHORIZATION.

(a) Section 7(c) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(c)) is amended by striking the third sentence.

(b) Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking "October 1, 1993" and inserting "October 1, 2000".

SEC. 504. TECHNICAL CORRECTIONS.

(a)(1) Section 15(a) of Public Law 103-238 is amended by striking "April 1, 1994," and inserting "May 1, 1994.".

(2) The amendment made by paragraph (1) shall be effective on and after April 30, 1994.

(b) Section 803(13)(C) of Public Law 102-567 (16 U.S.C. 5002(13)(C)) is amended to read as follows:

"(C) any vessel supporting a vessel described in subparagraph (A) or (B).".

TITLE VI—FISHERIES ENFORCEMENT IN CENTRAL SEA OF OKHOTSK

SEC. 601. SHORT TITLE.

This title may be cited as the "Sea of Okhotsk Fisheries Enforcement Act of 1994".

SEC. 602. FISHING PROHIBITION.

The Central Bering Sea Fisheries Enforcement Act of 1992 (16 U.S.C. 1823 note) is amended—

(1) in section 302, by inserting "and the Central Sea of Okhotsk" after "Central Bering Sea"; and

(2) in section 306—

(A) by redesignating paragraphs (2), (3), (4), (5), and (6) in order as paragraphs (3), (4), (5), (6), and (7); and

(B) by inserting after paragraph (1) the following:

"(2) Central Sea of Okhotsk.—The term 'Central Sea of Okhotsk' means the central Sea of Okhotsk area which is more than two hundred nautical miles seaward of the baseline from which the breadth of the territorial sea of the Russian Federation is measured.".

TITLE VII—COAST GUARD AUTHORIZATIONS

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1995, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,630,505,000, of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $439,200,000, to remain available until expended, of which $32,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to

navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, $20,310,000, to remain available until expended, of which—

(A) $3,150,000 shall be derived from the Oil Spill Liability Trust Fund; and

(B) $1,500,000 is authorized to conduct, in cooperation with appropriate Federal and State agencies, local maritime education organizations, and local marine industry representatives, a demonstration project on the lower Mississippi River and in the Houston Ship Channel to study the effectiveness of currently available Electronic Chart Display and Information Systems (ECDIS) and Electronic Chart Systems (ECS) for use on commercial vessels.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $562,585,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $13,000,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities, $25,000,000, to remain available until expended.

SEC. 702. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 39,000 as of September 30, 1995. The authorized strength does not include members of the Ready Reserve called to active duty for special or emergency augmentation of regular Coast Guard forces for periods of 180 days or less.

(b) MILITARY TRAINING STUDENT LOADS.—For fiscal year 1995, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,000 student years.

(2) For flight training, 133 student years.

(3) For professional training in military and civilian institutions, 344 student years.

(4) For officer acquisition, 955 student years.

SEC. 703. DRUG INTERDICTION ACTIVITIES.

In addition to amounts otherwise authorized by this Act, there are authorized to be appropriated to the Secretary of Transportation for operation and maintenance expenses of Coast Guard drug interdiction activities $21,000,000 for fiscal year 1995.

TITLE VIII—COAST GUARD PERSONNEL MANAGEMENT IMPROVEMENT

SEC. 801. HURRICANE ANDREW RELIEF.

Section 2856 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484) applies to the military personnel of the Coast Guard who were assigned to, or employed at or in connection with, any Federal facility or installation in the vicinity of Homestead Air Force Base, Florida, including the areas of Broward, Collier, Dade, and Monroe Counties, on or before August 24, 1992, except that—

(1) funds available to the Coast Guard, not to exceed a total of $25,000, shall be used; and

(2) the Secretary of Transportation shall administer that section with respect to such personnel.

SEC. 802. DISSEMINATION OF RESULTS OF O-6 CONTINUATION BOARDS.

Section 289(f) of title 14, United States Code, is amended by striking "Upon approval by the President, the names of the officers selected for continuation on active duty by the board shall be promptly disseminated to the service at large.".

SEC. 803. EXCLUDE CERTAIN RESERVES FROM END-OF-YEAR STRENGTH.

Section 712 of title 14, United States Code, is amended by adding at the end the following:

"(d) Reserve members ordered to active duty under this section shall not be counted in computing authorized strength of members on active duty or members in grade under this title or under any other law.".

SEC. 804. PROVISION OF CHILD DEVELOPMENT SERVICES.

(a) IN GENERAL.—Title 14, United States Code, is amended by inserting after section 514 the following new section:

"§ 515. Child development services

"(a) The Commandant may make child development services available for members and civilian employees of the Coast Guard, and thereafter as space is available for members of the Armed Forces and Federal civilian employees. Child development services benefits provided under this section shall be in addition to benefits provided under other laws.

"(b)(1) Except as provided in paragraph (2), the Commandant may require that amounts received as fees for the provision of child development services under this section at Coast Guard child development centers be used only for compensation of Coast Guard child development center employees who are directly involved in providing child care.

"(2) If the Commandant determines that compliance with the limitation in paragraph (1) would result in an uneconomical and inefficient use of amounts received as such fees, the Commandant may (to the extent that such compliance would be uneconomical and inefficient) use such amounts—

"(A) for the purchase of consumable or disposable items for Coast Guard child development centers; and

"(B) if the requirements of such centers for consumable or disposable items for a given fiscal year have been met, for other expenses of those centers.

"(c) The Commandant may use Department of Defense or other training programs to insure that all child development services providers under this section meet minimum standards.

"(d) The Commandant may provide assistance to members and civilian employees of the Coast Guard for obtaining services of qualified family home child development services providers. The cost per child to the Coast Guard of obtaining those services may not exceed the average of the cost per child incurred by the Coast Guard for child development services provided at all Coast Guard child development centers.

"(e)(1) Of the amounts available to the Coast Guard each fiscal year for operating expenses (and in addition to amounts received as fees), the Secretary shall use for child development services under this section an amount equal to the total amount the Commandant estimates will be received by the Coast Guard in the fiscal year as fees for the provision of those services.

"(2) The amount of funds used under paragraph (1) each fiscal year shall not exceed $1,000,000.

"(f) For purposes of this section, the term 'Coast Guard child development center' does not include a child care services facility for which space is allotted under section 616 of the Act of December 22, 1987 (40 U.S.C. 490b).

"(g) The Secretary shall promulgate regulations to implement this section. The regulations shall establish fees to be charged for child development services provided under this section which are based on total family income.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 14, United States Code, is amended by inserting after the item related to section 514 the following:

"515. Child development services.".

TITLE IX—NAVIGATION SAFETY AND WATERWAY SERVICES MANAGEMENT

SEC. 901. FOREIGN PASSENGER VESSEL USER FEES.

Section 3303 of title 46, United States Code, is amended—

(1) in subsection (a) by striking "(a) Except as" and inserting "Except as"; and

(2) by striking subsection (b).

SEC. 902. DOCUMENTATION VIOLATIONS.

(a) CIVIL PENALTIES.—Section 12122(a) of title 46, United States Code, is amended by striking "$500" and inserting "$25,000".

(b) SEIZURE AND FORFEITURE.—

(1) IN GENERAL.—Section 12122(b) of title 46, United States Code, is amended to read as follows:

"(b) A vessel and its equipment are liable to seizure by and forfeiture to the United States Government, if—

"(1) the owner of the vessel or a representative or agent of the owner knowingly falsifies or conceals a material fact, or makes a false statement or representation about the documentation or in applying for documentation of the vessel;

"(2) a certificate of documentation is knowingly and fraudulently used for the vessel;

"(3) the vessel is operated after its endorsement has been denied or revoked under section 12123 of this title;

"(4) the vessel is employed in a trade without an appropriate trade endorsement; or

"(5) in the case of a documented vessel with only a recreational endorsement, the vessel is operated other than for pleasure.".

(2) CONFORMING AMENDMENT.—Section 12122(c) of title 46, United States Code, is repealed.

(c) LIMITATION ON OPERATION OF VESSEL WITH ONLY RECREATIONAL ENDORSEMENT.—Section 12110(c) of title 46, United States Code, is repealed.

(d) TERMINATION OF RESTRICTION ON COMMAND OF RECREATIONAL VESSELS.—

(1) TERMINATION OF RESTRICTION.—Subsection (d) of section 12110 of title 46, United States Code, is amended—

(A) by inserting ", other than a vessel with only a recreational endorsement operating within the territorial waters of the United States," after "A documented vessel"; and

(B) by redesignating that subsection as subsection (c).

(2) CONFORMING AMENDMENT.—Section 12111(a)(2) of title 46, United States Code, is amended by inserting before the period the following: "in violation of section 12110(c) of this title".

SEC. 903. CLERICAL AMENDMENT.

Chapter 121 of title 46, United States Code, is amended—

(1) by striking the first section 12123; and

(2) in the table of sections at the beginning of the chapter by striking the first item relating to section 12123.

SEC. 904. RENEWAL OF HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE AND LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

The Coast Guard Authorization Act of 1991 (Public Law 102-241, 105 Stat. 2208-2235) is amended—

(1) in section 18 by adding at the end the following:

"(h) The Committee shall terminate on October 1, 1999."; and

(2) in section 19 by adding at the end the following:

"(g) The Committee shall terminate on October 1, 1999.".

TITLE X—MISCELLANEOUS PROVISIONS

SEC. 1001. OFFICER RETENTION UNTIL RETIREMENT ELIGIBLE.

Section 283(b) of title 14, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking the last sentence; and

(3) by adding at the end the following:

"(2) Upon the completion of a term under paragraph (1), an officer shall, unless selected for further continuation—

"(A) except as provided in subparagraph (B), be honorably discharged with severance pay computed under section 286 of this title;

"(B) in the case of an officer who has completed at least 18 years of active service on the date of discharge under subparagraph (A), be retained on active duty and retired on the last day of the month in which the officer completes 20 years of active service, unless earlier removed under another provision of law; or

"(C) if eligible for retirement under any law, be retired.".

SEC. 1002. CONTINUING OBLIGATION TO PROVIDE DOCUMENTATION INFORMATION AT EXISTING LOCATIONS.

The Secretary of Transportation shall, until October 1, 1999, maintain an ability, at Coast Guard offices that are located in the immediate vicinity of former regional vessel documentation offices, to assist the public with information on obtaining, altering, and renewing the documentation of a vessel and on vessel documentation laws and regulations generally.

SEC. 1003. CONTINUATION OF THE COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.

Subsection (e)(1) of section 4508 of title 46, United States Code, is amended by striking "September 30, 1994" and inserting "October 1, 1999".

SEC. 1004. PROHIBITION ON STATION CLOSURES.

(a) PROHIBITION.—The Secretary of Transportation may not close or consolidate any multimission small boat station in fiscal year 1995 until the Secretary has submitted a list of proposed station closures to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate.

(b) DEADLINE FOR SUBMISSION.—The Secretary shall submit such list at least 60 days prior to any such closure or consolidation.

SEC. 1005. RENEWAL OF THE NAVIGATION SAFETY ADVISORY COUNCIL.

Section 5 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended in subsection (d) by striking "September 30, 1995" and inserting "September 30, 2000".

SEC. 1006. COAST GUARD RESERVE PEACETIME REQUIREMENTS PLAN.

No later than February 1, 1995, the Secretary of Transportation shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan to more fully utilize the Coast Guard Selected Reserve to augment peacetime operations. As part of the plan, the Secretary shall include—

(1) methods to deliver more cost-effective Coast Guard services by supplementing active duty personnel with Coast Guard reservists while preserving the current level of service to the public;

(2) methods to more fully integrate the Coast Guard Reserve in peacetime Coast Guard programs, including, but not limited to, search and rescue, marine safety, and marine environmental protection;

(3) the most effective command structure for the Coast Guard Reserve; and

(4) a specific estimate of the number of reservists needed to augment peacetime Coast Guard missions under the plan.

SEC. 1007. PROHIBITION ON OVERHAUL, REPAIR, AND MAINTENANCE OF COAST GUARD VESSELS IN FOREIGN SHIPYARDS.

(a) PROHIBITION.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following:

"§ 96. Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards

"A Coast Guard vessel may not be overhauled, repaired, or maintained in any shipyard located outside the United States, except that this section does not apply to emergency repairs.".

(b) CLERICAL AMENDMENT.—Title 14, United States Code, is amended in the analysis at the beginning of chapter 5 by adding at the end the following:

"96. Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards.".

SEC. 1008. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS.

Section 31321(a) of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) A bill of sale, conveyance, mortgage, assignment, or related instrument may be filed electronically under regulations prescribed by the Secretary.

"(B) A filing made electronically under subparagraph (A) shall not be effective after the 10-day period beginning on the date of the filing unless the original instrument is provided to the Secretary within that 10-day period.".

SEC. 1009. SENSE OF THE CONGRESS REGARDING FUNDING FOR COAST GUARD.

It is the sense of the Congress that in appropriating amounts for the Coast Guard, the Congress should appropriate amounts adequate to enable the Coast Guard to carry out all extraordinary functions and duties the Coast Guard is required to undertake in addition to its normal functions established by law.

SEC. 1010. CONTRACTS FOR HEALTH CARE SERVICES.

(a) Chapter 17 of title 14, United States Code, is amended by inserting after section 644 the following new section:

"§ 644a. Contracts for health care services

"(a) Subject to the availability of appropriations for this purpose, the Commandant may enter into personal services and other contracts to carry out health care responsibilities pursuant to section 93 of this title and other applicable provisions of law pertaining to the provision of health care services to Coast Guard personnel and covered beneficiaries. The authority provided in this subsection is in addition to any other contract authorities of the Commandant provided by law or as delegated to the Commandant from time to time by the Secretary, including but not limited to authority relating to the management of health care facilities and furnishing of health care services pursuant to title 10 and this title.

"(b) The total amount of compensation paid to an individual in any year under a personal services contract entered into under subsection (a) shall not exceed the amount of annual compensation (excluding allowances for expenses) allowable for such contracts entered into by the Secretary of Defense pursuant to section 1091 of title 10.

"(c)(1) The Secretary shall promulgate regulations to assure—

"(A) the provision of adequate notice of contract opportunities to individuals residing in the area of a medical treatment facility involved; and

"(B) consideration of interested individuals solely on the basis of the qualifications established for the contract and the proposed contract price.

"(2) Upon establishment of the procedures under paragraph (1), the Secretary may exempt personal services contracts covered by this section from the competitive contracting requirements specified in section 2304 of title 10, or any other similar requirements of law.

"(d) The procedures and exemptions provided under subsection (c) shall not apply to personal services contracts entered into under subsection (a) with entities other than individuals or to any contract that is not an authorized personal services contract under subsection (a).".

(b) The table of sections for chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 644 the following:

"644a. Contracts for health care services.".

(c) The amendments made by this section shall take effect on October 1, 1994. Any personal services contract entered into on behalf of the Coast Guard in reliance upon the authority of section 1091 of title 10, United States Code, before that date is confirmed and ratified and shall remain in effect in accordance with the terms of the contract.

SEC. 1011. VESSEL FINANCING.

(a) ELIMINATION OF MORTGAGEE RESTRICTIONS.—Section 31322(a) of title 46, United States Code, is amended to read as follows:

"(a) A preferred mortgage is a mortgage, whenever made, that—

"(1) includes the whole of the vessel;

"(2) is filed in substantial compliance with section 31321 of this title; and

"(3)(A) covers a documented vessel; or

"(B) covers a vessel for which an application for documentation is filed that is in substantial compliance with the requirements of chapter 121 of this title and the regulations prescribed under that chapter.".

(b) ELIMINATION OF TRUSTEE RESTRICTIONS.—

(1) REPEAL.—Section 31328 of title 46, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—Section 31330(b) of title 46, United States Code, is amended in paragraphs (1), (2), and (3) by striking "31328 or" each place it appears.

(c) REMOVAL OF MORTGAGE RESTRICTIONS.—Section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808) is amended—

(1) in subsection (c)—

(A) by striking "31328" and inserting "12106(e)"; and

(B) in paragraph (1) by striking "mortgage," each place it appears; and

(2) in subsection (d)—

(A) in paragraph (1) by striking "transfer, or mortgage" and inserting "or transfer";

(B) in paragraph (2) by striking "transfers, or mortgages" and inserting "or transfers";

(C) in paragraph (3)(B) by striking "transfers, or mortgages" and inserting "or transfers"; and

(D) in paragraph (4) by striking "transfers, or mortgages" and inserting "or transfers".

(d) Public Law 74-835 (49 Stat. 1985 et seq.) is amended in section 615 by striking ", until September 30, 1983,"; by inserting "use" after "this title to"; by striking "tons" and inserting "regulatory tons built"; and by repealing subsection (b).

(e) LEASE FINANCING.—Section 12106 of title 46, United States Code, is amended by adding at the end the following new subsections:

"(e)(1) A certificate of documentation for a vessel may be endorsed with a coastwise endorsement if—

"(A) the vessel is eligible for documentation under section 12102;

"(B) the vessel is otherwise qualified under this section to be employed in the coastwise trade;

"(C) the person that owns the vessel, or any other person that owns or controls the person that owns the vessel, is primarily engaged in leasing or other financing transactions;

"(D) the vessel is under a demise charter to a person qualifying as a citizen of the United States for engaging in the coastwise trade under section 2 of the Shipping Act, 1916; and

"(E) the demise charter is for—

"(i) a period of at least 3 years; or

"(ii) such shorter period as may be prescribed by the Secretary.

"(2) On termination of a demise charter required under paragraph (1)(D), the coastwise endorsement may be continued for a period not to exceed 6 months on any terms and conditions that the Secretary of Transportation may prescribe.

"(f) For purposes of the first proviso of section 27 of the Merchant Marine Act, 1920, section 2 of the Shipping Act, 1916, and section 12102(a), a vessel meeting the criteria of subsection (d) or (e) is deemed to be owned exclusively by citizens of the United States.".

SEC. 1012. REPEAL OF GREAT LAKES ENDORSEMENTS.

(a) REPEAL.—Section 12107 of title 46, United States Code, is repealed.

(b) CONFORMING AMENDMENTS.—

(1) The analysis at the beginning of chapter 121 of title 46, United States Code, is amended by striking the item relating to section 12107.

(2) Section 12101(b)(3) of title 46, United States Code, is repealed.

(3) Section 4370(a) of the Revised Statutes of the United States (46 App. U.S.C. 316(a)) is amended by striking "or 12107".

(4) Section 2793 of the Revised Statutes of the United States (46 App. U.S.C. 111, 12319 U.S.C. 288) is amended by striking "coastwise, Great Lakes" and inserting "registry".

(5) Section 441(6) of the Tariff Act of 1930 (19 U.S.C. 1441) is amended by striking "with a Great Lakes endorsement when towing vessels" and inserting "when towing vessels on the Great Lakes or their tributary or connecting waters".

(6) Public Law 74-835 (49 Stat. 1985 et seq.) is amended in section 805(a) by striking "1935" each place it appears and inserting "1993"; and by repealing sections 605(c) and 610.

TITLE XI—RECREATIONAL BOATING SAFETY

SEC. 1101. SHORT TITLE.

This title may be cited as the "Recreational Boating Safety Improvement Act of 1994".

SEC. 1102. PERSONAL FLOTATION DEVICES REQUIRED FOR CHILDREN.

(a) PROHIBITION.—Section 4307(a) of title 46, United States Code, is amended—

(1) in paragraph (2) by striking "or" after the semicolon at the end;

(2) in paragraph (3) by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(4) operate a recreational vessel under 26 feet in length unless each individual 6 years of age or younger wears a Coast Guard approved personal flotation device when the individual is on an open deck of the vessel.".

(b) STATE AUTHORITY PRESERVED.—Section 4307 of title 46, United States Code, is further amended by adding at the end the following:

"(c) Subsection (a)(4) shall not be construed to limit the authority of a State to establish requirements relating to the wearing of personal flotation devices on recreational vessels that are more stringent than that subsection.".

SEC. 1103. ALLOCATION OF FUNDS BASED ON STATE ADOPTION OF LAWS REGARDING BOATING WHILE INTOXICATED.

Section 13103 of title 46, United States Code, is amended—

(1) by redesignating subsections (a), (b), and (c) in order as subsections (b), (c), and (d);

(2) by inserting before subsection (b) (as so redesignated) the following new subsection:

"(a)(1) Beginning in fiscal year 1998, of the amounts transferred to the Secretary each fiscal year pursuant to section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b)), the Secretary shall allocate for State recreational boating safety programs $10,000,000 as follows:

"(A) One-half shall be allocated in accordance with paragraph (2) among eligible States that—

"(i) prohibit operation of a recreational vessel by an individual who is under the influence of alcohol or drugs; and

"(ii) establish a blood alcohol concentration limit of .10 percent or less.

"(B) One-half shall be allocated in accordance with paragraph (2) among eligible States that—

"(i) prohibit operation of a recreational vessel by an individual who is under the influence of alcohol or drugs; and

"(ii) establish an implied consent requirement that specifies that an individual is deemed to have given their consent to evidentiary testing for their blood alcohol concentration or presence of other intoxicating substances.

"(2) Of the amount allocated under subparagraph (A) or (B) of paragraph (1) each fiscal year—

"(A) one-half shall be allocated equally among all eligible States receiving an allocation under that subparagraph for the fiscal year; and

"(B) one-half shall be allocated among those eligible States so that each such State receives an amount bearing the same ratio to the total amount allocated under that subparagraph for the fiscal year as the number of vessels numbered in that State under a system approved under chapter 123 of this title bears to the total number of vessels numbered under approved systems of all States receiving an allocation under that subparagraph for the fiscal year.";

(3) in subsection (b) (as so redesignated) in the matter preceding paragraph (1) by inserting "the balance of remaining" after "allocate"; and

(4) by adding at the end the following new subsection:

"(e) A State shall not be ineligible for an allocation under subsection (a) because of the adoption by the State of any requirement relating to the operation of a recreational vessel while under the influence of alcohol or drugs that is more stringent than the requirements for receiving the allocation.".

SEC. 1104. MARINE CASUALTY REPORTING.

(a) SUBMISSION OF PLAN.—Not later than one year after enactment of this Act, the Secretary of Transportation shall, in consultation with appropriate State agencies, submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan to increase reporting of vessel accidents to appropriate State law enforcement officials.

(b) PENALTIES FOR VIOLATING REPORTING REQUIREMENTS.—Section 6103(a) of title 46, United States Code, is amended by inserting "or 6102" after "6101" the second place it appears.

SEC. 1105. REQUIRING VIOLATORS TO TAKE RECREATIONAL BOATING SAFETY COURSE.

(a) NEGLIGENT OPERATION.—Section 2302 of title 46, United States Code, is amended by adding at the end the following:

"(e) An individual operating a recreational vessel in violation of this section shall complete a boating safety course approved by the Secretary.".

(b) OTHER VIOLATIONS.—Section 4311 of title 46, United States Code, is amended by adding at the end the following:

"(h) A person who operates a recreational vessel in violation of this chapter or a regulation prescribed under this chapter may be ordered to complete a recreational boating safety course approved by the Secretary.".

SEC. 1106. TECHNICAL CORRECTIONS.

Section 13108(a)(1) of title 46, United States Code, is amended by—

(1) striking "proceeding" and inserting "preceding"; and

(2) striking "Secertary" and inserting "Secretary".

TITLE XII—COAST GUARD REGULATORY REFORM

SEC. 1201. SHORT TITLE.

This title may be cited as the "Coast Guard Regulatory Reform Act of 1994".

SEC. 1202. SAFETY MANAGEMENT.

(a) MANAGEMENT OF VESSELS.—Title 46, United States Code, is amended by adding after chapter 31 the following new chapter:

"CHAPTER 32—MANAGEMENT OF VESSELS

"Sec.
"3201. Definitions.
"3202. Application.
"3203. Safety management system.
"3204. Implementation of safety management system.
"3205. Certification.

"§ 3201. Definitions

"In this chapter—

"(1) 'International Safety Management Code' has the same meaning given that term in chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974;

"(2) 'responsible person' means—

"(A) the owner of a vessel to which this chapter applies; or

"(B) any other person that has—

"(i) assumed the responsibility for operation of a vessel to which this chapter applies from the owner; and

"(ii) agreed to assume with respect to the vessel responsibility for complying with all the requirements of this chapter and the regulations prescribed under this chapter.

"(3) 'vessel engaged on a foreign voyage' means a vessel to which this chapter applies—

"(A) arriving at a place under the jurisdiction of the United States from a place in a foreign country;

"(B) making a voyage between places outside the United States; or

"(C) departing from a place under the jurisdiction of the United States for a place in a foreign country.

"§ 3202. Application

"(a) MANDATORY APPLICATION.—This chapter applies to the following vessels engaged on a foreign voyage:

"(1) Beginning July 1, 1998—

"(A) a vessel transporting more than 12 passengers described in section 2101(21)(A) of this title; and

"(B) a tanker, bulk freight vessel, or high-speed freight vessel, of at least 500 gross tons.

"(2) Beginning July 1, 2002, a freight vessel and a mobile offshore drilling unit of at least 500 gross tons.

"(b) VOLUNTARY APPLICATION.—This chapter applies to a vessel not described in subsection (a) of this section if the owner of the vessel requests the Secretary to apply this chapter to the vessel.

"(c) EXCEPTION.—Except as provided in subsection (b) of this section, this chapter does not apply to—

"(1) a barge;

"(2) a recreational vessel not engaged in commercial service;

"(3) a fishing vessel;

"(4) a vessel operating on the Great Lakes or its tributary and connecting waters; or

"(5) a public vessel.

"§ 3203. Safety management system

"(a) IN GENERAL.—The Secretary shall prescribe regulations which establish a safety management system for responsible persons and vessels to which this chapter applies, including—

"(1) a safety and environmental protection policy;

"(2) instructions and procedures to ensure safe operation of those vessels and protection of the environment in compliance with international and United States law;

"(3) defined levels of authority and lines of communications between, and among, personnel on shore and on the vessel;

"(4) procedures for reporting accidents and nonconformities with this chapter;

"(5) procedures for preparing for and responding to emergency situations; and

"(6) procedures for internal audits and management reviews of the system.

"(b) COMPLIANCE WITH CODE.—Regulations prescribed under this section shall be consistent with the International Safety Management Code with respect to vessels engaged on a foreign voyage.

"§ 3204. Implementation of safety management system

"(a) SAFETY MANAGEMENT PLAN.—Each responsible person shall establish and submit to the Secretary for approval a safety management plan describing how that person and vessels of the person to which this chapter applies will comply with the regulations prescribed under section 3203(a) of this title.

"(b) APPROVAL.—Upon receipt of a safety management plan submitted under subsection (a), the Secretary shall review the plan and approve it if the Secretary determines that it is consistent with and will assist in implementing the safety management system established under section 3203.

"(c) PROHIBITION ON VESSEL OPERATION.—A vessel to which this chapter applies under section 3202(a) may not be operated without having on board a Safety Management Certificate and a copy of a Document of Compliance issued for the vessel under section 3205 of this title.

"§ 3205. Certification

"(a) ISSUANCE OF CERTIFICATE AND DOCUMENT.—After verifying that the responsible person for a vessel to which this chapter applies and the vessel comply with the applicable requirements under this chapter, the Secretary shall issue for the vessel, on request of the responsible person, a Safety Management Certificate and a Document of Compliance.

"(b) MAINTENANCE OF CERTIFICATE AND DOCUMENT.—A Safety Management Certificate and a Document of Compliance issued for a vessel under this section shall be maintained by the responsible person for the vessel as required by the Secretary.

"(c) VERIFICATION OF COMPLIANCE.—The Secretary shall—

"(1) periodically review whether a responsible person having a safety management plan approved under section 3204(b) and each vessel to which the plan applies is complying with the plan; and

"(2) revoke the Secretary's approval of the plan and each Safety Management Certificate and Document of Compliance issued to the person for a vessel to which the plan applies, if the Secretary determines that the person or a vessel to which the plan applies has not complied with the plan.

"(d) ENFORCEMENT.—At the request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) of a vessel that is subject to this chapter under section 3202(a) of this title or to the International Safety Management Code, if the vessel does not have on board a Safety Management Certificate and a copy of a Document of Compliance for the vessel. Clearance may be granted on filing a bond or other surety satisfactory to the Secretary.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 46, United States Code, is amended by inserting after the item relating to chapter 31 the following:

"32. Management of vessels ..... 3201".

(c) STUDY.—

(1) STUDY.—The Secretary of the department in which the Coast Guard is operating shall conduct, in cooperation with the owners, charterers, and managing operators of vessels documented under chapter 121 of title 46, United States Code, and other interested persons, a study of the methods that may be used to implement and enforce the International Management Code for the Safe Operation of Ships and for Pollution Prevention under chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974.

(2) REPORT.—The Secretary shall submit to the Congress a report of the results of the study required under paragraph (1) before the earlier of—

(A) the date that final regulations are prescribed under section 3203 of title 46, United States Code (as enacted by subsection (a); or

(B) the date that is 1 year after the date of enactment of this Act.

SEC. 1203. USE OF REPORTS, DOCUMENTS, RECORDS, AND EXAMINATIONS OF OTHER PERSONS.

(a) REPORTS, DOCUMENTS, AND RECORDS.—Chapter 31 of title 46, United States Code, is amended by adding the following new section:

"§ 3103. Use of reports, documents, and records

"The Secretary may rely, as evidence of compliance with this subtitle, on—

"(1) reports, documents, and records of other persons who have been determined by the Secretary to be reliable; and

"(2) other methods the Secretary has determined to be reliable.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 31 of title 46, United States Code, is amended by adding at the end the following:

"3103. Use of reports, documents, and records.".

(c) EXAMINATIONS.—Section 3308 of title 46, United States Code, is amended by inserting "or have examined" after "examine".

SEC. 1204. EQUIPMENT APPROVAL.

(a) IN GENERAL.—Section 3306(b) of title 46, United States Code, is amended to read as follows:

"(b)(1) Equipment and material subject to regulation under this section may not be used on any vessel without prior approval of the Secretary.

"(2) Except with respect to use on a public vessel, the Secretary may treat an approval of equipment or materials by a foreign government as approval by the Secretary for purposes of paragraph (1) if the Secretary determines that—

"(A) the design standards and testing procedures used by that government meet the requirements of the International Convention for the Safety of Life at Sea, 1974;

"(B) the approval of the equipment or material by the foreign government will secure the safety of individuals and property on board vessels subject to inspection; and

"(C) for lifesaving equipment, the foreign government—

"(i) has given equivalent treatment to approvals of lifesaving equipment by the Secretary; and

"(ii) otherwise ensures that lifesaving equipment approved by the Secretary may be used on vessels that are documented and subject to inspection under the laws of that country.".

(b) FOREIGN APPROVALS.—The Secretary of Transportation, in consultation with other interested Federal agencies, shall work with foreign governments to have those governments approve the use of the same equipment and materials on vessels documented under the laws of those countries that the Secretary requires on United States documented vessels.

(c) TECHNICAL AMENDMENT.—Section 3306(a)(4) of title 46, United States Code, is amended by striking "clauses (1)–(3)" and inserting "paragraphs (1), (2), and (3)".

SEC. 1205. FREQUENCY OF INSPECTION.

(a) FREQUENCY OF INSPECTION, GENERALLY.—Section 3307 of title 46, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking "nautical school vessel" and inserting ", nautical school vessel, and small passenger vessel allowed to carry more than 12 passengers on a foreign voyage"; and

(B) by adding "and" after the semicolon at the end;

(2) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (2) (as so redesignated), by striking "2 years" and inserting "5 years".

(b) CONFORMING AMENDMENT.—Section 3710(b) of title 46, United States Code, is amended by striking "24 months" and inserting "5 years".

SEC. 1206. CERTIFICATE OF INSPECTION.

Section 3309(c) of title 46, United States Code, is amended by striking "(but not more than 60 days)".

SEC. 1207. DELEGATION OF AUTHORITY OF SECRETARY TO CLASSIFICATION SOCIETIES.

(a) AUTHORITY TO DELEGATE.—Section 3316 of title 46, United States Code, is amended—

(1) by striking subsections (a) and (d);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively; and

(3) in subsection (b), as so redesignated, by—

(A) redesignating paragraph (2) as paragraph (3); and

(B) striking so much of the subsection as precedes paragraph (3), as so redesignated, and inserting the following:

"(b)(1) The Secretary may delegate to the American Bureau of Shipping or another classification society recognized by the Secretary as meeting acceptable standards for such a society, for a vessel documented or to be documented under chapter 121 of this title, the authority to—

"(A) review and approve plans required for issuing a certificate of inspection required by this part;

"(B) conduct inspections and examinations; and

"(C) issue a certificate of inspection required by this part and other related documents.

"(2) The Secretary may make a delegation under paragraph (1) to a foreign classification society only—

"(A) to the extent that the government of the foreign country in which the society is headquartered delegates authority and provides access to the American Bureau of Shipping to inspect, certify, and provide related services to vessels documented in that country; and

"(B) if the foreign classification society has offices and maintains records in the United States.".

(b) CONFORMING AMENDMENTS.—(1) The heading for section 3316 of title 46, United States Code, is amended to read as follows:

"§ 3316. Classification societies".

(2) The table of sections for chapter 33 of title 46, United States Code, is amended by striking the item relating to section 3316 and inserting the following:

"3316. Classification societies.".

SEC. 1208. STUDY OF MARINE CASUALTY REPORTING REQUIREMENTS.

The Coast Guard shall, within 9 months after the effective date of this title, conduct a study of current regulatory requirements regarding the reporting of marine casualties under section 6101 of title 46, United States Code, to determine whether—

(1) marine casualties should be classified according to the seriousness of nonfatal casualties;

(2) further regulations pertaining to the necessity for alcohol and drug testing for each classification need to be proposed;

(3) the regulations may exclude certain non-serious casualties from the requirement that drug or alcohol testing be performed; and

(4) the reporting of certain marine casualties that may be classified as minor may be done on a quarterly basis.

TITLE XIII—UNITED STATES CRUISE VESSEL DEVELOPMENT

SEC. 1301. SHORT TITLE.

This title may be cited as the "United States Cruise Vessel Development Act".

SEC. 1302. PURPOSE.

The purpose of this title is to promote construction and operation of United States flag cruise vessels in the United States.

SEC. 1303. COASTWISE TRANSPORTATION OF PASSENGERS.

Section 8 of the Act entitled "An Act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes", approved June 19, 1886 (46 App. U.S.C. 289), is amended to read as follows:

"SEC. 8. COASTWISE TRANSPORTATION OF PASSENGERS.

"(a) IN GENERAL.—Except as otherwise provided by law, a vessel may transport passengers in coastwise trade only if—

"(1) the vessel is owned by a person that is—

"(A) an individual who is a citizen of the United States; or

"(B) a corporation, partnership, or association that is a citizen of the United States under section 2(a) of the Shipping Act, 1916;

"(2) the vessel meets the requirements of section 27 of the Merchant Marine Act, 1920; and

"(3) for a vessel that is at least 5 net tons, the vessel is issued a certificate of documentation under chapter 121 of title 46, United States Code, with a coastwise endorsement.

"(b) EXCEPTION FOR VESSEL UNDER DEMISE CHARTER.—

"(1) IN GENERAL.—Subsection (a)(1) does not apply to a cruise vessel operating under a demise charter that—

"(A) has a term of at least 18 months; and

"(B) is to a person described in subsection (a)(1).

"(2) EXTENSION OF PERIOD FOR OPERATION.—A cruise vessel authorized to operate in coastwise trade under paragraph (1) based on a demise charter described in paragraph (1) may operate in that coastwise trade during a period following the termination of the charter of not more than 6 months, if the operation—

"(A) is approved by the Secretary; and

"(B) in accordance with such terms as may be prescribed by the Secretary for that approval.

"(c) EXCEPTION FOR VESSEL TO BE REFLAGGED.—

"(1) EXCEPTION.—Subsection (a)(2) and section 12106(a)(2)(A) of title 46, United States Code, do not apply to a cruise vessel if—

"(A) the vessel—

"(i) is not documented under chapter 121 of title 46, United States Code, on the date of enactment of the United States Cruise Vessel Development Act; and

"(ii) is not less than 5 years old and not more than 15 years old on the first date that the vessel is documented under that chapter after that date of enactment; and

"(B) the owner or charterer of the vessel has entered into a contract for the construction in the United States of another cruise vessel that has a total berth or stateroom capacity that is at least 80 percent of the capacity of the cruise vessel.

"(2) TERMINATION OF AUTHORITY TO OPERATE.—Paragraph (1) does not apply to a vessel after the date that is 18 months after the date on which a certificate of documentation with a coastwise endorsement is first issued for the vessel after the date of enactment of the United States Cruise Vessel Development Act if, before the end of that 18-month period, the keel of another vessel has not been laid, or another vessel is not at a similar stage of construction, under a contract required for the vessel under paragraph (1)(B).

"(3) EXTENSION OF PERIOD BEFORE TERMINATION.—The Secretary of Transportation may extend the period under paragraph (2) for not more than 6 months for good cause shown.

"(d) LIMITATION ON OPERATIONS.—A person (including a related person with respect to that person) that owns or charters a cruise vessel operating in coastwise trade under subsection (b) or (c) under a coastwise endorsement may not operate any vessel between—

"(1) any 2 ports served by another cruise vessel that transports passengers in coastwise trade under subsection (a) on the date the Secretary issues the coastwise endorsement; or

"(2) the islands of Hawaii.

"(e) PENALTIES.—

"(1) CIVIL PENALTY.—A person operating a vessel in violation of this section is liable to the United States Government for a civil penalty of $1,000 for each passenger transported in violation of this section.

"(2) FORFEITURE.—A vessel operated in knowing violation of this section, and its equipment, are liable to seizure by and forfeiture to the United States Government.

"(3) DISQUALIFICATION FROM COASTWISE TRADE.—A person that is required to enter into a construction contract under subsection (c)(1)(B) with respect to a cruise vessel (including any related person with respect to that person) may not own or operate any vessel in coastwise trade after the period applicable under subsection (c)(2) with respect to the cruise vessel, if before the end of that period a keel is not laid and a similar stage of construction is not reached under such a contract.

"(f) DEFINITIONS.—In this section—

"(1) the term 'coastwise trade' includes transportation of a passenger between points in the United States, either directly or by way of a foreign port;

"(2) the term 'cruise vessel' means a vessel that—

"(A) is at least 10,000 gross tons (as measured under chapter 143 of title 46, United States Code);

"(B) has berth or stateroom accommodations for at least 200 passengers; and

"(C) is not a ferry; and

"(3) the term 'related person' means, with respect to a person—

"(A) a holding company, subsidiary, affiliate, or association of the person; and

"(B) an officer, director, or agent of the person or of an entity referred to in subparagraph (A).".

SEC. 1304. CONSTRUCTION STANDARDS.

Section 3309 of title 46, United States Code, is amended by adding at the end the following:

"(d)(1) A vessel described in paragraph (3) is deemed to comply with parts B and C of this subtitle.

"(2) The Secretary shall issue a certificate of inspection under subsection (a) to a vessel described in paragraph (3).

"(3) A vessel is described in this paragraph if—

"(A) it meets the standards and conditions for the issuance of a control verification certificate to a foreign vessel embarking passengers in the United States;

"(B) a coastwise endorsement is issued for the vessel under section 12106 of this title

after the date of enactment of the United States Cruise Vessel Development Act; and

"(C) the vessel is authorized to engage in coastwise trade by reason of section 8(c) of the Act entitled 'An Act to abolish certain fees for official services to American vessels, and to amend the laws relating to shipping commissioners, seamen, and owners of vessels, and for other purposes', approved June 19, 1886.".

SEC. 1305. CITIZENSHIP FOR PURPOSES OF DOCUMENTATION.

Section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), is amended—

(1) in subsection (a) by inserting "other than primarily in the transport of passengers," after "the coastwise trade"; and

(2) by adding at the end the following:

"(e) For purposes of determining citizenship under subsection (a) with respect to operation of a vessel primarily in the transport of passengers in coastwise trade, the controlling interest in a partnership or association that owns the vessel shall not be deemed to be owned by citizens of the United States unless a majority interest in the partnership or association is owned by citizens of the United States free from any trust or fiduciary obligation in favor of any person that is not a citizen of the United States.".

SEC. 1306. LOAN GUARANTEES.

Title XI of the Act of June 29, 1936 (46 App. U.S.C. 1271 et seq.), is amended—

(1) in section 1101(b), by striking "passenger cargo" and inserting "passenger, cargo,"; and by striking "owned by citizens of the United States";

(2) in section 1104B(a), in the material preceding paragraph (1), by striking "owned by citizens of the United States";

(3) in section 1110(a), by striking "owned by citizens of the United States"; and

(4) in section 1103, by adding at the end the following:

"(g) Notwithstanding any other law, the cost of a loan guarantee commitment entered into under this title shall be calculated using only the projected cost of that individual guarantee.".

SEC. 1307. PERMITS FOR VESSELS ENTERING UNITS OF NATIONAL PARK SYSTEM.

(a) PRIORITY.—Notwithstanding any other provision of law, the Secretary of the Interior may not permit a person to operate a vessel in any unit of the National Park System except in accordance with the following priority:

(1) First, any person that—

(A) will operate a vessel that is documented under the laws of, and the home port of which is located in, the United States; or

(B) holds rights to provide visitor services under section 1307(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197(A)).

(2) Second, any person that will operate a vessel that—

(A) is documented under the laws of a foreign country, and

(B) on the date of the enactment of this Act is permitted to be operated by the person in the unit.

(3) Third, any person that will operate a vessel other than a vessel described in paragraph (1) or (2).

(b) REVOCATION OF PERMITS FOR FOREIGN-DOCUMENTED VESSELS.—The Secretary of the Interior shall revoke or refuse to renew permission granted by the Secretary for the operation of a vessel documented under the laws of a foreign country in a unit of the National Park System, if—

(1) a person requests permission to operate a vessel documented under the laws of the United States in that unit; and

(2) the permission may not be granted because of a limit on the number of permits that may be issued for that operation.

(c) RESTRICTIONS ON REVOCATION OF PERMITS.—The Secretary of the Interior may not revoke or refuse to renew permission under subsection (b) for any person holding rights to provide visitor services under section 1307(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3197(a)).

(d) RETURN OF PERMITS.—Any person whose permission to provide visitors services in a unit of the National Park System has been revoked or not renewed under subsection (b) shall have the right of first refusal to a permit to provide visitors services in that unit of the National Park System that becomes available when the conditions described in subsection (b) no longer apply. Such right shall be limited to the number of permits which are revoked or not renewed.

TITLE XIV—BOATING IMPROVEMENT

SEC. 1401. SHORT TITLE.

This title may be cited as the "Boating Improvement Act of 1994".

SEC. 1402. BOATING SAFETY GRANTS.

(a) TRANSFER OF AMOUNTS FOR STATE BOATING SAFETY PROGRAMS.—

(1) TRANSFERS.—Section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b)), is amended to read as follows:

"(b)(1) Of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $15,000,000 for fiscal year 1995, $40,000,000 for fiscal year 1996, $55,000,000 for fiscal year 1997, and $69,000,000 for each of fiscal years 1998 and 1999, shall, subject to paragraph (2), be used as follows:

"(A) A sum equal to $7,500,000 of the amount available for fiscal year 1995, and a sum equal to $10,000,000 of the amount available for each of fiscal years 1996 and 1997, shall be available for use by the Secretary of the Interior for grants under section 5604(c) of the Clean Vessel Act of 1992. Any portion of such a sum available for a fiscal year that is not obligated for those grants before the end of the following fiscal year shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(B) A sum equal to $7,500,000 of the amount available for fiscal year 1995, $30,000,000 of the amount available for fiscal year 1996, $45,000,000 of the amount available for fiscal year 1997, and $59,000,000 of the amount available for each of fiscal years 1998 and 1999, shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(C) A sum equal to $10,000,000 of the amount available for each of fiscal years 1998 and 1999 shall be available for use by the Secretary of the Interior for—

"(i) grants under section 1403(e) of the Boating Improvement Act of 1994; and

"(ii) grants under section 5604(c) of the Clean Vessel Act of 1992.

Any portion of such a sum available for a fiscal year that is not obligated for those grants before the end of the following fiscal year shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for State recreational boating safety programs under section 13106 of title 46, United States Code.

"(2)(A) Beginning with fiscal year 1996, the amount transferred under paragraph (1)(B) for a fiscal year shall be reduced by the lesser of—

"(i) the amount appropriated to the Secretary of Transportation for that fiscal year to carry out the purposes of section 13106 of title 46, United States Code, from the Boat Safety Account in the Aquatic Resources Trust Fund established under section 9504 of the Internal Revenue Code of 1986; or

"(ii) $35,000,000; or

"(iii) for fiscal year 1996 only, $30,000,000.

"(B) The amount of any reduction under subparagraph (A) shall be apportioned among the several States under subsection (d) by the Secretary of the Interior.".

(2) CONFORMING AMENDMENT.—Section 5604(c)(1) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note) is amended by striking "section 4(b)(2) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(2), as amended by this Act)" and inserting "section 4(b)(1) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(1))".

(3) EXCESS FY 1995 BOAT SAFETY ACCOUNT FUNDS TRANSFER.—Notwithstanding any other provision of law, $20,000,000 of the annual appropriation from the Sport Fish Restoration Account in fiscal year 1996 made in accordance with the provisions of section 3 of the Act of August 9, 1950 (16 U.S.C. 777b), shall be excluded from the calculation of amounts to be distributed under section 4(a) of such Act (16 U.S.C. 777c(a)).

(b) EXPENDITURE OF AMOUNTS FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.—Section 13106 of title 46, United States Code, is amended—

(1) in subsection (a)(1) by striking the first sentence and inserting the following: "Subject to paragraph (2), the Secretary shall expend under contracts with States under this chapter in each fiscal year for State recreational boating safety programs an amount equal to the sum of the amount appropriated from the Boat Safety Account for that fiscal year plus the amount transferred to the Secretary under section 4(b)(1) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(1)) for that fiscal year."; and

(2) by amending subsection (c) to read as follows:

"(c) For expenditure under this chapter for State recreational boating safety programs there are authorized to be appropriated to the Secretary of Transportation from the Boat Safety Account established under section 9503(c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(4)) not more than $35,000,000 each fiscal year.".

SEC. 1403. BOATING ACCESS.

(a) FINDINGS.—The Congress makes the following findings:

(1) Nontrailerable recreational motorboats contribute 15 percent of the gasoline taxes deposited in the Aquatic Resources Trust Fund while constituting less than 5 percent of the recreational vessels in the United States.

(2) The majority of recreational vessel access facilities constructed with Aquatic Resources Trust Fund moneys benefit trailerable recreational vessels.

(3) More Aquatic Resources Trust Fund moneys should be spent on recreational vessel access facilities that benefit recreational vessels that are nontrailerable vessels.

(b) PURPOSE.—The purpose of this section is to provide funds to States for the development of public facilities for transient nontrailerable vessels.

(c) SURVEY.—Within 18 months after the date of the enactment of this Act, any State may complete and submit to the Secretary of the Interior a survey which identifies—

79-059 O—97 Vol. 140 (Pt. 21) 17

(1) the number and location in the State of all public facilities for transient nontrailerable vessels; and

(2) the number and areas of operation in the State of all nontrailerable vessels that operate on navigable waters in the State.

(d) PLAN.—Within 6 months after submitting a survey to the Secretary of the Interior in accordance with subsection (c), a State may develop and submit to the Secretary of the Interior a plan for the construction and renovation of public facilities for transient nontrailerable vessels to meet the needs of nontrailerable vessels operating on navigable waters in the State.

(e) GRANT PROGRAM.—

(1) MATCHING GRANTS.—The Secretary of the Interior may obligate not less than ½ of the amount made available for each of fiscal years 1998 and 1999 under section 4(b)(1)(C) of the Act of August 9, 1950, as amended by section 1402(a)(1) of this title, to make grants to any State to pay not more than 75 percent of the cost of constructing or renovating public facilities for transient nontrailerable vessels.

(2) PRIORITIES.—

(A) IN GENERAL.—In awarding grants under this subsection, the Secretary of the Interior shall give priority to projects that consist of the construction or renovation of public facilities for transient nontrailerable vessels in accordance with a plan submitted by a State submitted under subsection (b).

(B) WITHIN STATE.—In awarding grants under this subsection for projects in a particular State, the Secretary of the Interior shall give priority to projects that are likely to serve the greatest number of nontrailerable vessels.

SEC. 1404. DEFINITIONS.

For the purpose of this title the term—

(1) "Act of August 9, 1950" means the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes", approved August 9, 1950 (16 U.S.C. 777a et seq.);

(2) "nontrailerable vessel" means a recreational vessel greater than 26 feet in length;

(3) "public facilities for transient nontrailerable vessels" means mooring buoys, day-docks, seasonal slips or similar structures located on navigable waters, that are available to the general public and designed for temporary use by nontrailerable vessels;

(4) "recreational vessel" means a vessel—

(A) operated primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure; and

(5) "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

TITLE XV—TOWING VESSEL NAVIGATIONAL SAFETY

SEC. 1501. SHORT TITLE.

This title may be cited as the "Towing Vessel Navigational Safety Act of 1994".

SEC. 1502. MINIMUM NAVIGATIONAL SAFETY EQUIPMENT FOR TOWING VESSELS.

(a) IN GENERAL.—Section 4102 of title 46, United States Code, is amended by adding at the end the following:

"(f)(1) In prescribing regulations for towing vessels, the Secretary shall—

"(A) consider the characteristics, methods of operation, and nature of the service of towing vessels;

"(B) consult with the Towing Safety Advisory Committee; and

"(C) require, to the extent appropriate, the installation, maintenance, and use of and familiarity with the following equipment on each towing vessel, other than a towing vessel that is used only for towing disabled vessels:

"(i) A radar system.

"(ii) An electronic position-fixing device.

"(iii) A sonic depth finder.

"(iv) A compass or swing meter.

"(v) Adequate towing wire and associated equipment.

"(vi) Up-to-date navigational charts and publications for the areas normally transited by the vessel.

"(vii) Other safety equipment the Secretary determines to be necessary.

"(2) The Secretary shall establish in regulations under this chapter requirements that—

"(A) any equipment required on a towing vessel under paragraph (1) shall be maintained in effective operating condition; and

"(B) if such equipment on a vessel ceases to operate, the master of the vessel shall exercise due diligence to restore the equipment to effective operating condition, or cause it to be restored to that condition, at the earliest practicable date.".

(b) REGULATIONS.—The Secretary of Transportation shall issue regulations by not later than 12 months after the date of the enactment of this Act, prescribing navigational publication and equipment requirements under subsection (f) of section 4102 of title 46, United States Code, as added by subsection (a) of this section.

SEC. 1503. REPORTING MARINE CASUALTIES.

(a) EXPEDITED REPORTING REQUIRED.—Section 6101(b) of title 46, United States Code, is amended by striking "within 5 days" and inserting "by as soon as practicable, but in no case later than within 5 days,".

(b) PENALTY FOR FAILURE TO REPORT A CASUALTY.—Section 6103(a) of title 46, United States Code is amended by striking "$1,000" and inserting "not more than $25,000".

SEC. 1504. REPORT ON FEASIBILITY OF ESTABLISHING A DIFFERENTIAL GLOBAL POSITIONING SATELLITE NAVIGATION SYSTEM AND ELECTRONIC CHARTS FOR INLAND WATERWAYS.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall submit a report to the Congress on the feasibility of establishing a differential global positioning satellite navigation system and creating electronic charts for the inland waterways of the United States.

SEC. 1505. PROTECTION OF SEAMEN AGAINST DISCRIMINATION.

Section 2114 of title 46, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel may not discharge or in any manner discriminate against a seaman because the seaman—

"(1) in good faith has reported or is about to report to the Coast Guard that the seaman believes that a violation of this subtitle, or a regulation issued under this subtitle, has occurred; or

"(2) refuses to violate this subtitle or a regulation issued under this subtitle."; and

(2) in subsection (b)—

(A) in paragraph (1) by striking "and" after the semicolon;

(B) in paragraph (2) by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(3) an award of costs and reasonable attorney's fees to the prevailing plaintiff.".

SEC. 1506. MANNING AND LICENSING REQUIREMENTS FOR TOWING VESSELS.

(a) MANNING REQUIREMENTS.—Section 8904 of title 46, United States Code, is amended by adding at the end the following:

"(c) A towing vessel that is at least 26 feet in length, other than a vessel referred to in subsection (b), shall—

"(1) while being operated, have on board an individual licensed by the Secretary as a master of that type of towing vessel; and

"(2) be operated by an individual licensed by the Secretary to operate that type of towing vessel.".

(b) REGULATIONS ESTABLISHING LICENSES FOR MASTERS AND OPERATORS.—Section 7101 of title 46, United States Code, is amended by adding at the end the following:

"(j)(1) The Secretary shall prescribe regulations which establish licenses for masters and mates of towing vessels.

"(2) Regulations under this subsection shall provide that an individual may be issued a license as a master or mate of a towing vessel only if the individual—

"(A) demonstrates proficiency in the use of the equipment required pursuant to section 4102(f)(1)(C) of this title; and

"(B) demonstrates proficiency in operating a towing vessel.

"(3) Regulations under this subsection may establish standards and procedures under which the Secretary may delegate, to individuals who have experience in the operation of towing vessels and to other qualified persons, the authority to conduct examinations required for the issuance of a license as a master or mate of a towing vessel.".

(c) EXISTING UNINSPECTED TOWING VESSEL OPERATOR LICENSE HOLDERS.—An uninspected towing vessel operator license that is valid on the effective date of this section shall be valid as a master or mate license required by section 8904 of title 46, United States Code, as amended by this section, until otherwise required to be renewed. The Secretary shall require that an individual applying for a first renewal of such a license as a master or mate license under that section demonstrate proficiency under the requirements of section 7101(j) of title 46, United States Code, as added by this section.

(d) EFFECTIVE DATE.—The amendments made by this section, other than the amendments made by subsection (e), shall take effect 2 years after the date of the enactment of this Act.

(e) DEADLINE FOR REGULATIONS.—The Secretary of the department in which the Coast Guard is operating shall issue regulations under the amendments made by this section by not later than 1 year after the date of the enactment of this Act.

SEC. 1507. CIVIL PENALTIES.

(a) PROHIBITED OPERATION OF UNINSPECTED TOWING VESSEL, GENERALLY.—Section 4106 of title 46, United States Code, is amended by striking "$5,000" and inserting "$25,000".

(b) OPERATION OF UNINSPECTED TOWING VESSEL IN VIOLATION OF MANNING REQUIREMENTS.—Section 8906 of title 46, United States Code, is amended by striking "$1,000" and inserting "not more than $25,000".

SEC. 1508. MODEL TOWING VESSEL COMPANY INSPECTION PROGRAM.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating, in consultation with the Towing Safety Advisory Committee, shall—

(1) develop a model towing vessel company inspection program, including a Coast Guard boarding program to determine compliance with the model program; and

(2) submit to the Congress for its approval the model program and a description of the statutory changes necessary to implement the model program.

(b) SAVINGS.—The requirement to submit a model program under subsection (a) shall not be construed to supersede or modify the authority of the Coast Guard to inspect vessels under title 46, United States Code.

TITLE XVI—MERCHANT MARINER BENEFITS

SEC. 1601. MERCHANT MARINER BENEFITS.

(a) Part G of subtitle II, title 46, United States Code, is amended by adding the following new chapter:

"CHAPTER 112—MERCHANT MARINER BENEFITS

"Sec.
"11201. Qualified service.
"11202. Qualified service benefits.

"§ 11201. Qualified service

"An individual who was in training for, or who served as a member of, the United States merchant marine during World War II, including the Army Transport Service and the Naval Transportation Service, or who received a notice of induction, before September 2, 1945, is deemed to have been engaged in qualified service for purposes of this chapter.

"§ 11202. Qualified service benefits

"(a) An individual who believes that individual performed qualified service under section 11201 of this chapter may apply to the Secretary. Not later than 180 days after the Secretary receives an application under this section, the Secretary shall determine whether the individual performed qualified service.

"(b) The Secretary shall issue an honorable discharge to an individual who performed qualified service as determined by the Secretary under subsection (a). The Secretary shall issue the discharge subject to the standards that apply to honorable discharges issued under section 401(a)(1)(b) of the GI Bill Improvement Act of 1977 (38 U.S.C. 106 note).

"(c) The qualified service of an individual who—

"(1) receives an honorable discharge under subsection (b); and

"(2) is not eligible for benefits under a law administered by the Secretary of Veterans Affairs—

shall be treated as active duty in the armed forces during a period of war for purposes of eligibility for benefits under chapters 23 and 24 of title 38, United States Code.

"(d) The Secretary shall reimburse the Secretary of Veterans Affairs for the value of benefits provided to an individual by reason of eligibility under this chapter.

"(e) An individual is not entitled to, and may not receive, benefits under this chapter for any period before the date of enactment of this chapter.".

(b) The analysis at the beginning of subtitle II of title 46, United States Code, is amended by inserting after the item relating to chapter 111 the following:

"112. Merchant mariners benefits ..... 11201.".

TITLE XVII—LIGHTHOUSE AND OTHER PROPERTY CONVEYANCES

SEC. 1701. CONVEYANCE OF COAST GUARD PROPERTY IN TRAVERSE CITY, MICHIGAN.

(a) REQUIREMENT.—The Secretary of Transportation (or any other official having control over the property described in subsection (b)) shall expeditiously convey to the Traverse City Area Public School District in Traverse City, Michigan, without consideration, all right, title, and interest of the United States in and to the property described in subsection (b), subject to all easements and other interests in the property held by any other person.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property located in the city of Traverse City, Grand Traverse County, Michigan, and consisting of that part of the southeast ¼ of Section 12, Township 27 North, Range 11 West, described as: Commencing at the southeast ¼ corner of said Section 12, thence north 03 degrees 05 minutes 25 seconds east along the East line of said Section, 1074.04 feet, thence north 86 degrees 36 minutes 50 seconds west 207.66 feet, thence north 03 degrees 06 minutes 00 seconds east 572.83 feet to the point of beginning, thence north 86 degrees 54 minutes 00 seconds west 1,751.04 feet, thence north 03 degrees 02 minutes 38 seconds east 330.09 feet, thence north 24 degrees 04 minutes 40 seconds east 439.86 feet, thence south 86 degrees 56 minutes 15 seconds east 116.62 feet, thence north 03 degrees 08 minutes 45 seconds east 200.00 feet, thence south 87 degrees 08 minutes 20 seconds east 68.52 feet, to the southerly right-of-way of the C & O Railroad, thence south 65 degrees 54 minutes 20 seconds east along said right-of-way 1508.75 feet, thence south 03 degrees 06 minutes 00 seconds west 400.61 to the point of beginning, consisting of 27.10 acres of land, and all improvements located on that property including buildings, structures, and equipment.

(c) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to subsection (a), any conveyance of property described in subsection (b) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by the Traverse City School District.

SEC. 1702. TRANSFER OF COAST GUARD PROPERTY IN KETCHIKAN, ALASKA.

(a) CONVEYANCE REQUIREMENT.—The Secretary of Transportation, in cooperation with the Administrator of General Services, shall convey to the Ketchikan Indian Corporation in Ketchikan, Alaska, without reimbursement and by no later than 120 days after the date of enactment of this Act, all right, title, and interest of the United States in and to the property known as the "Former Marine Safety Detachment" as identified in Report of Excess Number CG–689 (GSA Control Number 9–U–AK–0747) and described in subsection (b), for use by the Ketchikan Indian Corporation as a health or social services facility.

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property located in the city of Ketchikan, Township 75 south, range 90 east, Copper River Meridian, First Judicial District, State of Alaska, and commencing at corner numbered 10, United States Survey numbered 1079, the true point of beginning for this description: Thence north 24 degrees 04 minutes east, along the 10–11 line of said survey a distance of 89.76 feet to corner numbered 1 of lot 5B; thence south 65 degrees 56 minutes east a distance of 345.18 feet to corner numbered 2 of lot 5B; thence south 24 degrees 04 minutes west a distance of 101.64 feet to corner numbered 3 of lot 5B; thence north 64 degrees 01 minute west a distance of 346.47 feet to corner numbered 10 of said survey, to the true point of beginning, consisting of 0.76 acres (more or less), and all improvements located on that property, including buildings, structures, and equipment.

(c) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to subsection (a), any conveyance of property described in subsection (b) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by the Ketchikan Indian Corporation as a health or social services facility.

SEC. 1703. CONVEYANCE OF LIGHT STATION MONTAUK POINT, NEW YORK.

(a) CONVEYANCE REQUIREMENT.—

(1) REQUIREMENT.—The Secretary of Transportation shall convey to the Montauk Historical Association in Montauk, New York, by an appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising Light Station Montauk Point, located at Montauk, New York.

(2) DETERMINATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to the conditions required by paragraphs (3) and (4) and such other terms and conditions as the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising the Montauk Light Station pursuant to subsection (a) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof—

(A) ceases to be maintained as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard, the maritime history of Montauk, New York, and Native American and colonial history;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(3) MAINTENANCE OF NAVIGATION AND FUNCTIONS.—Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the Montauk Historical Association may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to replace, or add any aids to navigation, or make any changes to the Montauk Lighthouse as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter the property conveyed without notice for the purpose of maintaining navigation aids;

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property; and

(F) the Montauk Light Station shall revert to the United States at the end of the 30-day period beginning on any date on which the Secretary of Transportation provides written notice to the Montauk Historical Association that the Montauk Light Station is needed for national security purposes.

(4) MAINTENANCE OF LIGHT STATION.—Any conveyance of property under this section shall be subject to the condition that the Montauk Historical Association shall maintain the Montauk Light Station in accordance with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws.

(5) LIMITATION ON OBLIGATIONS OF MONTAUK HISTORICAL ASSOCIATION.—The Montauk Historical Association shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) For purposes of this section—

(1) the term "Montauk Light Station" means the Coast Guard light station known as Light Station Montauk Point, located at Montauk, New York, including the keeper's dwellings, adjacent Coast Guard rights of way, the World War II submarine spotting tower, the lighthouse tower, and the paint locker; and

(2) the term "Montauk Lighthouse" means the Coast Guard lighthouse located at the Montauk Light Station.

SEC. 1704. CONVEYANCE OF CAPE ANN LIGHTHOUSE.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of Transportation shall convey to the town of Rockport, Massachusetts, by an appropriate means of conveyance, all right, title, and interest of the United States in and to the property comprising the Cape Ann Lighthouse, located on Thachers Island, Massachusetts.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this subsection.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—The conveyance of property pursuant to this section shall be made—

(A) without payment of consideration; and

(B) subject to the conditions required by paragraphs (3) and (4) and other terms and conditions the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), the conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in the Cape Ann Lighthouse shall immediately revert to the United States if the Cape Ann Lighthouse, or any part of the property—

(A) ceases to be used as a nonprofit center for the interpretation and preservation of maritime history;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.).

(3) MAINTENANCE AND NAVIGATION FUNCTIONS.—The conveyance of property pursuant to this section shall be made subject to the conditions that the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the town of Rockport may not interfere or allow interference in any manner with aids to navigation without express written permission from the Secretary of Transportation;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the Cape Ann Lighthouse as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to the property for the purpose of maintaining the aids to navigation in use on the property.

(4) OBLIGATION LIMITATION.—The town of Rockport is not required to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(5) PROPERTY TO BE MAINTAINED IN ACCORDANCE WITH CERTAIN LAWS.—The town of Rockport shall maintain the Cape Ann Lighthouse in accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), and other applicable laws.

(c) DEFINITIONS.—For purposes of this section, the term "Cape Ann Lighthouse" means the Coast Guard property located on Thachers Island, Massachusetts, except any historical artifact, including any lens or lantern, located on the property at or before the time of the conveyance.

SEC. 1705. TRANSFER OF OCRACOKE LIGHT STATION TO SECRETARY OF THE INTERIOR.

The Secretary of Transportation shall transfer administrative jurisdiction over the Federal property, consisting of approximately 2 acres, known as the Ocracoke Light Station, to the Secretary of the Interior, subject to such reservations, terms, and conditions as may be necessary for Coast Guard purposes. All property so transferred shall be included in and administered as part of the Cape Hatteras National Seashore.

SEC. 1706. SQUIRREL POINT LIGHTHOUSE.

(a) CONVEYANCE AUTHORIZATION.—

(1) AUTHORIZATION.—The Secretary of Transportation may convey to Squirrel Point Associates, Inc., by an appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising Squirrel Point Lighthouse, located in the town of Arrowsic, Maine.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed pursuant to this subsection.

(b) TERMS OF CONVEYANCE.—

(1) IN GENERAL.—A conveyance of property pursuant to this section shall be made—

(A) without payment of consideration; and

(B) subject to the conditions required by paragraphs (3) and (4) and such other terms and conditions as the Secretary may consider appropriate.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising the Squirrel Point Lighthouse pursuant to subsection (a) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof—

(A) ceases to be maintained as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of Maine;

(B) ceases to be maintained in a manner that ensures its present or future use as a Coast Guard aid to navigation; or

(C) ceases to be maintained in a manner consistent with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(3) MAINTENANCE OF NAVIGATION AND FUNCTIONS.—Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the Squirrel Point Associates, Inc., may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to replace, or add any aids to navigation, or make any changes to the Squirrel Point Lighthouse as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter the property conveyed without notice for the purpose of maintaining navigation aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) MAINTENANCE OF LIGHTHOUSE.—Any conveyance of property under this section shall be subject to the condition that the Squirrel Point Associates shall maintain the Eastern Point Lighthouse in accordance with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws.

(5) OBLIGATION LIMITATION.—The Squirrel Point Associates, Inc., shall not have any obligation to maintain any active aid to navigation equipment on the property conveyed pursuant to this section.

(c) DEFINITIONS.—For purposes of this section, the term "Squirrel Point Lighthouse" means the Coast Guard property located in the town of Arrowsic, County of Sagadahoc, Maine, including the light tower, dwelling, boathouse, oil house, barn, any other ancillary buildings, and such land as may be necessary to enable Squirrel Point Associates, Inc., to operate a nonprofit center for public benefit, except any historical artifact, including any lens or lantern, located on the property at or before the time of the conveyance.

SEC. 1707. CONVEYANCE OF CERTAIN LIGHTHOUSES LOCATED IN MAINE.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—Subject to paragraphs (3) and (4), the Secretary of Transportation may convey, without consideration, to the Island Institute, Rockland, Maine (in this section referred to as the "Institute"), all right, title, and interest of the United States in and to any of the facilities and real property and improvements described in paragraph (2).

(2) COVERED FACILITIES.—Paragraph (1) applies to lighthouses, together with any real property and other improvements associated therewith, located in the State of Maine as follows:

(A) Whitehead Island Light.

(B) Deer Island Thorofare (Mark Island) Light.

(C) Burnt Island Light.
(D) Rockland Harbor Breakwater Light.
(E) Monhegan Island Light.
(F) Eagle Island Light.
(G) Curtis Island Light.
(H) Moose Peak Light.
(I) Great Duck Island Light.
(J) Goose Rocks Light.
(K) Isle au Haut Light.
(L) Goat Island Light.
(M) Wood Island Light.
(N) Doubling Point Light.
(O) Doubling Point Front Range Light.
(P) Doubling Point Rear Range Light.
(Q) Little River Light.
(R) Spring Point Ledge Light.
(S) Ram Island Light (Boothbay).
(T) Seguin Island Light.
(U) Marshall Point Light.
(V) Fort Point Light.
(W) West Quoddy Head Light.
(X) Brown's Head Light.
(Y) Cape Neddick Light.
(Z) Halfway Rock Light.
(AA) Ram Island Ledge Light.
(BB) Mount Desert Rock Light.
(CC) Whitlock's Mill Light.

(3) LIMITATION ON CONVEYANCE.—The Secretary shall retain all right, title, and interest of the United States in and to any historical artifact, including any lens or lantern, that is associated with the lighthouses conveyed under this subsection, whether located at the lighthouse or elsewhere. The Secretary shall identify any equipment, system, or object covered by this paragraph.

(4) DEADLINE FOR CONVEYANCE.—The conveyances authorized by this subsection shall take place, if at all, not later than 5 years after the date of the enactment of this Act.

(5) ADDITIONAL CONVEYANCES TO UNITED STATES FISH AND WILDLIFE SERVICE.—The Secretary may transfer, in accordance with the terms and conditions of subsection (b), the following lighthouses, together with any real property and improvements associated therewith, directly to the United States Fish and Wildlife Service:

(A) Two Bush Island Light.
(B) Egg Rock Light.
(C) Libby Island Light.
(D) Matinicus Rock Light.

(b) CONDITIONS OF CONVEYANCE.—The conveyance of a lighthouse, and any real property and improvements associated therewith, under subsection (a) shall be subject to the following conditions:

(1) That the lighthouse and any such property and improvements be used for educational, historic, recreational, cultural, and wildlife conservation programs for the general public and for such other uses as the Secretary determines to be not inconsistent or incompatible with such uses.

(2) That the lighthouse and any such property and improvements be maintained at no cost to the United States in a manner that ensures the use of the lighthouse by the Coast Guard as an aid to navigation.

(3) That the use of the lighthouse and any such property and improvements by the Coast Guard as an aid to navigation not be interfered with, except with the written permission of the Secretary.

(4) That the lighthouse and any such property and improvements be maintained in a manner consistent with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(5) That public access to the lighthouse and any such property and improvements be ensured.

(c) RESERVATIONS.—In the conveyance of a lighthouse under subsection (a), the Secretary shall reserve to the United States the following:

(1) The right to enter the lighthouse, and any real property and improvements conveyed therewith, at any time, without notice, for purposes of maintaining any aid to navigation at the lighthouse, including any light, antennae, sound signal, and associated equipment located at the lighthouse, and any electronic navigation equipment or system located at the lighthouse.

(2) The right to enter the lighthouse and any such property and improvements at any time, without notice, for purposes of relocating, replacing, or improving any such aid to navigation, or to carry out any other activity necessary in aid of navigation.

(3) An easement of ingress and egress onto the real property conveyed for the purposes referred to in paragraphs (1) and (2).

(4) An easement over such portion of such property as the Secretary considers appropriate in order to ensure the visibility of the lighthouse for navigation purposes.

(5) The right to obtain and remove any historical artifact, including any lens or lantern that the Secretary has identified pursuant to paragraph (3) of subsection (a).

(d) MAINTENANCE OF AIDS TO NAVIGATION.—The Secretary may not impose upon the Institute, or upon any entity to which the Institute conveys a lighthouse under subsection (g), an obligation to maintain any aid to navigation at a lighthouse conveyed under this section.

(e) REVERSIONARY INTEREST.—All right, title, and interest in and to a lighthouse and any real property and improvements associated therewith shall revert to the United States and the United States shall have the right of immediate entry thereon if—

(1) the Secretary determines at any time that the lighthouse, and any property and improvements associated therewith, conveyed to the Institute or to the United States Fish and Wildlife Service under subsection (a) or conveyed by the Institute under subsection (g), as the case may be, is not being utilized or maintained in accordance with subsection (b); or

(2) the Secretary determines that—

(A) the Institute is unable to identify an entity eligible for the conveyance of the lighthouse under subsection (g) within the 3-year period beginning on the date of the conveyance of the lighthouse to the Institute under subsection (a); or

(B) in the event that the Institute identifies an entity eligible for the conveyance within that period—

(i) the entity is unable or unwilling to accept the conveyance and the Institute is unable to identify another entity eligible for the conveyance within that period; or

(ii) the Maine Lighthouse Selection Committee established under subsection (g)(3)(A) disapproves of the entity identified by the Institute and the Institute is unable to identify another entity eligible for the conveyance within that period.

(f) INSPECTION.—The State Historic Preservation Officer of the State of Maine may inspect any lighthouse, and any real property and improvements associated therewith, that is conveyed under this subsection at any time, without notice, for purposes of ensuring that the lighthouse is being maintained in the manner required under subsections (b)(4) and (b)(5). The Institute, and any subsequent conveyee of the Institute under subsection (g), shall cooperate with the official referred to in the preceding sentence in the inspections of that official under this subsection.

(g) SUBSEQUENT CONVEYANCE.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Institute shall convey, without consideration, all right, title, and interest of the Institute in and to the lighthouses conveyed to the Institute under subsection (a), together with any real property and improvements associated therewith, to one or more entities identified under paragraph (2) and approved by the committee established under paragraph (3) in accordance with the provisions of such paragraph (3).

(B) EXCEPTION.—The Institute, with the concurrence of the Maine Lighthouse Selection Committee and in accordance with the terms and conditions of subsection (b), may retain right, title, and interest in and to the following lighthouses conveyed to the Institute:

(i) Whitehead Island Light.
(ii) Deer Island Thorofare (Mark Island) Light.

(2) IDENTIFICATION OF ELIGIBLE ENTITIES.—

(A) IN GENERAL.—Subject to subparagraph (B), the Institute shall identify entities eligible for the conveyance of a lighthouse under this subsection. Such entities shall include any department or agency of the Federal Government, any department or agency of the Government of the State of Maine, any local government in that State, or any nonprofit corporation, educational agency, or community development organization that—

(i) is financially able to maintain the lighthouse (and any real property and improvements conveyed therewith) in accordance with the conditions set forth in subsection (b);

(ii) has agreed to permit the inspections referred to in subsection (f); and

(iii) has agreed to comply with the conditions set forth in subsection (b) and to have such conditions recorded with the deed of title to the lighthouse and any real property and improvements that may be conveyed therewith.

(B) ORDER OF PRIORITY.—In identifying entities eligible for the conveyance of a lighthouse under this paragraph, the Institute shall give priority to entities in the following order, which are also the exclusive entities eligible for the conveyance of a lighthouse under this section:

(i) Agencies of the Federal Government.
(ii) Entities of the Government of the State of Maine.
(iii) Entities of local governments in the State of Maine.
(iv) Nonprofit corporations, educational agencies, and community development organizations.

(3) SELECTION OF CONVEYEES AMONG ELIGIBLE ENTITIES.—

(A) COMMITTEE.—

(i) IN GENERAL.—There is hereby established a committee to be known as the Maine Lighthouse Selection Committee (in this paragraph referred to as the "Committee").

(ii) MEMBERSHIP.—The Committee shall consist of five members appointed by the Secretary as follows:

(I) One member, who shall serve as the Chairman of the Committee, shall be appointed from among individuals recommended by the Governor of the State of Maine.

(II) One member shall be the State Historic Preservation Officer of the State of Maine, with the consent of that official, or a designee of that official.

(III) One member shall be appointed from among individuals recommended by State and local organizations in the State of Maine

that are concerned with lighthouse preservation or maritime heritage matters.

(IV) One member shall be appointed from among individuals recommended by officials of local governments of the municipalities in which the lighthouses are located.

(V) One member shall be appointed from among individuals recommended by the Secretary of the Interior.

(iii) APPOINTMENT DEADLINE.—The Secretary shall appoint the members of the Committee not later than 180 days after the date of the enactment of this Act.

(iv) MEMBERSHIP TERM.—

(I) Members of the Committee shall serve for such terms not longer than 3 years as the Secretary shall provide. The Secretary may stagger the terms of initial members of the Committee in order to ensure continuous activity by the Committee.

(II) Any member of the Committee may serve after the expiration of the term of the member until a successor to the member is appointed. A vacancy in the Committee shall be filled in the same manner in which the original appointment was made.

(v) VOTING.—The Committee shall act by an affirmative vote of a majority of the members of the Committee.

(B) RESPONSIBILITIES.—

(i) IN GENERAL.—The Committee shall—

(I) review the entities identified by the Institute under paragraph (2) as entities eligible for the conveyance of a lighthouse; and

(II) approve one such entity, or disapprove all such entities, as entities to which the Institute may make the conveyance of the lighthouse under this subsection.

(ii) APPROVAL.—If the Committee approves an entity for the conveyance of a lighthouse, the Committee shall notify the Institute of such approval.

(iii) DISAPPROVAL.—If the Committee disapproves of the entities, the Committee shall notify the Institute and, subject to subsection (e)(2)(B), the Institute shall identify other entities eligible for the conveyance of the lighthouse under paragraph (2). The Committee shall review and approve or disapprove of entities identified pursuant to the preceding sentence in accordance with this subparagraph and the criteria set forth in subsection (b).

(C) EXEMPTION FROM FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee, however, all meetings of the Committee shall be open to the public and preceded by appropriate public notice.

(D) TERMINATION.—The Committee shall terminate 8 years from the date of the enactment of this Act.

(4) CONVEYANCE.—Upon notification under paragraph (3)(B)(ii) of the approval of an identified entity for conveyance of a lighthouse under this subsection, the Institute shall, with the consent of the entity, convey the lighthouse to the entity.

(5) RESPONSIBILITIES OF CONVEYEES.—Each entity to which the Institute conveys a lighthouse under this subsection, or any successor or assign of such entity in perpetuity, shall—

(A) use and maintain the lighthouse in accordance with subsection (b) and have such terms and conditions recorded with the deed of title to the lighthouse and any real property conveyed therewith; and

(B) permit the inspections referred to in subsection (f).

(h) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of any lighthouse, and any real property and improvements associated therewith, conveyed under subsection (a) shall be determined by the Secretary.

(i) REPORT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter for the next 7 years, the Secretary shall submit to Congress a report on the conveyance of lighthouses under this section. The report shall include a description of the implementation of the provisions of this section, and the requirements arising under such provisions, in—

(1) providing for the use and maintenance of the lighthouses conveyed under this section in accordance with subsection (b);

(2) providing for public access to such lighthouses; and

(3) achieving the conveyance of lighthouses to appropriate entities under subsection (g).

(j) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with a conveyance under subsection (a) that the Secretary considers appropriate in order to protect the interests of the United States.

TITLE XVIII—BALLAST WATER MANAGEMENT

SEC. 1801. SHORT TITLE.

This title may be cited as the "Ballast Water Management Act".

SEC. 1802. EVALUATION.

(a) Subsection 1102(a) of Public Law 101-646 (16 U.S.C. 4712(a)) is amended by adding the following new paragraph at the end:

"(4) NATIONAL BALLAST WATER MANAGEMENT EVALUATION.—

"(A) Subject to the availability of appropriations, the Task Force shall contract with the Marine Board of the National Research Council to identify and evaluate ballast water management technologies and practices that prevent the introduction and spread of nonindigenous species through ballast water discharged into United States waters.

"(B) In conducting the evaluation, the Marine Board shall consider, at a minimum, ballast water management technologies and practices identified in the study prepared under paragraph (3).

"(C) In conducting the evaluation, the Marine Board shall identify, at a minimum, ballast water management technologies and practices that—

"(i) may be retrofitted on existing vessels or incorporated in new vessel designs;

"(ii) are operationally practical;

"(iii) are safe for vessel and crew;

"(iv) are environmentally sound;

"(v) are cost effective;

"(vi) the vessel operator can monitor; and

"(vii) are effective against a broad range of nuisance organisms.".

(b) Subsection 1102(c) of Public Law 101-646 (16 U.S.C. 4712(c)) is amended by adding the following new paragraph at the end:

"(3) NATIONAL BALLAST WATER MANAGEMENT EVALUATION REPORT.—Not later than 1 year after the date of enactment of the Ballast Water Management Act, the Task Force shall submit to the appropriate Committees a report on the results of the evaluation conducted under paragraph (4) of subsection (a).".

SEC. 1803. NATIONAL BALLAST WATER MANAGEMENT DEMONSTRATION PROGRAM.

(a) Section 1202 of Public Law 101-646 (16 U.S.C. 4722) is amended by—

(1) redesignating subsection (k) as subsection (l); and

(2) inserting after subsection (j) the following:

"(k) NATIONAL BALLAST WATER MANAGEMENT DEMONSTRATION PROGRAM.—

"(1) AUTHORIZATION.—Following the submission of the evaluation authorized under section 1102(a)(4) and subject to the availability of appropriations under section 1301(e), the Secretary of Transportation, in consultation with the Task Force, shall conduct a national ballast water management demonstration program to test and evaluate ballast water management technologies and practices, including those identified in the evaluation authorized under paragraph 1102(a)(4), to prevent the introduction and spread of nonindigenous species through ballast water discharged into United States waters.

"(2) CRITERIA.—In carrying out the demonstration program authorized under this subsection, the Secretary of Transportation shall use vessels that are documented under chapter 121 of title 46, United States Code, including vessels operating on the Great Lakes. Any necessary ballast water management technology installation or construction on a vessel used in the demonstration program shall be performed by a United States shipyard or ship repair facility.

"(3) AUTHORITIES.—In conducting the demonstration program under this subsection, the Task Force and the Secretary of Transportation may accept donations of property and services.".

(b) Subsection 1202(l), as redesignated by this Act, is amended by adding the following new paragraph at the end:

"(3) Not later than 1 year after the submission of the evaluation authorized under section 1102(a)(4) and periodically as necessary to report new findings, the Secretary of Transportation, in consultation with the Task Force, shall submit to the appropriate Committees a report on the results of the demonstration program conducted under subsection (k).".

SEC. 1804. AUTHORIZATION OF APPROPRIATIONS.

Section 1301 of Public Law 101-646 (16 U.S.C. 4741) is amended by adding the following new subsection at the end:

"(e) NATIONAL BALLAST WATER MANAGEMENT EVALUATION AND DEMONSTRATION PROGRAM.—There are authorized to be appropriated to the Director and the Under Secretary $150,000 for fiscal year 1995 and to the Secretary of Transportation $1,850,000 for fiscal year 1996, to remain available until expended, to carry out the evaluation authorized under section 1102(a)(4) and the demonstration program authorized under section 1202(k).".

TITLE XX—ADDITIONAL MISCELLANEOUS PROVISIONS

SEC. 2001. AMENDMENT TO REQUIRE EPIRBS ON THE GREAT LAKES.

Paragraph (7) of section 4502(a) of title 46, United States Code, is amended by inserting "or beyond 3 nautical miles from the coastline of the Great Lakes" after "high seas".

SEC. 2002. IMPLEMENTATION OF OIL POLLUTION REQUIREMENTS WITH RESPECT TO VEGETABLE OIL.

In implementing the Oil Pollution Act of 1990 (Public Law 101-380), the Coast Guard and other agencies shall differentiate between animal fats or oils of vegetable origin and other oils, including petroleum oils, on the basis of their physical, chemical, biological, and other properties, and their environmental effects.

SEC. 2003. DUAL PURPOSE VESSEL.

Subject to the availability of appropriations, the Secretary of Transportation is authorized to expend up to $10,000,000 in fiscal year 1996 for the design and construction of a passenger ferry to be owned and operated by the State of Alaska, provided that—

(1) any amounts expended under this provision by the Secretary for such ferry are matched by an equal or greater amount from the State of Alaska or other sources;

(2) such ferry shall, when completed, be used by the State of Alaska as part of the National Contingency Plan in accordance with section 311(d)(2)(H) of the Federal Water Pollution Control Act (33 U.S.C. 1321(d)(2)(H)), in the event of a worst case discharge of crude oil off Alaska;

(3) the State of Alaska shall agree to use such ferry in cooperation with the Federal On-Scene Coordinator in the event of a worst case discharge of crude oil off Alaska; and

(4) such ferry shall be made available by the State of Alaska to be included on the list of equipment available in an Area Contingency Plan off Alaska under section 311(j)(4)(C)(iv) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(4)(C)(iv)).

SEC. 2004. EQUITABLE TREATMENT OF UNITED STATES OCEAN FREIGHT FORWARDERS BY OCEAN CARRIER CONFERENCES.

(a) INDEPENDENT ACTION.—Section 5(b) of the Shipping Act of 1984 (46 U.S.C. App. 1704(b)) is amended by striking paragraph (8) and inserting the following:

"(8) provide that—

"(A) any member of the conference may take independent action on any rate, service item, or level of ocean freight forwarder compensation required to be filed in a tariff under section 8(a) upon not more than 10 calendar days notice to the conference; and

"(B) the conference will include the new rate, service item, or level of ocean freight forwarder compensation in its tariff for use by that member, effective no later than 10 calendar days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate, service item, or level of ocean freight forwarder compensation on or after its effective date, in lieu of the existing conference tariff provision for that rate, service item, or level of ocean freight forwarder compensation;".

(b) PROHIBITION ON DENYING COMPENSATION.—Section 10(c) of the Shipping Act of 1984 (46 U.S.C. App. 1709(c)), is amended by striking paragraph (5) and inserting the following:

"(5) deny in the export foreign commerce of the United States compensation to an ocean freight forwarder, or limit that compensation to less than 1.25 percent of the aggregate of all of the rates and charges applicable under the tariff assessed against the cargo on which the forwarding services are provided; or".

SEC. 2005. FLORIDA AVENUE BRIDGE.

For purposes of the alteration of the Florida Avenue Bridge (located approximately 1.63 miles east of the Mississippi River on the Gulf Intracoastal Waterway in Orleans Parish, Louisiana) ordered by the Secretary of Transportation under the Act of June 21, 1940 (33 U.S.C. 511 et seq.; popularly known as the Truman-Hobbs Act), the Secretary shall treat the drainage siphon that is adjacent to the bridge as an appurtenance of the bridge, including with respect to apportionment and payment of costs for the removal of the drainage siphon in accordance with that Act.

SEC. 2006. LIMITATION ON CONSOLIDATION OF HOUSTON AND GALVESTON MARINE SAFETY OFFICES.

The Secretary of Transportation may not consolidate the Coast Guard Marine Safety Offices in Galveston, Texas, and Houston, Texas.

SEC. 2007. BUY AMERICAN REQUIREMENT FOR SURFACE SEARCH RADAR SYSTEMS AND MULTIBEAM SONAR.

Notwithstanding any other law, at least 51 percent of the components of surface search radar systems and multibeam sonar systems for Coast Guard vessels shall be manufactured in the United States, provided the United States manufacturer offers the Coast Guard a competitive price.

SEC. 2008. SPECIAL RECRUITING AUTHORITY TO ACHIEVE DIVERSITY.

(a) FINDINGS.—The Congress makes the following findings:

(1) Women and minorities have historically been underrepresented in the Coast Guard officer corps and at the United States Coast Guard Academy.

(2) Notwithstanding application of traditional recruiting programs, the Coast Guard has not been able to rectify the historic underrepresentation of women and minorities in the service and at the Academy.

(3) The education and professional training provided at the United States Coast Guard Academy will be enhanced by the benefits that flow from a diverse student body.

(b) NEW AUTHORITY.—Section 93 of title 14, United States Code, is amended—

(1) in paragraph (t)(2) by striking "and" after the semicolon;

(2) in paragraph (u) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(v) for the purposes of rectifying underrepresentation or underutilization of women and minorities in the Coast Guard and meeting identified personnel resource requirements and training needs—

"(1) conduct studies and analyses on Coast Guard personnel resource and training needs; and

"(2) employ special programs for recruiting women and minorities, including, subject to appropriations, provision of financial assistance by grant, cooperative agreement, contract, or otherwise, to public or private associations, organizations, or individuals to implement national or local outreach programs.".

SEC. 2009. RECOMMENDATIONS ON ACTIONS FOR THE PROTECTION OF THE NORTH ATLANTIC RIGHT WHALE.

(a) RECOMMENDATIONS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall recommend to the Secretary of Commerce actions that could be undertaken by the Coast Guard and the International Maritime Organization to prevent mortalities of the northern right whale from vessel collisions in the Great South Channel off Cape Cod, Massachusetts. Such recommendations may include—

(1) the designation of 1 or more areas to be avoided;

(2) the shifting of the traffic separation scheme in the Great South Channel; or

(3) other measures the Secretary considers appropriate.

(b) INTERNATIONAL MARITIME ORGANIZATION.—The Secretary of Transportation, in consultation with the Secretary of Commerce, shall submit the appropriate recommendations under subsection (a) to the International Maritime Organization for consideration.

(c) REPORT.—The Secretary of Commerce shall report in accordance with section 103(f) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1373(f)) on any actions taken by the Secretary of Commerce and the Secretary of Transportation pursuant to this section.

SEC. 2010. PROHIBITION ON DIVERSION OF DRUG INTERDICTION FUNDS.

The Secretary of Transportation may not reduce the level of Coast Guard drug interdiction activities during fiscal year 1995 below the level proposed by the President in the fiscal year 1995 budget.

SEC. 2011. LIMITATION ON AUTHORITY OF STATES TO REGULATE GAMBLING DEVICES ON VESSELS.

Section 5(b)(2) of the Act of January 2, 1951 (15 U.S.C. 1175(b)(2)), commonly referred to as the "Johnson Act", is amended by adding at the end the following:

"(C) EXCLUSION OF CERTAIN VOYAGES AND SEGMENTS.—Except for a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii or the State of Alaska, a voyage or segment of a voyage is not described in subparagraph (B) if it includes or consists of a segment—

"(i) that begins and ends in the same State;

"(ii) that is part of a voyage to another State or to a foreign country; and

"(iii) in which the vessel reaches the other State or foreign country within 3 days after leaving the State in which it begins.".

SEC. 2012. POLLUTION FROM SHIPS.

(a) PREVENTION OF POLLUTION FROM SHIPS.—Section 6 of the Act to Prevent Pollution from Ships (33 U.S.C. 1905) is amended—

(1) in subsection (c)—

(A) in paragraph (2)—

(i) by striking "(2) If" and inserting the following: "(2)(A) Subject to subparagraph (B), if"; and

(ii) by adding at the end the following new subparagraphs:

"(B) The Secretary may issue a certificate attesting to the adequacy of reception facilities under this paragraph only if, prior to the issuance of the certificate, the Secretary conducts an inspection of the reception facilities of the port or terminal that is the subject of the certificate.

"(C) The Secretary may, with respect to certificates issued under this paragraph prior to the date of enactment of the Oceans Act of 1994, prescribe by regulation differing periods of validity for such certificates."; and

(B) in paragraph (3), by striking subparagraph (A) and inserting the following new subparagraph:

"(A) is valid for the 5-year period beginning on the date of issuance of the certificate, except that if—

"(i) the charge for operation of the port or terminal is transferred to a person or entity other than the person or entity that is the operator on the date of issuance of the certificate—

"(I) the certificate shall expire on the date that is 30 days after the date of the transfer; and

"(II) the new operator shall be required to submit an application for a certificate before a certificate may be issued for the port or terminal; or

"(ii) the certificate is suspended or revoked by the Secretary, the certificate shall cease to be valid; and"; and

(2) by striking subsection (d) and inserting the following new subsection:

"(d)(1) The Secretary shall maintain a list of ports or terminals with respect to which a certificate issued under this section—

"(A) is in effect; or

"(B) has been revoked or suspended.

"(2) The Secretary shall make the list referred to in paragraph (1) available to the general public.".

(b) RECEPTION FACILITY PLACARDS.—Section 6(f) of the Act to Prevent Pollution from Ships (33 U.S.C. 1905(f)) is amended—

(1) by inserting "(1)" before "The Secretary"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Not later than 18 months after the date of enactment of this paragraph, the Secretary shall promulgate regulations that require the operator of each port or terminal that is subject to any requirement of the MARPOL Protocol relating to reception facilities to post a placard in a location that can easily be seen by port and terminal users. The placard shall state, at a minimum, that a user of a reception facility of the port or terminal should report to the Secretary any inadequacy of the reception facility.".

(c) COMPLIANCE REPORTS.—Section 2201(a) of the Marine Plastic Pollution Research and Control Act of 1987 (Public Law 100-220; 33 U.S.C. 1902 note) is amended—

(1) by striking "for a period of 6 years"; and

(2) by inserting before the period at the end the following: "and, not later than 1 year after the date of enactment of the Oceans Act of 1994, and annually thereafter, shall publish in the Federal Register a list of the enforcement actions taken against any domestic or foreign ship (including any commercial or recreational ship) pursuant to the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.)".

(d) MARINE PLASTIC POLLUTION RESEARCH AND CONTROL PUBLIC OUTREACH PROGRAM.—Section 2204(a) of the Marine Plastic Pollution Research and Control Act of 1987 (Public Law 100-220; 42 U.S.C. 6981 note) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "for a period of at least 3 years,";

(B) in subparagraph (C), by striking "and" at the end;

(C) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(E) the requirements under this Act and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) with respect to ships and ports, and the authority of citizens to report violations of this Act and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.).''; and

(2) by striking paragraph (2) and inserting the following new paragraph:

"(2) AUTHORIZED ACTIVITIES.—

"(A) PUBLIC OUTREACH PROGRAM.—A public outreach program under paragraph (1) may include—

"(i) developing and implementing a voluntary boaters' pledge program;

"(ii) workshops with interested groups;

"(iii) public service announcements;

"(iv) distribution of leaflets and posters; and

"(v) any other means appropriate to educating the public.

"(B) GRANTS AND COOPERATIVE AGREEMENTS.—To carry out this section, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency are authorized to award grants, enter into cooperative agreements with appropriate officials of other Federal agencies and agencies of States and political subdivisions of States, and provide other financial assistance to eligible recipients.

"(C) CONSULTATION.—In developing outreach initiatives targeted at the interested groups that are subject to the requirements of this title and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of Commerce and the Administrator of the Environmental Protection Agency, shall consult with—

"(i) the heads of State agencies responsible for implementing State boating laws; and

"(ii) the heads of other enforcement agencies that regulate boaters or commercial fishermen.".

(e) COORDINATION.—

(1) ESTABLISHMENT OF MARINE DEBRIS COORDINATING COMMITTEE.—The Secretary of Commerce shall establish a Marine Debris Coordinating Committee (referred to in this section as the "Committee").

(2) MEMBERSHIP.—The Committee shall include a senior official from—

(A) the National Oceanic and Atmospheric Administration, who shall serve as the Chairperson of the Committee;

(B) the Environmental Protection Agency;

(C) the United States Coast Guard;

(D) the United States Navy; and

(E) such other Federal agencies that have an interest in ocean issues or water pollution prevention and control as the Secretary of Commerce determines appropriate.

(3) MEETINGS.—The Committee shall meet at least twice a year to provide a forum to ensure the coordination of national and international research, monitoring, education, and regulatory actions addressing the persistent marine debris problem.

(f) MONITORING.—The Secretary of Commerce, in cooperation with the Administrator of the Environmental Protection Agency, shall utilize the marine debris data derived under title V of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 2801 et seq.) to assist the United States Coast Guard in assessing the effectiveness of this section.

SEC. 2013. COST ACCOUNTING FOR HAITIAN OPERATIONS.

(a) No later than 30 days after the enactment of this Act, the Secretary of Transportation shall submit a full accounting of all Coast Guard costs related to Haiti during fiscal year 1994 to the Committee on Merchant Marine and Fisheries in the House of Representatives and to the Committee on Commerce, Science, and Transportation in the Senate. This accounting shall include numbers of Coast Guard personnel involved, the numbers of Coast Guard vessels involved, and the amount of funds diverted from other Coast Guard missions.

(b) Until all United States military operations in Haiti cease, the Secretary of Transportation shall submit monthly reports on all Coast Guard costs related to Haiti to the Committee on Merchant Marine and Fisheries in the House of Representatives and to the Committee on Commerce, Science, and Transportation in the Senate.

SEC. 2014. PLAN FOR RESCUE OF PASSENGERS ON THE CHESAPEAKE BAY.

(a) The Secretary of the department in which the Coast Guard is operating, in consultation with officials of the States of Maryland and Virginia, and other interested persons, shall develop and submit to Congress by March 30, 1995, a plan for the rescue of persons transported on passenger vessels or small passenger vessels on the Chesapeake Bay.

(b) The plan developed in subsection (a) shall include—

(1) a protocol for command, control, and communications among Federal, State, and local authorities;

(2) a protocol for training exercises to prepare for an emergency rescue on the Chesapeake Bay;

(3) an identification of emergency medical personnel that would be available for an emergency rescue on the Chesapeake Bay; and

(4) an identification of procedures to be followed and equipment that would be needed in the event of weather that could result in hypothermia of the passengers.

SEC. 2015. BOARD FOR CORRECTION OF MILITARY RECORDS DEADLINE.

(a) Ten months after a complete application for correction of military records is received by the Board for Correction of Military Records of the Coast Guard, administrative remedies are deemed to have been exhausted, and—

(1) if the Board has rendered a recommended decision, its recommendation shall be final agency action and not subject to further review or approval within the Department of Transportation; or

(2) if the Board has not rendered a recommended decision, agency action is deemed to have been unreasonably delayed or withheld and the applicant is entitled to—

(A) an order under section 706(1) of title 5, United States Code, directing final action be taken within 30 days from the date the order is entered; and

(B) from amounts appropriated to the Department of Transportation, the costs of obtaining the order, including a reasonable attorney's fee.

(b) The 10-month deadline established in section 212 of the Coast Guard Authorization Act of 1989 (Public Law 101-225, 103 Stat. 1914) is mandatory, and applies to any application pending before the Board or the Secretary of Transportation on June 12, 1990.

SEC. 2016. SENSE OF THE CONGRESS REGARDING PASSENGERS ABOARD COMMERCIAL VESSELS.

It is the sense of the Congress that section 521(a)(1) of Public Law 103-182 (19 U.S.C. 58c(a)(5)) was intended to require the collection and remission of a fee from each passenger only one time in the course of a single voyage aboard a commercial vessel.

TITLE XXI—MARINE BIOTECHNOLOGY INVESTMENT ACT OF 1993

SEC. 2101. SHORT TITLE.

This Title may be cited as the "Marine Biotechnology Investment Act of 1993".

SEC. 2102. FINDINGS.

Congress finds and declares the following:

(1) Throughout human history, the oceans and Great Lakes have been an important source of food and a wealth of other natural products.

(2) Marine biotechnology holds tremendous promise for expanding the range and increasing the utility of products from the oceans, understanding and treating human illness, and enhancing the quality and quantity of seafood.

(3) Marine biotechnology offers opportunities to improve the stewardship of marine resources through the development and application of effective methods to restore and protect marine ecosystems, to manage fisheries, to promote the economic growth of coastal economies (particularly those which rely substantially on income from traditional fisheries), and to monitor marine biological and geochemical processes.

(4) The United States currently is a world leader in marine biotechnology, a position with the potential for contributing to business and manufacturing innovations, creation of new jobs, and stimulation of private sector investment.

(5) Maintaining national leadership in the face of growing foreign competition will require federal investment in a well-defined and coordinated national program of research, development and private sector partnership, based on the existing responsibilities and expertise of the National Oceanic and Atmospheric Administration and other federal agencies.

(6) In particular, the National Sea Grant College Program should play a leading role in the development of marine biotechnology in the United States, building on proven capabilities in research, technology transfer, and education.

SEC. 2103. DEFINITIONS.

As used in this Title—

(1) The term "Council" means the Federal Coordinating Council on Science, Engineering, and Technology or any successor organization responsible for the coordination of scientific research among federal agencies and departments.

(2) The term "Director" means the Director of the Office of Science and Technology Policy.

(3) The term "marine biotechnology" means the application of molecular and cellular techniques to marine or other aquatic organisms for the purposes of—

(A) identifying, isolating, developing, and enhancing products that are derived from the aquatic environment;

(B) developing new techniques and processes that may be applied to marine and coastal resources; and

(C) monitoring human health and treating disease.

(4) The term "release of organisms" means—

(A) the intentional release; or

(B) the accidental release from a contained research facility;

into the surrounding environment, of a living marine or other aquatic organism in which the genetic material has been purposely altered at the molecular or cellular level in a way that could not result from the natural reproductive process of that species.

(5) The term "Sea Grant director" means director of a college, program, or regional consortium designated under the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.).

(6) The term "Secretary" means the Secretary of Commerce.

(7) The term "Strategy" means the National Marine Biotechnology Strategy developed under section 2104, or any revision thereof.

SEC. 2104. NATIONAL MARINE BIOTECHNOLOGY STRATEGY.

(a) IN GENERAL.—The Director shall develop a National Marine Biotechnology Strategy for the establishment and implementation of a comprehensive research and development effort to assist the nation in understanding and using marine biotechnology. The Director shall submit the Strategy to the President and Congress within one year after the date of enactment of this Title and shall submit a revised Strategy at least once every three years thereafter.

(b) ELEMENTS OF THE STRATEGY.—The Strategy shall—

(1) establish, for the five-year period beginning in the year the Strategy is submitted, goals and priorities for a coordinated federal effort in marine biotechnology;

(2) describe specific activities to achieve such goals and priorities, including—

(A) basic and applied research initiatives;

(B) essential infrastructure development;

(C) education and training programs;

(D) development of partnerships among government agencies, industry, and academia to translate research findings into practical use;

(E) applications of marine biotechnology which can be used to contribute to the economic stability and vitality of economies based on traditional fisheries.

(3) set forth the role of each participation federal agency and department, identifying and addressing (consistent with the responsibilities established in this Title) relevant programs and activities of such agencies and departments that would contribute to the effort;

(4) estimate, to the extent practicable, funding requirements for the federal marine biotechnology effort described in the Strategy; and

(5) provide for, with respect to federally funded activities that may involve release of organisms, coordinated oversight by federal departments and agencies, including development of—

(A) guidelines and performance standards that are necessary for the safe conduct of such activities and for preventing significant environmental risk; and

(B) procedures to ensure compliance with such guidelines and performance standards.

(c) CONSULTATION.—In developing and revising the Strategy, the Director—

(1) shall consult with federal, State, academic, commercial, and environmental entities involved in marine biotechnology; and

(2) may convene meetings and workshops, in consultation with the National Academy of Sciences and the Sea Grant directors.

SEC. 2105. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

(a) IN GENERAL.—The Secretary, in consultation with the council, shall, within the National Oceanic and Atmospheric Administration, maintain a balanced program of marine biotechnology activities, comprised of—

(1) the program established by section 206 of the National Sea Grant College Program Act (33 U.S.C. 1121 et seq.), as added by section 2106 of this Title;

(2) research conducted under agreements with academic institutions for the purposes of developing and applying marine biotechnology to the management, conservation, and use of living marine resources; and

(3) marine forensics, biotoxins, and microbiological research on new methods for ensuring the safety of seafood, implementing and enforcing marine environmental statutes, and addressing coastal pollution.

(b) RESTRICTION RELATING TO RELEASE OF ORGANISMS.—

(1) IN GENERAL.—The Secretary shall not conduct activities (either directly or through the award of a grant or contract) that may involve release of organisms, unless such activities—

(A) have been reviewed and approved under other applicable federal law; or

(B) are found by the Secretary, based on the Secretary's written assessment, to pose no significant environmental risk.

(2) CONDITIONS FOR MAKING A FINDING.—The Secretary may make a finding under subparagraph (1)(B)—

(A) in the case of an intentional release of organisms, only after providing notice and an opportunity for public comment;

(B) within 18 months after the date of the enactment of this Title only, if the Secretary includes with the finding a brief but complete description of the basis for that finding; and

(C) after 18 months after the date of the enactment of this Title, only after guidelines, performance standards, and procedures necessary for the safe conduct of activities by the Department of Commerce that may involve the release of organisms have been developed.

(c) TERMINATION OF AWARD.—The Secretary shall promptly withdraw any award made under this Title if the Secretary determines that the grantee or contractee in question has failed to abide by the applicable guidelines, performance standards, and procedures referred to in this section or section 2104 of this Title.

(d) RESTRICTION ON PACIFIC SALMON.—The Secretary shall only conduct research or award a grant or contract for marine biotechnology applications intended to promote or enhance farming, ranching, or other forms of captive cultivation (other than stock identification or hatchery enhancement of wild stocks) of any species of Pacific salmon upon making a written finding that such award, grant, or contract will not be detrimental to the economic stability and responsible development of traditional coastal economies which rely substantially on the harvest of wild stocks of Pacific salmon for a significant portion of their livelihood.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to the sums authorized to be appropriated under section 212 of the National Sea Grant College Program Act (33 U.S.C. 1131), there are authorized to be appropriated to the Secretary, to enable the National Oceanic and Atmospheric Administration to carry out this Title, $12,000,000 for each of fiscal years 1994, 1995, 1996, and 1997.

SEC. 2106. SEA GRANT MARINE BIOTECHNOLOGY PROGRAM.

(a) ESTABLISHMENT.—The National Sea Grant College Program Act (33 U.S.C. 1121 et seq.) is amended by inserting immediately after section 205 the following new section:

"SECTION 206. MARINE BIOTECHNOLOGY PROGRAM.

"(a) MARINE BIOTECHNOLOGY PROGRAM.—Subject to the availability of appropriations under section 212(c), the national sea grant college program provided for under section 204 shall include a marine biotechnology program under which the Secretary, acting through the Director, shall—

"(1) make grants and enter into contracts in accordance with this section; and

"(2) engage in other activities authorized under this Act; to further research, development, education, technology transfer, and risk assessment in marine biotechnology.

"(b) ADMINISTRATION.—In carrying out the marine biotechnology program, the Secretary shall—

"(1) coordinate the relevant activities of the directors of the sea grant colleges and the Marine Biotechnology Review Panel established under subsection (d); and

"(2) provide general oversight of the review process under subsection (d)(1) to ensure that the marine biotechnology program produces the highest quality research, development, education, and technology transfer.

"(c) GRANTS AND CONTRACTS.—

"(1) APPLICATIONS.—Applications for grants and contracts under this section shall be—

"(A) made in such form and manner, and include such content and submissions, as the Secretary shall by advance notice prescribe;

"(B) forwarded by the appropriate directors of sea grant colleges, along with an evaluation by those directors of merit and programmatic relevance, to the National Sea Grant Office; and

"(C) reviewed by the Marine Biotechnology Review Panel in accordance with subsection (d).

"(2) TERMS AND CONDITIONS.—Any reference in subsection (d) of section 205 or in the last sentence of subsection (a) of section 205 to grants and contracts provided for under that section shall be treated, as the context requires, as including any grant applied for or made, or contract applied for or entered into, under this section.

"(3) AWARDING OF GRANTS AND CONTRACTS.—The Secretary shall award grants and contracts under this section on the basis of the recommendations for award made by the Marine Biotechnology Review Panel under subsection (d).

"(d) MARINE BIOTECHNOLOGY REVIEW PANEL.—

"(1) ESTABLISHMENT AND DUTIES.—Subject to the availability of appropriations under section 212(c), the Director, in consultation with the directors of the sea grant colleges, shall convene a panel, to be known as the Marine Biotechnology Review Panel, that shall—

"(A) review, on a competitive basis, the applications made under this section for grants and contracts to determine their respective scientific, technical, educational, and commercial merits and likely contributions toward achieving the purposes of this section; and

"(B) on the basis of the review under subparagraph (A), and with due regard for the overall balance and coordination of the marine biotechnology program, make recommendations to the Secretary regarding the awarding of grants and contracts under this section.

"(2) MEMBERSHIP.—The Marine Biotechnology Review Panel shall—

"(A) consist of not more than 15 individuals with scientific or technical expertise in marine biotechnology or relevant related fields, including at least two qualified individuals with expertise in marine or freshwater ecological risk assessment;

"(B) reflect a balance among areas of expertise consistent with the purposes of this section;

"(C) include not more than two federal employees, none of which may be employees of the National Oceanic and Atmospheric Administration;

"(D) not include directors of sea grant colleges; and

"(E) reflect geographic balance, consistent with the primary objectives of a high level of expertise and balance among areas of expertise.

"(3) ALLOWANCES.—Each member of the Marine Biotechnology Review panel shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.".

(b) DEFINITIONS.—(1) Section 203 of the National Sea Grant College Program Act (33 U.S.C. 1122) is amended by redesignating paragraphs (6) through (15) as paragraphs (7) through (16), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) The term 'marine biotechnology' means the application of molecular and cellular techniques to marine and other aquatic organisms for the purposes of—

"(A) identifying, isolating, developing and enhancing products that are derived from the aquatic environment;

"(B) developing new techniques and processes that may be applied to marine and coastal resources; and

"(C) monitoring human health and treating diseases.".

(2) Section 203(4) of the National Sea Grant College Program Act (33 U.S.C. 1122(4) is amended by inserting "marine biotechnology," immediately after "marine technology,".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 212 of the National Sea Grant College Program Act (33 U.S.C. 1131) is amended—

(1) in subsection (b), by inserting "but not including section 206" immediately after "section 209";

(2) by redesignating subsections (c), (d), and (e) as subsection (d), (e) and (f) respectively; and

(3) by inserting immediately after subsection (b) the following new subsection:

"(c) MARINE BIOTECHNOLOGY PROGRAM.—

"(1) GRANTS AND CONTRACTS.—There is authorized to be appropriated to carry out the provisions of section 206 (other than for administration) an amount —

"(A) for each of fiscal years 1994 and 1995, not to exceed $20,000,000; and

"(B) for each of fiscal years 1996 and 1997, not to exceed $25,000,000.

"(2) ADMINISTRATION.—There is authorized to be appropriated for the administration of section 206, an amount—

"(A) for each of fiscal years 1994 and 1995, not to exceed $200,000; and

"(B) for each of fiscal years 1996 and 1997, not to exceed $250,000.".

TITLE XXII—DOCUMENTATION OF VESSELS

SEC. 2201. AUTHORIZATION OF DOCUMENTATION FOR VARIOUS VESSELS.

(a) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), the Act of May 28, 1906 (46 App. U.S.C. 292), and sections 12106, 12107, and 12108 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with appropriate endorsements for the vessels listed in subsection (b).

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) ABORIGINAL (United States official number 942118).

(2) ALPHA TANGO (United States official number 945782)

(3) ANNAPOLIS (United States official number 999008).

(4) ARTHUR ATKINSON (former United States official number 214656).

(5) ATTITUDE (North Carolina registration number NC3607AN).

(6) BAGGER (Hawaii registration number HI1809E).

(7) BIG DAD (United States official number 565022).

(8) BIG GUY (United States official number 939310).

(9) BROKEN PROMISE (United States official number 904435).

(10) CHESAPEAKE (United States official number 999010).

(11) CHRISSY (Maine registration number ME4778B).

(12) CONSORT (United States official number 999005).

(13) CURTIS BAY (United States official number 999007).

(14) EAGLE MAR (United States official number 575349).

(15) EMERALD AYES (United States official number 986099).

(16) EMPRESS (United States official number 975018).

(17) ENDEAVOR (United States official number 947869).

(18) FIFTY ONE (United States official number 1020419).

(19) FIREBIRD (United States official number 253656).

(20) GIBRALTAR (United States official number 668634).

(21) HAMPTON ROADS (United States official number 999009).

(22) INTREPID (United States official number 508185).

(23) ISABELLE (United States official number 600655).

(24) JAMESTOWN (United States official number 999006).

(25) JOAN MARIE (North Carolina official number NC2319AV).

(26) KLIPPER (New York registration number NY8166AN).

(27) L.R. BEATTIE (United States official number 904161).

(28) LADY ANGELA (United States official number 933045).

(29) LADY HAWK (United States official number 961095).

(30) LADY HELEN (United States official number 527746).

(31) MANDIRAN (United States official number 939915).

(32) MEMORY MAKER (Maryland registration number MD8867AW, hull number 3151059).

(33) OLD HAT (United States official number 508299).

(34) ORCA (United States official number 504279).

(35) REEL TOY (United States official number 698383).

(36) RENDEZVOUS (United States official number 924140).

(37) SALLIE D (Maryland registration number MD2655A).

(38) SEAHAWK (United States official number 673537).

(39) SEAHAWK III (United States official number 996375).

(40) SEA MISTRESS (United States official number 696806).

(41) SERENITY (United States official number 1021393).

(42) SHAMROCK V (United States official number 900936).

(43) SILENT WINGS (United States official number 969182).

(44) SUNSHINE (United States official number 974320).

(45) TECUMSEH (United States official number 668633).

(46) VIKING (former United States official number 224430).

(47) WHY KNOT (United States official number 688570).

(48) WOLF GANG II (United States official number 984934).

(49) A hopper barge owned by Foley & Foley Marine Contractors, Inc. (United States official number 264959).

(50) Each of 2 barges owned by Roen Salvage Co., numbered 103 and 203.

(51) Each of 3 spud barges owned by Dan's Excavating, Inc., as follows:

(A) Spud barge 102 (United States official number 1021958).

(B) Spud barge 103 (United States official number 1021960).

(C) Spud barge 968 (United States official number 1021959).

(52) Each of 3 barges owned by Harbor Marine Corporation of Rhode Island, as follows:

(A) HARBOR 223 (approximately 110 feet in length).

(B) GENE ELIZABETH (approximately 200 feet in length).

(C) HARBOR 221 (approximately 90 feet in length).

(53) SMALLEY 6808 Amphibious Dredge (Florida registration number FL1855FF).

(54) TOO MUCH FUN (United States official number 936565).

SEC. 2202. AUTHORIZATION OF DOCUMENTATION FOR THE ATLANTIS III.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with appropriate coastwise endorsement for employment in the coastwise trade in Alaska during the period beginning May 1, 1995, and ending October 31, 1996, for the vessel ATLANTIS III (Coast Guard MSIS number CG006455).

SEC. 2203. VESSEL DOCUMENTATION FOR CHARITY CRUISES.

(a) AUTHORITY TO DOCUMENT VESSELS.—

(1) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, and subject to paragraph (2), the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with a coastwise endorsement for each of the vessels—

(A) GALLANT LADY (Feadship hull number 645, approximately 130 feet in length); and

(B) GALLANT LADY (Feadship hull number 651, approximately 172 feet in length).

(2) LIMITATION ON OPERATION.—Coastwise trade authorized under a certificate of documentation issued for a vessel under this section shall be limited to carriage of passengers in association with contributions to charitable organizations no portion of which is received, directly or indirectly, by the owner of the vessel.

(3) CONDITION.—The Secretary may not issue any certificate of documentation under paragraph (1) unless the owner of the vessel referred to in paragraph (1)(A) (in this section referred to as the "owner"), within 90 days after the date of the enactment of this Act, submits to the Secretary a letter expressing the intent of the owner to enter into a contract before October 1, 1996, for construction in the United States of a passenger vessel of at least 130 feet in length.

(4) EFFECTIVE DATE OF CERTIFICATES.—A certificate of documentation issued under paragraph (1)—

(A) for the vessel referred to in paragraph (1)(A), shall take effect on the date of issuance of the certificate; and

(B) for the vessel referred to in paragraph (1)(B), shall take effect on the date of delivery of the vessel to the owner.

(b) TERMINATION OF EFFECTIVENESS OF CERTIFICATES.—A certificate of documentation issued for a vessel under subsection (a)(1) shall expire—

(1) on the date of the sale of the vessel by the owner;

(2) on October 1, 1996, if the owner has not entered into a contract for construction of a vessel in accordance with the letter of intent submitted to the Secretary under subsection (a)(3); and

(3) on any date on which such a contract is breached, rescinded, or terminated (other than for completion of performance of the contract) by the owner.

SEC. 2204. EXTENSION OF DEADLINE FOR THE M/V TWIN DRILL.

Section 601(d) of Public Law 103–206 is amended by striking "June 30" in subpart (3) and inserting "December 31" and by striking "12" in subpart (4) and inserting "18".

SEC. 2205. COASTWISE TRADE AUTHORIZATION FOR HOVERCRAFT.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and sections 12106 and 12107 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for each of the vessels IDUN VIKING (Danish Registration number A433), LIV VIKING (Danish Registration number A394), and FREJA VIKING (Danish Registration number A395) if—

(1) all repair and alteration work on the vessels necessary to their operation under this section is performed in the United States;

(2) a binding contract for the construction in the United States of at least 3 similar vessels for the coastwise trade is executed by the owner of the vessels within 6 months after the date of enactment of this Act; and

(3) the vessels constructed under the contract entered into under paragraph (1) are to be delivered within 3 years after the date of entering into that contract.

SEC. 2206. WRECKED VESSEL.

The M/V SPIRIT OF THE PACIFIC NORTHWEST (Bahamian official number 725338) shall be considered to have met the requirements of the section 4136 of the Revised Statutes of the United States (46 App. U.S.C. 14), if the Secretary of Transportation determines—

(1) that the vessel was purchased or salvaged by a United States corporation and subsequently repaired in a shipyard in the United States; and

(2) that repairs to the vessel were equal to or greater than three times the appraised salved value of the vessel.

SEC. 2207. AUTHORIZATION FOR R/V ROSS SEAL TO BE DOCUMENTED UNDER THE LAWS OF A FOREIGN COUNTRY.

Notwithstanding any other law—

(1) during the period beginning March 1, 1995, and ending March 1, 1998, the vessel R/V ROSS SEAL United States official number 582641 may be documented under the laws of a foreign country;

(2) that vessel shall not be prohibited from or otherwise ineligible to engage in coastwise trade, by reason of having been documented under the laws of a foreign country in that period; and

(3) the Secretary of Transportation may not, by reason of that vessel having been documented under the laws of a foreign country in the period, withhold documentation for that vessel under chapter 121 of title 46, United States Code, .

Mr. HUGHES (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from New Jersey [Mr. HUGHES].

The amendment in the nature of a substitute was agreed to.

TITLE AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. HUGHES: Amend the title of the bill so as to read: "A bill to provide congressional approval of a governing international fishery agreement, to authorize appropriations for the Coast Guard for fiscal year 1995, and for other purposes.".

The title amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

STEWARDSHIP END-RESULT CONTRACTS DEMONSTRATION ACT

Mr. LAROCCO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2100) to provide for rural development, multiple-use management, expenditures under the Knutson-Vandenberg Act of 1930, and ecosystem-based management of certain forest lands, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stewardship End-Result Contracts Demonstration Act".

SEC. 2. PURPOSES.

(a) The purpose of this Act is to:

(1) develop and implement, as national demonstration projects, ecosystem-based, end result-oriented management practices for forestry in general;

(2) authorize the Secretary of Agriculture to demonstrate the feasibility of end-result stewardship contracts for national forests, State forests, and private forests in the United States;

(3) improve the management of and develop economically efficient management tools for ecosystem-based management applicable to all of the forest lands of the United States, both private and public;

(4) provide for rural development, rural jobs, and economic transition opportunities for forest dependent communities affected by changes in timber harvest volumes;

(5) authorize an alternative management technique for pest infested or pest damaged forest lands in general; and

(6) provide additional opportunities to achieve mandates established in:

(A) The Multiple-Use Sustained Yield Act of 1960 (Public Law 96–517);

(B) The Forest and Rangeland Renewable Resources Planning Act of 1974 (Public Law 93–378);

(C) The Clarke-McNary Act of 1924 (Public Law 98–270);

(D) The Deposit of Sale Instruments in Treasury Act of 1940 (Public Law 76-631);

(E) The Soil and Water Resources Conservation Act of 1977 (Public Law 95-192); and

(F) The Twenty-Five Percent Fund Act (35 Stat. 251).

SEC. 3. USE OF TIMBER REVENUES.

(a) AUTHORIZATION.—The Secretary of Agriculture, acting through the officers of the National Forest Service in charge of the forest lands referred to in subsection (b), may apply all or a part of the revenues received for timber removed from such lands under a stewardship end-result contract as an offset against the cost of stewardship services provided, including—

(1) site preparation;

(2) replanting;

(3) silviculture programs;

(4) recreation;

(5) wildlife habitat enhancement;

(6) soil conservation; and

(7) other multiple-use enhancements.

(b) APPLICABILITY.—The authority granted in this Act may be applied to the management of—

(1) the Green Mountain National Forest of Vermont;

(2) the White Mountain National Forest of New Hampshire and Maine;

(3) the Talladega, Tuskegee, Conecuh and William B. Bankhead National Forests of Alabama;

(4) acquired and other lands in the Angora Project, Lake Tahoe Basin Management Unit;

(5) the Kendrick Project, Coconino National Forest; and

(6) The Priest Lake Ranger District Project, Idaho Panhandle National Forest.

(c) ENVIRONMENTAL ASSESSMENT.—The National Environment Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply to the projects referred to in subsection (b), prior to the award of any contract.

SEC. 4. DISSEMINATION OF RESEARCH AND DEMONSTRATION RESULTS.

(a) The Secretary of Agriculture is authorized and directed to disseminate the results of the research and demonstration efforts authorized under this Act that are of the benefit to private and public forest owners.

(b) The Secretary may use the authorities granted to him in:

(1) The Forest and Rangeland Renewable Resources Research Act of 1978 (Public Law 95-307);

(2) The McIntyre-Stennis Act of 1962 (76 Stat. 806); and

(3) The Wood Residue Utilization Act of 1980 (Public Law 96-554)

SEC. 5. EXPIRATION.

This Act shall be effective during the period beginning on the date of enactment of this Act and ending on December 31, 1994.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. LA ROCCO

Mr. LAROCCO. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. LAROCCO.—Strike all after the enacting clause and insert the following:

SECTION 1. DEMONSTRATION PROGRAM FOR THE SPECIAL USE OF TIMBER REVENUES.

(a) DEMONSTRATION PROGRAM.—The Secretary of Agriculture may carry out a demonstration program on National Forest System lands described in subsection (b) to develop and implement management practices that are ecosystem based and end-result oriented.

(b) APPLICABILITY.—The demonstration program shall apply to the management of the Priest Lake District project, Idaho Panhandle National Forest.

(c) AUTHORIZATION.—Under the demonstration program, the Secretary of Agriculture may apply the value, or a portion of the value, of timber removed under a stewardship end result contract as an offset against the cost of stewardship services received, including site preparation, replanting, silviculture programs, recreation, wildlife habitat enhancement, and other multiple-use enhancements. The Secretary of Agriculture may apply such offsets until the demonstration project expires.

(d) COMPLIANCE WITH ENVIRONMENTAL REQUIRMENTS.—Nothing in this Act shall be construed to alter the responsibility of the Secretary to comply with environmental laws applicable to the lands of the National Forest System described in subsection (b).

(e) EXPIRATION OF AUTHORITY.—The authority provided in subsection (c) shall expire on December 31, 1995.

Mr. LAROCCO (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Idaho [Mr. LAROCCO].

The amendment in the nature of a substitute was agreed to.

TITLE AMENDMENT OFFERED BY MR. LAROCCO

Mr. LAROCCO. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. LAROCCO: Amend the title of the Senate bill so as to read: "A bill to provide for a demonstration program to develop and implement special management practices for certain National Forest System lands".

The title amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LAROCCO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2100, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Idaho?

There was no objection.

□ 1850

EXPRESSING SENSE OF CONGRESS WITH RESPECT TO CERTAIN REGULATIONS OF THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Mr. MURPHY. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be discharged from further consideration of the concurrent resolution (H. Con. Res. 14) expressing the sense of Congress with respect to certain regulations of the Occupational Safety and Health Administration, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore (Mr. SHARP). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 14

Whereas it is in the public interest to reduce the frequency of workplace accidents and the human and economic costs associated with such injuries;

Whereas workplace accidents involving powered industrial trucks are often the result of operation by poorly trained, untrained, or unauthorized operators;

Whereas Federal regulations promulgated by the Occupational Safety and Health Administration and codified at 29 C.F.R. 1910.178 require that operators of powered industrial trucks be trained and authorized:

Whereas existing regulations lack any guidelines to measure whether operators of powered industrial trucks are in fact trained and authorized;

Whereas operator training programs have been demonstrated to reduce the frequency and severity of workplace accidents involving powered industrial trucks; and

Whereas a petition to amend existing regulations to specify the proper components of a training program for operation of powered industrial trucks has been pending before the Occupational Safety and Health Administration since March 1988: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Occupational Safety and Health Administration is requested to publish, within one year of passage of this resolution, proposed regulations amending the regulation published as 29 C.F.R. 1910.178 to specify the components of an adequate operator training program and to provide that only trained employees be authorized to operate powered industrial trucks.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

WARREN B. RUDMAN UNITED STATES COURTHOUSE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the Senate bill (S. 2073) to designate the United States courthouse that is scheduled to be constructed in Concord, NH, as the Warren B. Rudman United States Courthouse, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. DUNCAN. Mr. Speaker, reserving the right to object, and I shall not object, I ask the distinguished chairman of the Subcommittee on Public Buildings and Grounds, the gentleman from Ohio [Mr. TRAFICANT], for a brief explanation of the bill.

Mr. TRAFICANT. Mr. Speaker, will the gentleman yield?

Mr. DUNCAN. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Speaker, this legislation would designate the courthouse scheduled to be constructed in Concord, NH, the Warren B. Rudman United States Courthouse. We all know the former Senator, former colleague of ours, who served the citizens of New Hampshire in the U.S. Senate from 1980 to 1992. Since leaving public service, Mr. Speaker, former Senator Rudman has returned to private law practice.

Warren Rudman graduated from Syracuse University, and, after serving in the Korean war, he graduated from Boston College Law School. He entered public service in 1970 with an appointment as attorney general of the State of New Hampshire. He served with distinction for 6 years.

Again in 1980, Mr. Speaker, Senator Rudman entered public service with his election to the U.S. Senate where he served the Nation for 12 years.

It is fitting and proper that Senator Rudman be honored by designating the courthouse in Concord, NH, the Warren B. Rudman United States Courthouse, and I commend the gentleman from New Hampshire [Mr. ZELIFF] for his strong work on this behalf, and I thank the gentleman from Tennessee [Mr. DUNCAN] for having yielded to me.

Mr. DUNCAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from New Hampshire [Mr. ZELIFF].

Mr. ZELIFF. Mr. Speaker, I rise in very strong support of S. 2073, a resolution to name the Federal courthouse scheduled to be constructed in Concord, NH, as the Warren B. Rudman United States Courthouse. This is a fitting tribute to one of New Hampshire's most revered public servants.

Mr. Speaker, Senator Rudman is known to have said, more than once, that he did not want anything named after him while he was alive. I hope this action will not protend too badly for him!

This tribute could not be more appropriate. Warren Rudman's life has been dedicated to the law, the judiciary, and ethics. He started his public career as legal counsel to former New Hampshire Governor Walter Peterson, who later named Rudman as New Hampshire's attorney general.

Warren is a highly decorated veteran of the Korean war. Returning to civilian life he became a leader by example for courage in the political process.

He is known by the distinguished gentlemen he has supported to become Federal judges—Norm Stahl, Paul Barbardaros, Steve McAuliffe and, of course, Supreme Court Justice David Souter. Warren Rudman was Souter's mentor and has said that one of his proudest moments is when Souter became a Supreme Court Justice.

Of course, Warren is perhaps best known for his dedicated work toward fiscal responsibility and his crafting of the deficit reduction law, Gramm-Rudman-Hollings.

This effort reduced the deficit from $222 billion to $150 billion and held it at this level for a three year period. Then the Gramm-Rudman-Hollngs medicine became too tough to take and Congress changed the formula that had worked.

He also distinguished himself on the Iran-Contra Committee, making the famous statement that in America "no one is above the law".

Warren has also dedicated himself to the ideal that no one in this country is beneath the law either.

He was champion of the Legal Services Corporation in the Senate, reflecting his belief that everyone, from the high and mighty to those who aren't, deserves equal treatment under the law.

Since his retirement, Warren continued his fight for fiscal sanity by forming the bipartisan Concord Coalition with former U.S. Senator Paul Tsongas. Warren continues to crisscross American speaking out for the hard choices necessary to balance the budget.

Senator BOB DOLE of Kansas, the minority leader in the Senate, said Warren Rudman "never ducked a tough issue, a tough vote, or a tough fight on the Senate floor".

Senator DOLE added, "you don't replace a Warren Rudman. You just thank the people of New Hampshire for giving us the honor of serving with this one-of-a-kind public servant."

He reminds me of the E.F. Hutton ad—when he talks, everyone in the Senate listens, because he always has something worthwhile to say. No Senator is better liked or more respected."

Senate majority leader GEORGE MITCHELL said that Warren Rudman "possesses one of the most penetrating legal minds in recent Senate history", adding that he "has a respect for and commitment to justice that has permeated all he has done in the Senate".

Senator MITCHELL noted that Warren Rudman's "name has become permanently associated with fiscal responsibility".

"His work on the Gramm-Rudman-Hollings deficit reduction act put the issue of continuing large budget deficits at the forefront of public policy discussion."

Mr. Speaker, the Warren B. Rudman United States Courthouse will stand as a constant reminder of a man who epitomized the ideal of public service. I strongly support the passage of this resolution.

Mr. DUNCAN. Mr. Speaker, I thank the gentleman from Ohio [Mr. TRAFICANT] for his explanation of this bill, and I thank my good friend, the gentleman from New Hampshire [Mr. ZELIFF], for his outstanding work and leadership on this bill. I, too, support this bill, Mr. Speaker.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF WARREN B. RUDMAN UNITED STATES COURTHOUSE.

The United States courthouse that (as of the date of enactment of this Act) is scheduled to be constructed in Concord, New Hampshire, shall be known and designated as the "Warren B. Rudman United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, regulation, document, record, map, or other paper of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "Warren B. Rudman United States Courthouse".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. TRAFICANT: Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. WARREN B. RUDMAN UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The United States courthouse to be constructed in Concord, New Hampshire, shall be known and designated as the "Warren B. Rudman United States Courthouse".

(b) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in subsection (a) shall be deemed to be a reference to the "Warren B. Rudman United States Courthouse".

SEC. 2. JAMIE L. WHITTEN FEDERAL BUILDING.

(A) DESIGNATION.—The Federal building located at the northeast corner of the intersection of 14th Street and Independence Avenue, Southwest, in Washington, District of Columbia, shall be known and designated as the "Jamie L. Whitten Federal Building".

(b) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in subsection (a) shall be deemed to be a reference to the "Jamie L. Whitten Federal Building".

SEC. 3. WILLIAM H. NATCHER FEDERAL BUILDING AND UNITED STATES COURTHOUSE.

(a) DESIGNATION.—The Federal building and United States courthouse located at 242 East Main Street in Bowling Green, Kentucky, shall be known and designated as the "William H. Natcher Federal Building and United States Courthouse".

(b) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in subsection (a) shall be deemed to be a reference to the "William H. Natcher Federal Building and United States Courthouse".

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

AMENDMENT TO THE TITLE OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. TRAFICANT: Amend the title so as to read as follows: "A bill to designate the Warren B. Rudman United States Courthouse, the Jamie L. Whitten Federal Building, and the William H. Natcher Federal Building and United States Courthouse.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

HOUSING PROGRAMS EXTENSION ACT OF 1994

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the bill (H.R. 5245) to provide for the extension of certain programs relating to housing and community development, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. LEACH. Mr. Speaker, reserving the right to object, the minority has no intention of objecting, but I think it would be reasonable for the House to have an explanation of the bill.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. LEACH. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, the Housing Programs Extension Act of 1994 is legislation that is needed to continue the authorization of a number of important housing programs.

The authorizations for these programs were included in H.R. 3838, the major housing reauthorization bill passed by the House on July 22 of this year. Unfortunately, the other body failed to pass a housing reauthorization bill. Therefore, without this bill, these programs will have no authorization and will expire.

The extensions include: the authority for HUD to temporarily extend project-based expiring section 8 contracts; preservation acquisition, and technical assistance and capacity building grants; housing counseling programs; the National Homeownership Trust; the Farmers Home Administration section 515 Rural Multifamily Rental Housing Program; and the continuation of community development block grant assistance to colonias. The bill also includes several program fund reuses that many Members of the House have sought and certain minor technical changes to several housing and community development programs necessary for their continued implementation.

As I have said, all the provisions included in this bill have been passed once by the House, by an overwhelming bipartisan vote. Their inclusion in this bill has been agreed to by both sides of the aisle and are critical to continuing vital housing and community development programs for our most vulnerable citizens in our Nation's urban and rural communities.

□ 1900

Mr. LEACH. Mr. Speaker, continuing my reservation of objection, I would simply like to add to what the chairman said. There has been noting that has passed this House in the housing arena in the last generation that has not carried the stamp of the gentleman from Texas, HENRY B. GONZALEZ. This is another example. I urge its adoption.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. SHARP). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Housing Programs Extension Act of 1994".

SEC. 2. HOUSING ASSISTANCE.

(a) EXPIRING SECTION 8 CONTRACTS.—

(1) REQUIREMENT.—Subject only to the availability of budget authority to carry out this section, not later than October 1, 1995, the Secretary of Housing and Urban Development shall make an offer to the owner of each housing project assisted under an expiring contract to extend the term of the expiring contract for 24 months beyond the date of the expiration of the contract.

(2) TERMS OF EXTENSION.—Except for terms or conditions relating to the duration of the contract, the terms and conditions under the extension provided pursuant to this subsection of any expiring contract shall be identical to the terms and conditions under the expiring contract.

(3) DEFINITION OF EXPIRING CONTRACT.—For purposes of this subsection, the term "expiring contract" means a contract for assistance pursuant to section 8(b)(2) of the United States Housing Act of 1937 (as such section existed before October 1, 1983) having a term that expires before October 1, 1996.

(4) DISPLACEMENT ASSISTANCE.—The Secretary of Housing and Urban Development may make available to tenants residing in units covered by an expiring contract that is not extended pursuant to this subsection either—

(A) tenant-based assistance under section 8 of the United States Housing Act of 1937; or

(B) a unit with respect to which project-based assistance is provided under section 8 of the United States Housing Act of 1937.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(b) DETERMINATION OF MEDIAN INCOME.—Section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(2)) is amended—

(1) in the fourth sentence—

(A) by striking "County" and inserting "and Rockland Counties"; and

(B) by inserting "each" before "such county"; and

(2) in the last sentence—

(A) by striking "County" the first place it appears and inserting "or Rockland Counties"; and

(B) by striking "County" the second place it appears and inserting "and Rockland Counties".

(c) ELIGIBLE USES OF EMERGENCY MODERNIZATION FUNDS.—Section 14(k)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437l(k)(1)) is amended—

(1) in the first sentence, by striking "$75,000,000" and inserting "$50,000,000"; and

(2) by adding at the end the following new sentences: "Of the amounts reserved each year under this paragraph, the Secretary shall make available to the Inspector General of the Department of Housing and Urban Development not more than $5,000,000 for costs in connection with efforts to combat violent crime in public housing. Using amounts made available pursuant to the preceding sentence during fiscal year 1995, the Secretary shall provide amounts in such fiscal year for the continuation of the drug elimination activities under Project Nos. IA05PO98003004 and IA05DEP0980193.".

(d) LOW-INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP ACT.—

(1) ACQUISITION GRANTS.—Section 234(b) of the Housing and Community Development Act of 1987 (12 U.S.C. 4124(b)) is amended by striking "1993," and all that follows through "1994," and inserting "1995".

(2) TECHNICAL ASSISTANCE AND CAPACITY BUILDING.—Section 257 of the Housing and Community Development Act of 1987 (12 U.S.C. 4147) is amended by striking "1993," and all that follows through "1994," and inserting "1995".

(e) USE OF SECTION 236 RENTAL ASSISTANCE FUND AMOUNTS FOR FLEXIBLE SUBSIDIES.—Section 236(f)(3) of the National Housing Act (12 U.S.C. 1715z-1(f)(3)) is amended by striking "September 30, 1994" and inserting "September 30, 1995".

(f) HOUSING COUNSELING.—

(1) EMERGENCY HOMEOWNERSHIP COUNSELING.—Section 106(c)(9) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(9)) is amended by striking "September 30, 1994" and inserting "September 30, 1995".

(2) PREPURCHASE AND FORECLOSURE PREVENTION COUNSELING DEMONSTRATION.—Section 106(d)(13) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(d)(13)) is amended by striking "fiscal year 1994" and inserting "fiscal year 1995".

(g) MAJOR RECONSTRUCTION OF PUBLIC HOUSING FOR DISABLED FAMILIES.—Section 5(j)(2)(G)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437e(j)(2)(G)(i)) is amended by striking "fiscal years 1993 and 1994" and inserting "fiscal year 1995".

(h) NATIONAL HOMEOWNERSHIP FUND.—Section 172 of the bill, H.R. 3838 (103d Congress), as passed by the House of Representatives on July 22, 1994, is hereby enacted into law.

(i) TREATMENT OF CERTAIN PROJECTS.—

(1) CONVERSION OF SECTION 23 PROJECT.—From amounts available for the conversion of the Tamaqua Highrise project in the Borough of Tamaqua, Pennsylvania, from a leased housing contract under section 23 of the United States Housing Act of 1937 to tenant-based assistance under section 8 of such Act, the Secretary of Housing and Urban Development shall, to the extent such amounts are made available in appropriation Acts, enter into an obligation for the conversion of the project to a project-based rental assistance contract under section 8 of such Act, notwithstanding the requirement for rehabilitation or the percentage limitations under section 8(d)(2) of such Act.

(2) COMPLIANCE WITH REHABILITATION REQUIREMENT.—Rehabilitation activities undertaken by E.T.C. Enterprises in connection with 16 scattered-site dwelling units that were rehabilitated to provide housing for low-income families and are located in Perth Amboy, New Jersey, and rehabilitation activities undertaken by Pennrose Properties in connection with 40 dwelling units for senior citizens in the Providence Square development located in New Brunswick, New Jersey, are hereby deemed to have been conducted pursuant to the approval of and an agreement with the Secretary of Housing and Urban Development under clauses (i) and (ii) of the third sentence of section 8(d)(2)(A) of the United States Housing Act of 1937.

(3) ELIGIBILITY OF PUBLIC HOUSING FOR DEMOLITION.—Section 415 of the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (Public Law 100-202; 101 Stat. 1329-213), is amended by striking "George Loving Place, at 3320 Rupert Street, Edgar Ward Place, at 3901 Holystone, Elmer Scott Place, at 2600 Morris, in Dallas, Texas, or".

SEC. 3. RURAL HOUSING.

(a) UNDERSERVED AREAS SET-ASIDE.—Section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended—

(1) in the first sentence, by striking "fiscal years 1993 and 1994" and inserting "fiscal year 1995"; and

(2) in the second sentence, by striking "each".

(b) RURAL MULTIFAMILY RENTAL HOUSING.—Section 515(b) of the Housing Act of 1949 (42 U.S.C. 1485(b)) is amended—

(1) by striking paragraphs (2) and (4);

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) such a loan may be made for a period of up to 50 years from the making of the loan;

"(3) the terms and conditions of such a loan shall provide for periodic payments, during the term of the loan, based upon a schedule for complete amortization of the loan over a 50-year period and for payment of any outstanding amounts due under the loan not later than the expiration of the term of the loan;".

(c) RURAL RENTAL HOUSING FUNDS FOR NONPROFIT ENTITIES.—The first sentence of section 515(w)(1) of the Housing Act of 1949 (42 U.S.C. 1485(w)(1)) is amended by striking "fiscal years 1993 and 1994" and inserting "fiscal year 1995".

(d) LOAN GUARANTEES FOR RURAL MULTIFAMILY RENTAL HOUSING LOANS.—Section 517 of the bill, H.R. 3838 (103d Congress), as passed by the House of Representatives on July 22, 1994, is hereby enacted into law.

(e) ELIGIBILITY OF AREA FOR RURAL HOMEOWNERSHIP LOANS.—Section 502 of the Housing Act of 1949 (42 U.S.C. 1472) is amended by adding at the end the following new subsection:

"(i) Notwithstanding section 520, the Secretary may make loans under this section for properties in the Pine View West Subdivision, located in Gibsonville, North Carolina, in the same manner as provided under this section for properties in rural areas.".

(f) DEFINITION OF RURAL AREA.—The last sentence of section 520 of the Housing Act of 1949 (42 U.S.C. 1490) is amended by striking "city of" and inserting "cities of South Tucson, Arizona, and".

SEC. 4. MORTGAGE INSURANCE AND SECONDARY MORTGAGE MARKET PROGRAMS.

(a) MULTIFAMILY HOUSING FINANCE.—Section 542(b)(5) of the Housing and Community Development Act of 1992 (12 U.S.C. 1707 note) is amended by striking "and 1994" and inserting ", 1994, and 1995".

(b) ASSESSMENT COLLECTION DATES FOR OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT.—Section 1316(b) of the Housing and Community Development Act of 1992 (12 U.S.C. 4516(b)) is amended by striking paragraph (2) and inserting the following new paragraph:

"(2) TIMING OF PAYMENT.—The annual assessment shall be payable in installments on October 1 and April 1 of each fiscal year.".

SEC. 5. COMMUNITY DEVELOPMENT.

(a) CERTAIN CDBG ASSISTANCE.—Section 916(f) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5306 note) is amended by striking "Act shall apply only with respect to fiscal years 1991, 1992, 1993, and 1994" and inserting "section shall not apply to fiscal years after fiscal year 1995".

(b) CDBG PUBLIC SERVICES LIMITATIONS.—Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) by striking "and" after "under this paragraph,";

(2) by striking "fiscal year 1994" and inserting "fiscal years 1994 and 1995"; and

(3) by inserting before the semicolon at the end the following: ", and except that of any amount of assistance under this title (including program income) to the Cities of Vallejo and Benecia and to Napa County, in California, such cities and county may use not more than 20 percent in fiscal year 1995 for activities under this paragraph";

(c) USE OF GRANT AMOUNTS.—

(1) PITTSBURGH, PENNSYLVANIA.—Notwithstanding any other provision of law, the city of Pittsburgh, Pennsylvania, may retain any amounts provided under an urban development action grant for Project No. B-86-AA-42-0275 and use such funds for the Central Pittsburgh Plaza project, if such project is commenced not later than 6 months after the date of the enactment of this Act.

(2) WILKES-BARRE, PENNSYLVANIA.—Notwithstanding any other provision of law, the city of Wilkes-Barre, Pennsylvania, may retain any amounts provided under an urban development action grant for Project No. B-87-AA-42-1211 and use such funds for the Northeastern Pennsylvania Economic Development project, if such project is commenced not later than 6 months after the date of enactment of this Act.

(3) RICHMOND, VIRGINIA.—The Secretary of Housing and Urban Development shall cancel the indebtedness of the city of Richmond, Virginia, relating to the categorical program settlement grant provided to the city to settle four urban renewal programs (Project No. B-78-UR-51-0019). The city of Richmond, Virginia, is hereby relieved of all liability to the Federal Government for such grant and any fees and charges payable in connection with such grant.

(4) LOCKPORT TOWNSHIP, ILLINOIS.—The Secretary of Housing and Urban Development shall cancel the indebtedness of Lockport Township, Illinois, relating to the public facilities loan for Project No. ILL-11-PFL0112. Lockport Township, Illinois, is hereby relieved of all liability to the Federal Government for the outstanding principal balance on such loan, the amount of accrued interest on such loan, and any other fees and charges payable in connection with such loan.

(5) BUDGET COMPLIANCE.—Paragraphs (3) and (4) of this subsection shall be effective only to the extent, or in such amounts, as are provided in appropriation Acts.

(d) NEW TOWNS DEMONSTRATION PROGRAM.—

(1) INSURANCE AUTHORITY.—The first sentence of section 1104(d) of the Housing and Community Development Act of 1992 (42 U.S.C. 5318 note) is amended to read as follows: "To the extent provided in appropriation Acts, the Secretary shall use any authority provided pursuant to section 531(b) of the National Housing Act to enter into commitments to insure loans and mortgages under this section in fiscal year 1995 with an aggregate principal amount not exceeding such sums as may be necessary to carry out the demonstration under this title.".

(2) SECOND MORTGAGE ASSISTANCE.—Section 1105(e) of the Housing and Community Development Act of 1992 (42 U.S.C. 5318 note) is amended to read as follows:

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1995 such sums as may be necessary for providing assistance under this section.".

(3) COMMUNITY DEVELOPMENT ASSISTANCE.—Section 1106(h) of the Housing and Community Development Act of 1992 (42 U.S.C. 5318 note) is amended to read as follows:

"(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1995 such sums as may be necessary for assistance under this section.".

(e) ECONOMIC DEVELOPMENT GRANTS.—Section 108(q) of the Housing and Community Development Act of 1974 is amended by adding at the end the following new paragraph:

"(5) AUTHORIZATION OF APPROPRIATIONS.—Using any amounts appropriated for grants under this subsection for fiscal year 1995, the Secretary shall make a grant in the amount of $3,650,000 in such fiscal year to the Earth Conservancy in Luzerne County, Pennsylvania, which shall be used for carrying out a demonstration of using innovative environmental technologies to reclaim land used for community and economic development purposes that has been damaged by anthracite coal mining activities.".

SEC. 6. MISCELLANEOUS PROVISIONS.

(a) STATE AGENCIES AS SURETIES.—Section 9304 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(c) STATE AGENCIES.—A State agency, including any financing authority established by any State, which meets the requirements of paragraphs (2) and (3) of subsection (a) may be treated as a surety corporation for purposes of this chapter. Notwithstanding any other provision of law, user fees collected by the Financial Management Services incident to sections 9304 through 9309 of this title shall be credited to the appropriation of that agency and may be retained without fiscal year limitation to carry out the provisions of such sections.".

(b) CLARIFICATION OF EFFECTIVE DATE FOR AMENDMENT RELATING TO COMMERCIAL MORTGAGE RELATED SECURITIES.—Section 347(d) of the Riegle Community Development and Regulatory Improvement Act of 1994 (Public Law 103-325; 108 Stat. 2241) is amended to read as follows:

"(d) EFFECTIVE DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall take effect as of the date of the enactment of the Housing Programs Extension Act of 1994.

"(2) NATIONAL AND INSURED STATE BANKS.—The amendment made by subsection (a) shall not apply with respect to national banks or, in accordance with section 24 of the Federal Deposit Insurance Act, insured State banks before the effective date of final regulations prescribed by the Comptroller of the Currency pursuant to subsection (c).".

AMENDMENT OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GONZALEZ:

In section 2(i) of the bill, add at the end the following new paragraph:

(4) SECTION 23 CONVERSION.—

(A) AUTHORIZATION.—Notwithstanding contracts entered into pursuant to section 14(b) of the United States Housing Act of 1937, the Secretary is authorized to enter into obligations for the conversion of the Pine Tower Apartments in Bay City, Michigan, from a leased housing contract under section 23 of such Act to a project-based rental assistance contract under section 8 of such Act.

(B) REPAYMENT REQUIRED.—The authorization made in subparagraph (A) is conditioned on the repayment to the Secretary of all amounts received by the public housing agency under the comprehensive improvement assistance program under section 14 of the United States Housing Act of 1937 for the Pine Tower Apartment Project and the amounts, as determined by the Secretary, received by the public housing agency under the formula in section 14(k) of such Act by reason of the project.

In the matter to be inserted by the amendment made by section 5(b)(3) of the bill, strike "Vallejo and Benecia and to Napa County, in California, such cities and county" and insert "Fairfield, Vallejo, Napa, and Vacaville, in California, such cities".

Mr. GONZALEZ (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Texas [Mr. GONZALEZ].

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL MAMMOGRAPHY DAY

Ms. NORTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 220) to designate October 19, 1994, as National Mammography Day, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I yield to the gentlewoman from Tennessee, Mrs. LLOYD.

Mrs. LLOYD. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise today for the consideration of Senate Joint Resolution 220, legislation that designates October 19, 1994 as National Mammography Day. Last year the President signed this measure into law.

While efforts to enact a comprehensive health care reform have fallen by the way side, there are still legislative initiatives, such as National Mammography Day, that address important steps toward reform. For example, early detection and treatment are critical steps in holding down medical costs and saving lives—particularly with breast cancer.

Unfortunately, many women are unaware of medical technologies, such as mammography screening, available to them today. We must educate women about breast cancer and make the medical information readily available. Awareness is the primary purpose of National Mammography Day.

According to the American Cancer Society, 182,000 women will be diagnosed with breast cancer in 1994, and 46,000 women will die from the disease. This disease affects 80 percent of women that have no prior family history of breast cancer. There is no known cure for breast cancer. Until we find a cure, early detection and treatment are the best chances that we have against its early stages.

Mammograms can reveal the presence of small cancer up to 2 years before regular clinical breast examinations, or breast self-examinations [BSE]—saving as many as a third more lives.

No women can be considered immune from this disease. As a breast cancer survivor myself, I realize the importance of mammography detection. Greater awareness of this technology is a key element in combating breast cancer.

Mr. Speaker, every year for the past 5 years, National Mammography Day has received greater participation and interest. Mammography screening awareness is one of many fundamental steps in educating the public about the importance of early detection and treatment of disease.

I hope that my colleagues will join in supporting 1 day during "National Breast Cancer Awareness Month" that educates and encourages women to receive a mammogram. Mammograms are not a panacea, but at this time mammography has proved to be an invaluable tool in the continuous fight against breast cancer. I look forward to the passage of this bill.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I want to thank the gentlewoman for her very appropriate comments and for the leadership she has taken with regard to inspiring women to have mammograms and the fact that this Congress is moving ahead with regard to breast cancer.

I would like to also point out that as we talk about speeches on the last day and contributions through the years, that this will be the last evening for the gentlewoman from Tennessee, who has been a real star on the Committee on Science, Space and Technology as well as in this women's health area. I hope that we will join in a round of applause for the gentlewoman from Tennessee, MARILYN LLOYD.

Mr. Speaker, with regard to this resolution, I just want to point out that with October being Breast Cancer Awareness Month, that we do have, because of legislation that we passed in 1990, the Breast and Cervical Cancer Mortality Prevention Act, we do have the ability for low-income and minority women to have mammography and pap smear screening. These are women who do not have health insurance and are not eligible for Medicaid, and they have kind of slipped through the cracks of the health care system. Forty-five States are now participating in the program.

Another piece of legislation that I think this Congress can be proud of is the fact that we passed the Mammography Quality Standards Act. This was in 1992. Because of that law, as of October 1 of this year, all facilities must have a certificate to operate mammography equipment and be accredited by a body approved by the Secretary. I think that that is a real tribute to the good quality and accurate mammography equipment.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I would also like to commend the gentlewoman from Tennessee [Mrs. LLOYD] for introducing this important measure. I join

with the gentlewoman from Maryland in paying tribute to the gentlewoman from Tennessee [Mrs. LLOYD] for her outstanding dedication to her work here in the Congress.

Mr. Speaker, I am pleased to rise in support of House Joint Resolution 418 which designates October 19, 1994 as National Mammography Day. I would also like to commend the gentlewoman from Tennessee [Mrs. LLOYD] for introducing this important measure.

Mr. Speaker, I continually find the statistics on breast cancer, and the mortality rate from breast cancer appalling. An estimated 180,000 new cases of breast cancer among women were diagnosed in the United States during 1992. Approximately one of every nine women will develop breast cancer during her lifetime.

Additionally breast cancer occurs rarely in men. Moreover, breast cancer incidence rates have increased about 3 percent a year since 1980. Some of this increase is believed to be due to screening programs detecting tumors before they become clinically apparent.

In spite of these shocking statistics many women do not practice routine breast examinations or utilize today's advanced mammography technology. I hope making October 19 National Mammography Day will reveal to all Americans the importance of utilizing today's technology in order to detect any abnormalities in the breast. Through prevention and early detection, one in every five deaths from breast cancer could be avoided.

Educating the public on the warning signals of breast cancer is essential to combating this life-threatening disease. Breast changes that persist, such as a lump, thickening, swelling, dimpling, skin irritation, distortion, retraction, scaliness, pain, or tenderness of the nipple must be brought to the attention of a physician. Then, through the use of technology, like mammography, early detection and treatment can save the lives of many women.

Statistics show that women with early stages of breast cancer, when the disease is still localized, experience a 92-percent survival rate, while the survival rate for women with more advanced regional cancer is only 71 percent. Even more tragic, is the fact that the survival rate for women with breast cancer which has advanced to more severe stages is only 18 percent.

Surely this is a disease for which an ounce of prevention is worth a pound of cure. National Breast Cancer Awareness Month can help get this message out, and can actually save women's lives.

Accordingly, I urge my colleagues to vote in favor of House Joint Resolution 418.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I thank the gentleman for his leadership in this area. It demonstrates that the men in this chamber care about the health of all our people.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, I want to commend the gentlewoman for this fine work and all of the work that has gone forward in cancer awareness.

I wanted to remind my colleagues that recently the cancer awareness luncheon was held here on the Hill over on the Senate side. The honorees this year for extraordinary work in breast cancer and prostate cancer awareness were CBS' own Harry Smith and Paula Zahn, who have done incredible work on their show in the morning to alert Americans to the need for cancer awareness and cancer information.

To them, again, I want to offer this moment of salute for the great work they do and for all associated on the Hill with the National Cancer Awareness Program in the hope that we can make it an even stronger program and even more effective program for the millions of Americans, including my own mother who is a breast cancer survivor from 1961 and who is kicking her heels today and enjoying the good life in Louisiana because of the great preventive medicine and cancer awareness and treatment that was accorded her. I would hope for every one the success of my mother in not only finding that dreaded disease early but in getting the same wonderful treatment she got and the great health that she currently enjoys today.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, that is a great personal testimony to the fact that all of us have mothers, sisters, aunts, children, daughters, who can benefit from this quality screening through the mammograms.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from Indiana [Mr. BURTON].

□ 1910

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentlewoman for yielding time to me, and I congratulate those who are sponsoring this legislation for doing so. Nothing is more important than making sure women are aware of the dangers of cancer, and urging them to get mammograms to make sure that they minimize their chance of dying from this dread disease.

Mr. Speaker, let me just say from personal experience in our family, mammograms are not enough. I think every women who is concerned about breast cancer should listen to what I am about to say, because in our family, mammograms were given every year to one of my family members for over 10 to 12 years, and they missed the cancer. They missed the cancer. In about 15 to 20 percent of the cases, mammograms do miss the cancer, so in addition to women getting mammograms, and I urge them to do so, self-examination is extremely important on a regular basis, because you may, unfortunately, be one of those 10 to 15 to 20 percent of the women that the mammograms simply miss the cancer. By the time it is found, you may be in a situation where you may not be able to survive.

Mr. Speaker, I would just say congratulations on sponsoring this legislation, but any woman who is concerned about her health should, in addition to getting a mammogram, make sure that she has periodic checkups and examines herself on a regular basis. I thank the gentlewoman for yielding to me.

Mrs. MORELLA. Mr. Speaker, indeed, that is very important, and I thank the gentleman from Indiana [Mr. BURTON] for pointing out self-examination and all of the other information is also necessary, in addition to mammograms.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 220

Whereas, according to the American Cancer Society, 182,000 women will be diagnosed with breast cancer in 1994, and 46,000 women will die from this disease;

Whereas, in the decade of the 1990's, it is estimated that about two million women will be diagnosed with breast cancer, resulting in nearly 500,000 deaths;

Whereas the risk of breast cancer increases with age, with 50 percent of the breast cancer cases occurring in women over age 65;

Whereas 80 percent of women who get breast cancer have no family history of the disease;

Whereas mammograms, when operated professionally at an accredited facility, can provide a safe and quick diagnosis;;

Whereas experts agree that mammography is the best method of early detection of breast cancer, and early detection is the key to saving lives; and

Whereas mammograms can reveal the presence of small cancers up to two years before regular clinical breast examinations or breast self-examinations (BSE), saving as many as a third more lives; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 19, 1994, be designated as "National Mammography Day," and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RECOGNIZING BELLEVILLE, NJ, AS THE BIRTHPLACE OF THE INDUSTRIAL REVOLUTION IN THE UNITED STATES

Ms. NORTON. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the concurrent resolution (H. Con. Res. 35) recognizing Belleville, NJ, as the birthplace of the industrial revolution in the United States and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I would like to congratulate the gentleman from New Jersey [Mr. KLEIN], who is the chief sponsor of this resolution, and indicate that the minority has no objection.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 35

Whereas, in 1753, Josiah Hornblower, an English engineer who was an associate and rival of James Watt, assembled the 1st functioning steam engine in the Western Hemisphere in Belleville, New Jersey, to pump water from the Schuyler copper mines;

Whereas, approximately 40 years after such assembly, the 1st steam engine made in the United States was manufactured in a foundry in Belleville from designs by Josiah Hornblower;

Whereas, the designs were commissioned by Nicholas Roosevelt, who was the great-uncle of Franklin Delano Roosevelt and Theodore Roosevelt, to power the Polacca, which was the 1st experimental steamboat in the United States;

Whereas the Polacca negotiated the Passaic River on October 21, 1798, which was several years before Robert Fulton's boat, Clermont, sailed the Hudson River;

Whereas historians herald the invention of the steam engine as the beginning of the industrial revolution;

Whereas the presence of Josiah Hornblower in Belleville brought many of the initiators of the industrial revolution in the United States to Belleville;

Whereas such individuals included members of the Rutgers family, many of whom are buried in the cemetery of the old Dutch Reformed Church in Belleville; and

Whereas Belleville has a rightful claim to the title "Birthplace of the American Industrial Revolution": Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) the Congress recognizes Belleville, New Jersey, as the birthplace of the industrial revolution in the United States; and

(2) the President is authorized and requested to issue a proclamation honoring Belleville as such birthplace.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

NATIONAL FAMILY LITERACY DAY

Ms. NORTON. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 413) designating November 1, 1994, as "National Family Literacy Day," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman for yielding to me.

Mr. Speaker, I am pleased to rise in support of House Joint Resolution 413 which designates November 1, 1994, as "National Family Literacy Day." I would like to commend the distinguished gentleman from Pennsylvania [Mr. GOODLING] for introducing this important measure.

Currently, as much as a quarter of the American work force, anywhere from 20 to 27 million adults, lack the basic reading, writing, and math skills necessary to preform in today's increasingly complex job market.

Additionally, one out of every four teenagers drop out of high school, and of those who graduate, one of every four has the equivalent of an eighth grade education.

As we all know, literacy is a vital asset which millions of Americans are lacking. Conversely, a chief economic competitor, Japan, has a literacy rate of nearly 100 percent by the age of 17. Obviously our deprived work force is not up to par with our competitors. Countless billions of dollars are lost every year due to the inability to read directions and solve problems. Millions of jobs cannot be attained due to a lack of these vital skills and the inability to complete application forms. It is our moral duty and obligation to emphasize and support education and literacy in this country.

Mr. Speaker, we must not lose hope for those families that are illiterate. Rather, we must make sure that all families have an opportunity to learn.

Accordingly, I urge my colleagues to vote in favor of House Joint Resolution 413.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I would like to point out the need for National Family Literacy Day, and literacy for all Americans. I represent a district that is considered among the most highly educated in the country, and yet one out of every seven adults is functionally illiterate, so it indicates the need for programs such as Head Start, along with Even Start, to bring adults to grow and to become literate along with their children.

Mr. Speaker, the author of this resolution, the gentleman from Pennsylvania [Mr. GOODLING], who has worked very hard for the cosponsors, is unable to be here for consideration of House Joint Resolution 413, as he had a prior commitment in his legislative district.

However, Mr. Speaker, I will insert his statement in the RECORD, because family literacy is extremely important to the gentleman from Pennsylvania. He is the author of the Even Start Family Literacy Program, and it is fitting that his statement appears along with other statements on this resolution.

The material referred to is as follows:

Mr. GOODLING. Mr. Speaker, I rise in support of House Joint Resolution 413, declaring November 1, 1994, as National Family Literacy Day.

The designation of National Family Literacy Day will help us pay tribute to programs which can play a major role in efforts to reform Nation's schools. As we examine the problems of our Nation's schools and the lack of achievement among students, one fact has become evident—there is a strong relationship between the literacy skills of a parent and the educational achievement of their children.

Unfortunately, millions of Americans are trapped in a cycle of poverty, dependency, and undereducation—and it impacts heavily on the ability of their children to do well in school. Family literacy programs open a door for such families, allowing them to work together to create a better future.

Family literacy programs can provide parents with the literacy skills they need to obtain employment and help their children with their homework. In addition they provide children with the skills they need to start school ready to learn—and to keep learning.

Several years go I introduced, and Congress enacted, the Even Start Program, a family literacy program which provides parents with education and job skills and their children with a quality preschool program. In addition, it provides parents with the skills they need to truly be their child's first and most important teacher. This program has been very successful.

Family literacy programs such as Even Start can also increase parental involvement in education. They encourage parents to read to their children and to become active participants in their child's education. Secretary of Education, Richard Riley, in outlining his new parental involvement effort, cited an Even Start Family Literacy Program as a good example of an effective parental involvement program.

An array of events celebrating Family Literacy Day have already been planned. For example, on November 1, National Family Literacy Day, Turner Network Television [TNT] will present a tribute to "Dr. Seuss." In addition, there are expected to be events related to National Family Literacy Day in communities throughout the United States.

I encourage my colleagues to join me in paying tribute to family literacy programs by declaring November 1, 1994 as National Family Literacy Day. These programs play an important role in school reform, welfare reform,

and can even play a role in a reduction in crime. They deserve our support.

Ms. ESHOO. Mr. Speaker, I rise today to hail the passage of House Joint Resolution 413, designating October 29, 1994 as "National Firefighters' Day."

On this day, I hope all citizens will take a moment and reflect on the extraordinary bravery and commitment to public service firefighters must possess to succeed in their profession.

Mr. Speaker, the natural reaction of people is to run from fires. Our firefighters run toward them. If, God, forbid, a fire strikes our house, we gather up our family and go out into the street and wait for the fire engines. Firefighters put themselves in harm's way. And sometimes unfortunately they give their lives, so that others may live.

They are also important figures in our community. They are held in awe by our children. They give their time working on fire prevention and other community service projects. In their off duty time, they are among the most active participants in our political process.

Today's firefighters are required to be fire scientists and first aid providers. As they face a raging fire they must possess the skill and training to master the vast array of hazardous materials and the complex types of combustible material. And how many times have you seen the firefighters first on the scene of a car accident working to rescue and provide assistance to the injured?

Mr. Speaker, I am proud of the firefighters in my district. I will be proud to honor them on their day later this month. I join with my colleagues in the House Representatives in thanking them for what they do for our community and asking God to watch over them and protect them.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 413

Whereas millions of American families are trapped in a cycle of poverty, dependency, and undereducation;

Whereas research shows that the most important factor in determining the life chances of a child is the level of educational attainment of the parents of the child;

Whereas a child whose parents lack a high school diploma are more than twice as likely to live in poverty than a child whose parents are high school graduates;

Whereas the level of education of a parent affects the level of literacy of the children of the parent, even when the children become adults;

Whereas family literacy programs can increase parent involvement in the education of children of the parent;

Whereas a child in a family literacy program demonstrates greater gains than a child in a child-focused program;

Whereas an adult participating in a family literacy program is more likely to remain in the program than an adult participating in an adult-focused program;

Whereas family literacy programs, such as Even Start and Head Start, provide a promising approach to improving the literacy skills of families; and

Whereas, if literacy is to be increased among the next generation of families, it is necessary to use family literacy programs to increase the educational skills of parents and children of the parents: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 1, 1994, is designated as "National Family Literacy Day". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe this day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL FIREFIGHTERS DAY

Ms. NORTON. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 411) designating October 29, 1994, as "National Firefighters Day" and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

Mrs. MORELLA. Mr. Speaker, reserving my right to object, I yield to the gentleman from Maryland [Mr. HOYER], the chief sponsor of House Joint Resolution 411.

Mr. HOYER. Mr. Speaker, I thank the gentlewoman from Maryland [Mrs. MORELLA] for her leadership, and also I want to thank my friend, the distinguished gentlewoman from the District of Columbia [Ms. NORTON] for her leadership, and for her assistance in passing this legislation.

Mr. Speaker, as the chairman of the Congressional Fire Services Caucus, I am pleased to bring National Firefighters Day to the floor. I would like to thank Chairman CLAY for his and his staff's efforts on this bill, and I would also like to thank Congressmen BOEHLERT, VALENTINE, WELDON, and BOUCHER for their efforts to help pass this bill.

Last year 78 firefighters died in the line of duty protecting their communities. Countless others were injured or disabled. The 2 million fire and emergency response personnel who step out each day, know the risk they face. Yet they do not shirk from their job and its responsibilities.

My colleague CURT WELDON likes to refer to these men and women as first-responders—and that is exactly what they are. They are first on the scene to fires, first on the scene to accidents, first on the scene to medical emergencies, and, often, they are the first ones to respond to crime scenes.

House Joint Resolution 411 will designate October 29, 1994, as National Firefighters Day, and is an appropriate way for Congress to recognize the efforts of our first-responders and of their comrades who died in the line of duty. I hope that all of my colleagues, and the American public will reflect on their work and sacrifices during this day. Again, I appreciate my colleagues support of this resolution, and am pleased to be able to recognize our country's first-responders.

Mr. Speaker, I want to thank my colleague, the gentlewoman from Maryland [Mrs. MORELLA], my colleague, the gentlewoman from the District of Columbia [Ms. NORTON], my colleague, the gentleman from New York [Mr. GILMAN], and the gentleman from Missouri [Mr. CLAY] for their leadership on this legislation.

Mrs. MORELLA. Mr. Speaker, further reserving my right to object, I want to indicate my strong support for this legislation.

Mr. Speaker, I rise to salute the more than 2 million firefighters nationwide, both career and volunteer, who risk their lives each year to protect and preserve our communities. I urge my colleagues to join me in paying tribute to these hometown heroes by supporting House Joint Resolution 411 which would designate October 29, 1994, as National Firefighters Day.

Each day, more than 1 million firefighters put their lives on the line to protect their communities. Setting aside 1 day to recognize these brave men and women who serve as our Nation's domestic defenders would raise awareness of the value and commitment to local communities of America's volunteer and career firefighters. It is the least that we can do.

On September 30, I had occasion to spend an evening at the Kensington, MD, Volunteer Fire Department and participating as an observer on calls run that night. I went at the invitation of Kensington Fire Chief James P. Stanton II and was assisted by Mike Kelley, who is Kensington's administrative officer. I came away from that experience with a great appreciation and tremendous respect for the valiant men and women who routinely face searing heat, choking smoke, clouds of toxic chemicals, and hazardous traffic conditions. When firefighters die in the line of duty, it is a tragedy. But I learned from Chief Stanton and Officer Kelley that firefighters understand the risks that they take and still are dedicated to helping their communities.

Montgomery County, MD, employs more than 800 professional firefighters and more than 1,000 volunteers. These unsung heroes put their safety on the line to protect the community and provide the highest quality of service to the citizens of my district. For their courage and their commitment, these firefighters, along with their counterparts across our Nation, deserve recognition for the sacrifices they make. I

urge my colleagues to support National Firefighters Day and send the fire community the message that we appreciate the essential and difficult work that they do.

□ 1920

Mr. Speaker, I want to commend the gentleman from Maryland [Mr. HOYER] and the Fire Safety Caucus of which we are all members for his leadership in this direction.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from New York [Mr. GILMAN] who is a member of that caucus.

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I am pleased to rise in support of H.J. Res. 411, which recognizes the dedication and sacrifices of our Nation's firefighters by designating October 29, 1994, as National Firefighters Day and I commend the distinguished gentleman from Maryland, the chairman of the Firefighters Caucus, Mr. HOYER, for his sponsorship of this resolution.

Our fire departments are the most crucial of all public services, but, in many ways, fire departments are often forgotten. Perhaps that is because they are not as visible daily as our police and postmen.

Yet the numbers show, that throughout our Nation, a higher percentage of firefighters are killed or injured in the line of duty than workers in any other occupation.

It is appropriate, therefore that there be a national day to honor the many sacrifices of our courageous firefighters, both volunteers and paid firemen, especially those firefighters who are killed in the line of duty each year. Our deepest sympathies go out to those families who have suffered such severe losses.

Mr. Speaker, accordingly, I urge my colleagues to support this important measure.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I would simply rise to thank my good friend and regional colleague for his initiative in bringing forward this resolution naming October 29, 1994, appropriately as National Firefighters Day. His appropriate dedication to firefighters in his region and all over the United States is well-known. I appreciate his leadership. I have a sentimental attachment to firefighters inasmuch as my own grandfather entered the D.C. Fire Department in 1902. That sentimental attachment is matched only by my great respect for firefighters in the District of Columbia who perform their duties under very difficult circumstances.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Ohio [Mr. SAWYER].

Mr. SAWYER. I thank the gentlewoman from Maryland for yielding.

Mr. Speaker, I would like to join my colleague, the gentleman from New York [Mr. GILMAN] and the gentlewoman from the District of Columbia in associating myself with the remarks of our colleagues the gentlewoman from Maryland, [Mrs. MORELLA] and especially the gentleman from Maryland [Mr. HOYER], the sponsor of this legislation.

As a former mayor, I can attest to the value that citizens place on firefighters. There is no more valued service day in and day out year after year that American citizens find in their governments on the local level than those of firefighters. Too often we look at firefighters as they sit and wait and think of the job as sedentary. But the truth of the matter is that the work of the firefighter is a matter of being ready, a matter of readiness to undertake the most chilling kind of work, to protect the lives of thousands of their fellow citizens.

I would like to join in those comments and to thank the gentleman from Maryland [Mr. HOYER] and all those involved in this legislation for their effort to recognize October 29 as National Firefighters Day.

If I might proceed for just a moment, please, I have to admit that I was looking for the gentleman from Pennsylvania [Mr. GOODLING] on the floor with regard, to H.J. Res. 413, National Family Literacy Day, and to my surprise found that he was unable to be here and as a result missed that opportunity to commend my friend for his leadership on that important issue.

The gentleman from Pennsylvania [Mr. GOODLING] and I have spent a good deal of time together on the Committee on Education and Labor and share the belief that if we fail to focus on the core problem of marginal literacy rates in this country, we will be building all our hopes for the future on a deeply perilous foundation.

I would like to point out to all of those who gather here and who listen to these words that the gentleman from Pennsylvania [Mr. GOODLING] was indeed the first person in this Congress and perhaps the first among lawmakers throughout the country to realize as fully as we all now do that low literacy is an intergenerational problem and that any meaningful solution will have to include intergenerational efforts. The Even Start Program that the gentleman from Pennsylvania [Mr. GOODLING] created and is now considered the preeminent family literacy model in the country is a model for sound legislation.

I have found this to be a hallmark of the incredible talent of the gentleman from Pennsylvania [Mr. GOODLING] as a legislator, that a powerful idea can be found in a simple and elegant approach.

With those few words, let me thank you all for the opportunity to proceed on two subjects rather than one and particularly to thank again those who stand today on behalf of our firefighters, the public servants that Americans value most day in and day out.

Mrs. MORELLA. Mr. Speaker, I thank the gentleman from Ohio and I concur with the wonderful sentiment that he expressed. I am glad the fact that he had the experience as a mayor that he decided to come to Congress as a representative.

Mr. WELDON. Mr. Speaker, I rise today in strong support of H.J. Res. 411, which commemorates October 29, 1994, as National Firefighters Day.

Let me first praise the distinguished gentleman from Maryland [Mr. HOYER] for his work on this and other important fire and life safety issues. As chairman of the Congressional Fire Services Caucus, he has used his insight and vision to address the issues facing the fire service today. I appreciate all of his efforts to bring this legislation to the floor tonight.

Mr. Speaker, National Firefighters Day is an important event each year. It is the one chance which we have to recognize the tremendous contributions made by the 1.7 million men and women who make up the fire service in America.

Firefighters are the backbone of our communities. Not only do they put out fires, they are often the first responders to medical emergencies and crime scenes. They get cats out of trees. They organize search parties to find lost children. They arrange parades on Memorial Day and the Fourth of July. They run community softball leagues. The fire station is often the site of weddings and other community functions. In many towns across the Nation, the fire station doubles as the community polling place.

Firefighting, unfortunately, is one of the most dangerous positions in America. Each year, approximately 100 men and women lose their lives in service to their communities. They are honored in a ceremony at the National Fire Academy in Emmitsburg, MD. I have attended several ceremonies at the Fallen Firefighters Memorial and know the sacrifies which this event commemorates.

This legislation is important to the families of those men and women and to everyone involved in the fire service. It is the chance for Congress to show that we understand the sacrifices which they have made to make their communities safer places to live.

As a former firefighter and fire chief, it gives me great pleasure to see the House pass H.J. Res. 411. I look forward to working with my colleagues in the 104th Congress to enact other legislation to provide more tangible assistance to the fire service, America's true domestic defender.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. SHARP). Is there objection to the request of the gentleman from the District of Columbia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 411

Whereas there are over 2,000,000 firefighters in the United States;

Whereas firefighters respond to more than 2,300,000 fires and 8,700,000 emergencies other than fires each year;

Whereas fires annually cause nearly 6,000 deaths and $10,000,000,000 in property damages;

Whereas firefighters have given their lives and risked injury to preserve the lives and protect the property of others;

Whereas the contributions and sacrifices of valiant firefighters often go unreported and are inadequately recognized by the public; and

Whereas the work of firefighters deserves the attention and gratitude of all individuals in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 29, 1994, is designated as "National Firefighters Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SMALL-TOWN SUNDAY

Ms. NORTON. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 184) to authorize the President to issue a proclamation designating Sunday August 1, 1993, as Small-Town Sunday, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I would simply like to acknowledge that this resolution was introduced by the gentleman from Indiana [Mr. MYERS].

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 184

Whereas small towns have made a significant contribution to American life;

Whereas small towns have been the spirit and backbone of this great Nation and have provided many common, traditional ideas and values throughout our history;

Whereas it is appropriate to recognize the importance of small towns in the development of a sense of community and to highlight the spirit of small towns;

Whereas it is vital to unify small-town residents in the process of revitalizing their own small town and reinvigorating small-town life; and

Whereas it is fitting that official recognition be given to the importance of small towns and a day set aside for activities that are most commonly associated with small towns, such as town festivals, family picnics, baseball games, et cetera: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President hereby is authorized and requested to issue a proclamation designating Sunday, August 1, 1993 as Small-Town Sunday.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MS. NORTON

Ms. NORTON. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Ms. NORTON: Strike all after the resolving clause and insert the following:

That the weekend of October 15–16, 1994, is designated as "Small Towns and Townships Weekend", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such weekend with appropriate ceremonies and activities.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentlewoman form the District of Columbia [Ms. NORTON].

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment of the joint resolution.

The joint resolution was ordered to be engrossed.

AMENDMENT TO THE PREAMBLE OFFERED BY MS. NORTON

Ms. NORTON. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble offered by Ms. NORTON:

Amend the preamble to read as follows:

"Whereas small towns and townships have been the spirit and backbone of this great Nation and have provided many common, traditional ideals and values throughout our history;

"Whereas it is appropriate to recognize the importance of small towns and townships in the development of a sense of community and to highlight the spirit of small towns and townships;

"Whereas it is vital to unify residents of small towns and townships in the process of revitalizing their own community and reinvigorating small-town life; and

"Whereas it is fitting that official recognition be given to the importance of small towns and townships and a weekend set aside for activities that are most commonly associated with small towns and townships, such as town festivals, family picnics, and baseball games: Now, therefore, be it".

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentlewoman from the District of Columbia [Ms. NORTON].

The amendment to the preamble was agreed to.

The joint resolution was ordered to be read a third time, was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MS. NORTON

Ms. NORTON. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Ms. Norton:

Amend the title so as to read: "Joint resolution designating the weekend of October 15–16, 1994, as 'Small Towns and Townships Weekend'.".

The amendment to the title was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

□ 1930

VETERANS' BENEFITS IMPROVEMENTS ACT OF 1994

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of the bill (H.R. 5244) to amend small title 38, United States Code, to revise and improve veterans' benefits programs, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SHARP). Is there objection to the request of the gentleman from Mississippi?

Mr. STUMP. Mr. Speaker, reserving the right to object, I yield to the gentleman from Mississippi [Mr. MONTGOMERY], chairman of the committee, for an explanation of the bill.

Mr. MONTGOMERY. Mr. Speaker, H.R. 5244 is a clean bill I have introduced today which fully embodies a compromise we have reached with our counterparts in the other body on H.R. 4386. For the purposes of discussion, I will be referring to the provisions of that bill as amended in my statement which follows:

Mr. Speaker, H.R. 4386, as amended, is a wide-ranging bill reflecting a compromise with our colleagues in the other body affecting literally all of the major benefit programs administered by the Secretary of Veterans Affairs. It includes provisions from seven bills reported by the Veterans' Affairs Committee and passed by the House in this Congress, including: H.R. 4386, H.R. 4088, H.R. 4776, H.R. 4768, H.R. 4724, H.R. 3456, and H.R. 949. There are many good provisions in this agreement, and I would like to highlight its major points by title:

TITLE I—PERSIAN GULF WAR VETERANS

First, and foremost, the compromise agreement would provide for the payment of compensation on a presumptive basis to those

veterans of the Persian Gulf War who suffer chronic disabilities resulting from undiagnosed illnesses attributed to their service in the Persian Gulf region. The Secretary of Veterans Affairs has indicated that current law does not permit the VA to grant service connection in these cases due to the absence of a diagnosis of the underlying illness.

The presumption of service connection would be applied in the case of a Persian Gulf War veteran who manifested the disability in question while on active duty in the Persian Gulf or within the period of time following such service to be set by the Secretary.

The compromise agreement would require the Secretary to develop and implement a uniform and comprehensive medical evaluation protocol to be available at all VA medical centers that will ensure appropriate medical assessment, diagnosis, and treatment of Persian Gulf War veterans who are suffering from undiagnosed illnesses attributed to service in the Persian Gulf. The Secretary would be further required, in consultation with the Secretary of Defense, to ensure that information collected in the protocol is collected and maintained in a manner which would facilitate information sharing between the VA and the clinical protocols of the Department of Defense for Persian Gulf War veterans. In addition, the Secretary would be required to develop case definitions and diagnoses for the illnesses suffered by Persian Gulf War Veterans at the earliest date possible.

The bill would also require VA to evaluate the health status of spouses and children of Persian Gulf War veterans. Under this authority, VA is to provide (through contract arrangements) for the conduct of diagnostic testing and medical examinations of spouses and children of veterans who are suffering from an illness or disorder and are listed in the VA's Persian Gulf registry. The medical data regarding the health of such spouses and children is to be entered into the registry. Such testing and examinations are to be carried out so as to determine whether there is an association between illness or disorder in the spouse or child and illness of the veteran. VA may devote up to $2 million on the study. The bill would also provide clarification, as regards the Persian Gulf Registry, that VA has authority to conduct diagnostic tests in carrying out required registry examinations.

It would also direct the Secretary to implement an aggressive outreach program for the benefit of Persian Gulf war veterans through the establishment of a toll-free Hotline and also through a recurring newsletter to be sent to Persian Gulf veterans who have signed onto the Persian Gulf Veterans Health Registry.

The bill as amended would authorize funding for the conduct of an epidemiological study, if recommended by the National Academy of Sciences, and the conduct of a survey of Persian Gulf veterans to collect additional data on their health status, as well as the health status of their families.

I would note that this title contains provisions that would affect direct spending. However, we have included offsetting cost-savings provisions which make this bill budget neutral.

TITLE II—BOARD OF VETERANS' APPEALS ADMINISTRATION

Title II of the compromise agreement would provide that members of the VA Board of Veterans' Appeals be compensated at basic rates of pay equivalent to Administrative Law Judges. This provision recognizes that the work performed by Board members is very similar to the work performed by ALJ's. It also recognizes the greater responsibility we have given individual Board members in making decisions on veterans' appeals. This provision is intended to insure that Members of the Board not feel compelled to pursue ALJ positions, but rather to remain at the Board, where their expertise is badly needed.

I would also replace term appointments for members of the Board with an ongoing performance review system to ensure that members of the board are performing at acceptable levels of efficiency and quality.

TITLE III—ADJUDICATION IMPROVEMENTS

The compromise agreement contains several provisions that would make improvements in the adjudication and appeals process, including a provision that would allow the Secretary of Veterans Affairs to accept the written statements of veterans with respect to the existence of dependents or marital status, rather than requiring the submission of certified copies of pertinent documents. The compromise agreement also includes a provision that would allow the Secretary to accept medical examination reports of private physicians under certain circumstances without need for an examination by a VA physician for the purpose of adjudicating veterans' claims for compensation or pension.

In addition, the agreement includes provisions requiring expedited treatment by the VA with respect to matters that have been remanded either by the U.S. Court of Veterans Appeals or by the VA Board of Veterans Appeals and permitting early screening of appeals at the BVA to determine whether further development of individual appeals is warranted. Many of these provisions were suggested to us by the veterans organizations.

TITLE IV—VETERANS' CLAIMS ADJUDICATION COMMISSION

Title IV of the compromise agreement provides for the establishment of a Veterans' Claims Adjudication Commission to study and make recommendations to the Secretary and the Congress regarding ways to further improve the system. The commission would be comprised of nine members who would be appointed by the Secretary of Veterans Affairs. The commission would be charged with conducting a comprehensive 18-month study of VA's system for adjudicating veterans' benefit claims and appeals. It would be required to submit preliminary and final reports of its findings and recommendations concerning the system to the Secretary and the House and Senate Veterans' Affairs Committees.

TITLE V—MISCELLANEOUS PROVISIONS

The compromise agreement also affects a wide spectrum of benefits for veterans or their survivors. For example, it would codify the administrative action taken by Secretary Brown to add four additional disabilities to the statutory list of disabilities for which a presumption of service connection is granted to Vietnam era veterans who were exposed to herbicides while serving in Vietnam.

It also contains provisions to clarify congressional intent with respect to earlier legislation affecting veterans' claims for compensation for disabilities attributed to exposures to ionizing radiation while on active duty, particularly during the occupation of Hiroshima and Nagasaki following World War II and during the atmospheric testing of nuclear devices.

The bill would establish in VA a Center for Women Veterans and a Center for Minority Veterans, to be headed by directors who would report directly to the Secretary or Deputy Secretary as principal advisors regarding policies and programs affecting women and minority veterans respectively.

The bill would also require the establishment of an advisory committee on minority veterans to advise the Secretary on needs of, and administration of benefits for, veterans who are minority group members.

TITLE VI—EDUCATION AND TRAINING PROGRAMS

Title VI of the amended bill generally reflects the provisions of H.R. 4768, the Veterans' Education and Training Act of 1994. I am very pleased that the other body agreed to accept, with a few technical changes, this measure which expands and improves education and training programs provided for veterans by Congress. The major provisions of Title VI would:

(1) Make permanent VA's authority to approve educational assistance benefits for vocational flight training under chapter 30, title 38, USC (the Montgomery GI Bill-Active Duty), chapter 106, title 10, USC (the Montgomery GI Bill-Selected Reserve), and chapter 32, title 38, USC (VEAP). VA has had temporary authority to approve flight training programs under PL 101–237 and PL 102–16, but both laws required that flight training benefits not be paid for courses commencing after September 30, 1994.

A provision of PL 101–237 required the VA to evaluate and report to Congress on the utilization and performance of vocational flight training. Because the VA's report confirmed that, for the vast majority of trainees, flight training has assisted them in achieving their employment objectives, I was very pleased to sponsor legislation making this a permanent program.

(2) Authorize a two-year pilot program for state-approved, alternative teacher certification. I want to point out that this provision is included as a result of an excellent recommendation made by Congressman Frank Tejeda of Texas. The State of Texas is a leader in utilizing alternative teacher certification programs that assist former service members entering the teaching profession. This provision will enable the VA to approve these programs for GI Bill benefits.

(3) Extend the expiration date of the Veterans' Advisory Committee on Education to the year 2003.

(4) Increase the maximum amount made available to State approving agencies (SAAs) from $12 million to $13 million. Funding for SAAs, who have provided State oversight of veterans' education and training programs since 1944, had been capped at an annual level of $12 million since 1989. During this time, the number of active educational institutions has risen by 20 percent and the number of training establishments has increased by 12 percent. Additionally, the number of trainees under VA education and training programs has increased approximately 40 percent since FY 1991 and is expected to increase an additional 25 percent through FY 1998. Because of the funding cap and resulting reductions in staffing levels and travel funds, the processing of new programs approvals have been delayed and SAA visits to educational institutions and training facilities are limited to those that have the greatest number of VA trainees or past problems. The funding increase included in this measure will enable SAAs to perform even more effectively and efficiently, thus maintaining the high quality of courses approved for veterans' training.

(5) Increase the level of funding available from VA's Readjustment Benefits Account for veterans' educational and vocational counseling services provided by contract from $5 million to $6 million. Requests for counseling have increased significantly over the past three years, fueled by the downsizing of the Armed Forces and increased awareness of the availability of counseling. Because of inadequate funding, the VA has been unable to provide counseling services to all who request it. Although I regret that monies were not available to provide a larger increase, this raise in the funding cap will enable the VA to provide counseling for an additional 3,400 veterans in FY 95.

(6) Amend the Service Members Occupational Conversion and Training Act of 1992 (SMOCTA) to eliminate the requirement that an employer provide job training, under a job training program approved for SMOCTA purposes for not more than 18 months. This provision, however, continues to limit SMOCTA reimbursement to employers to 18 months.

TITLE VII—EMPLOYMENT PROGRAMS

Title VII of the compromise is derived from H.R. 4776, the Veterans' Employment Act of 1994. The major provisions of this title would:

(1) Codify the position of Deputy Assistant Secretary of Labor for Veterans' Employment and Training (DASVET) and require that the individual filling this position be a veteran. The position of DASVET was established under Public Law 94-502, the Veterans' Education and Employment Assistance Act of 1976. A provision of Public Law 96-466, the Veterans' Rehabilitation and Education Amendments of 1980, elevated the DASVET to Assistant Secretary of Labor for Veterans' Employment (ASVET). Although this provision eliminated the statutory requirement for a DASVET, Assistant Secretaries have continued to appointment DASVETs. Because of the scope, importance, and complexity of employment and training programs administered by the Department of Labor which affect veterans, I have supported the continuation of the Deputy position, and this provision will codify what has long been common practice.

(2) Require that Disabled Veteran's Outreach Program specialists (DVOPS) be compensated at rates comparable to those paid other professionals performing essentially similar duties.

(3) Expand the biannual Bureau of Labor Statistics study of unemployment among special disabled veterans and veterans who served in the Vietnam Theater of Operations during the Vietnam era to include the following: Vietnam era veterans who did not serve in the Vietnam Theater of Operations; post-Vietnam era veterans; recently discharged veterans; and information regarding women veterans in each category.

(4) Require federal contractors to list all job openings in all job categories, except executive and top management positions, those positions that will be filled from within the contractor's organization, and positions lasting less than three days, with the appropriate local Employment Service office. I want to stress that the Department of Labor (DOL) must be very careful to narrowly define "executive" and "top management" when developing regulations implementing this provision. Under existing law, contractors are required to list all suitable positions. This provision was a necessary response to DOL's current regulation which defines "suitable" as a job opening which pays $25,000 per year or less. I am personally offended by the implication that only lower-paying positions are suitable for veterans when, in fact, some of the most talented, skilled, and efficient people in our national workforce are those who have served in our nation's Armed Forces. These men and women are a national resource whose skills and capabilities must be assimilated and integrated into the civilian workforce.

TITLE VIII—CEMETERIES AND MEMORIAL AFFAIRS

The compromise agreement would extend the authority for the State Cemetery Grant Program from September 30, 1994 to September 30, 1999, permit national cemetery burials for certain remarried surviving spouses and for spouses who predecease an eligible veteran, and authorize the use of flat gravemarkers at the Willamette National Cemetery in Oregon.

TITLE IX—HOUSING PROGRAMS

The compromise agreement also contains the provisions of H.R. 4724, including the following revisions to existing law.

First, it would provide loan guaranty eligibility for reservists discharged because of a service-connected disability and their surviving spouses on the same basis as that for veterans and their surviving spouses.

The bill would authorize the VA to include in interest rate reduction refinancing loans an additional amount for energy efficiency improvements. The VA is authorized to include the cost of energy efficiency improvements in VA loans up to $6,000, but energy improvement costs may not be included in interest rate reduction refinancing loans. We believe that any increased risk from an increase in the loan-to-value ratio would be slight and would be offset to a significant degree by the reduced payments resulting from lower interest rates.

The compromise would permit the conversion of an adjustable rate mortgage to a fixed rate mortgage despite the higher interest rate on the fixed rate mortgage. Interest rate reduction refinancing loans now are made with no additional charge against the veteran's entitlement, with the primary requirement being that the interest rate on the new loan must be less than the interest rate on the loan being refinanced. While the current interest rate on the adjustable rate mortgage is less than the rate on the fixed rate mortgage, it would often be beneficial over the long term for the veteran to refinance to a fixed rate loan.

The compromise agreement would also waive the two-year minimum service requirement for loan guaranty benefits for service members who were released for active duty due to a reduction in force. This provides equitable treatment to veterans adversely affected by Department of Defense drawdowns.

The last housing provision would restore eligibility on a one-time basis to veterans who have paid off their VA guaranteed home loans but have not disposed of the property. Under current law, two conditions must be met for restoration of a veteran's eligibility to housing benefits. The loan must have been paid off and the property disposed of. The change made by this bill affords equitable treatment where there is transfer of active military personnel or loss of property through divorce.

TITLE X—HOMELESS VETERANS PROGRAMS

The bill would require VA to submit an annual report by April 15 on its activities to assist homeless veterans. It would also revise the Homeless Veterans Comprehensive Service Programs Act of 1992 (Public Law 102-590) to raise the limit on the number of comprehensive homeless centers that the VA may establish from 4 to 8 and remove the requirement that funds for various initiatives in that law be specifically provided for in an appropriations law. Removal of this requirement is consistent with the 1994 appropriations conference report.

TITLE XI—REDUCTIONS IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL

Title XI of the amended bill would, by statute, establish a minimum number of employees in the Department of Veterans Affairs, to head of sweeping staffing reductions planned by the Office of Management and Budget. This body never sanctioned the hospital closures, program cuts, and long waiting lines for VA care that would inevitably have resulted from OMB's plans to slash more than 25,000 VA hospital employees from the Federal workforce. Under this measure, VA will have greater flexibility to streamline operations and achieve a level of workforce reductions more in keeping with the vital missions it carries out.

Mr. Speaker, as the effort to reduce the Federal workforce continues, we must be careful not to require across-the-board reductions throughout the government. As I said when I introduced a measure on Federal workforce reductions in February of this year, the policy of making the Veterans Health Administration subject to across-the-board cuts now being implemented by the Administration does not make any sense.

The Department of Veterans Affairs employs approximately 11% of the Federal civilian workforce. If you walk into a VA outpatient clinic today, VA officials will tell you that they have rationed care or told some veterans that they will have to get care elsewhere. Although health reform measures reported by our committee might have resolved some of these problems, the demand for VA services today is far greater than the VA's capacity to provide them.

VA needs to have flexibility in meeting the future workforce needs of its health care system. If this country is going to honor its commitment to provide health care to our nation's veterans, we should take steps to increase the VA's ability to provide care to veterans who want it.

If VA were forced to reduce the number of its employees by 5,000 every year for the next five years, it would have to tell even more veterans to get their health care someplace else. I want the VA to be able to provide health care in the same manner as private health-care providers. But if we insist that the VA participate in these across-the-board cuts the same as every other federal agency, the VA isn't going to make it.

Forcing the VA to begin shrinking services to veterans, when it should be making VA health care more accessible, is bad policy for veterans and for this nation. The only reason for reducing the size of the VA workforce is if veterans stop demanding care from the VA.

VA is a safety net for disabled and poor veterans. Nothing in the Workforce Restructuring Act assures these veterans health care from other sources if the VA loses 25,000 employees. Therefore, I want to tell my colleagues that this workforce reduction should not be implemented in an across-the-board fashion. As the GAO said in its analysis of the Vice President's proposals for Reinventing Government, "Across-the-board reductions that do not recognize the differing capacities of agencies to absorb such cuts could significantly exacerbate existing gaps in

agencies' abilities to meet their missions. As the overall level of federal employment is reduced, downsizing efforts need to allow for adding high quality staff to those agencies where shortages of properly skilled staff are hampering their effectiveness."

At a hearing held by our committee in March of this year, the representatives of almost three million veterans who depend on VA for their health care argued very vehemently against making VA subject to these across-the-board cuts in employment.

VA hospitals are not bloated bureaucracies. They are institutions which provide compassionate care to poor and disabled veterans. Many of these veterans are suffering from diseases such as mental illness, alcoholism, or other diseases which some community hospitals either disdain or find unprofitable. People are the lifeblood of a hospital. Eliminating staff from a hospital's workforce means shutting down the wards in which care is provided. We can't fool ourselves into thinking that because a profitmaking multinational corporation can reduce its workforce and increase profits that we can "streamline" VA hospitals that serve as a safety net for our veterans.

As the Vice President's report on "Reinventing Government" noted, "FTE ceilings are frequently arbitrary, rarely account for challenging circumstances, and are normally imposed as across-the-board percentage cuts in FTEs for all of an agency's units. . . . The President should direct OMB and agency heads to stop setting FTE ceilings in fiscal year 1995. . . . Instead of controlling the size of the federal workforce by employment ceilings—which cause inefficiencies and distortions in managers' personnel and resource allocation decisions—[the Executive branch should] control the federal workforce by dollars available in operating funds."

I agree with the Vice President's report, and would also note, as I did when I introduced H.R. 3808 earlier this year, that management flexibility is the key to "reinventing" the VA as an efficient health care provider in the future. Thus, I have pursued final Congressional action on this measure despite the opposition of the Office of Management and Budget, and despite opposition from other quarters who have complained that this would set a bad precedent for other vital government agencies. In response to them I would ask them "which veterans now getting VA health care do not deserve it? How many doctors and nurses does it take to fully staff a VA hospital and provide the quality of care veterans deserve?"

As it originally passed the House in April, this measure would have tied VA personnel levels to the level of funding provided by Congress each year through the appropriations process. In this summer, VA would have been free to make informed management decisions, on whether to "make or buy" necessary services, i.e., whether to use VA employees or contract out for services needed. While the compromise agreement is a good one which I strongly support, it does not give VA management quite the flexibility that the House-passed measure would have.

The compromise would establish an agency-wide floor on personnel of 224,377. I believe that this would allow VA to at least maintain its existing level of direct patient-care providers, and to retain the vital core of employees who answer veterans' telephone inquiries, counsel veterans, and adjudicate their claims for benefits. The FTEE floor is some 10,680 FTEE below the level authorized for the agency for 1994, so the VA is going to see some FTEE reductions. I believe the bill is very clear, however, in directing that persons who are not paid from appropriated funds, such as employees of the VA's Canteen Service and employees of independent, non-profit research corporations, be subtracted from the total number of current VA employees. This substation will, in part, make it possible for VA to satisfy FTEE reductions which OMB has ready imposed on it.

The bill would also prohibit any Executive Branch official from reducing the number of VA FTEE unless there are insufficient funds to employ personnel to carry out the Department's functions, or a subsequent law directed specifically at VA employment levels is enacted. The bill does not require the Secretary to maintain inefficient or costly programs if these operations could be more cheaply performed in the private sector. The bill suspends all of the existing restrictions on contracting out that were imposed on the VA in the early 1980's, restrictions imposed in an effort to deter mindless reductions in government that were so in fashion at the time. However, if the Secretary does decide to contract out some function, the Secretary would be required to include in the contract a requirement that the contractor give priority in hiring to employees of the Department who have been displaced by the award of the contract.

Mr. Speaker, I regret that it was necessary for the Congress to intervene in this matter in order to maintain the availability of services to veterans. However, I have no doubt that our failure to act would have meant serious adverse effects on veterans' access to benefits and services which the Congress has authorized and they have earned. It was absolutely necessary to act on this matter. To do otherwise would have been to breach the commitment that was made to veterans when we agreed to "care for him who have borne the battle".

TITLE XII—TECHNICAL AND CLERICAL AMENDMENTS

This title contains numerous technical and clerical amendments to the United States Code and other statutes that affect programs and services administered by the Secretary of Veterans Affairs.

I want to thank the Ranking Minority Member of the Committee, Bob Stump and the Subcommittee Chairman and Ranking Minority Members, who worked so diligently to reach this compromise with the other body. I particularly want to express my deep appreciation to the splendid work preformed on behalf of veterans over the years by the Vice-Chairman of the Committee, the gentleman from California, Mr. Edwards, as well as the gentleman from Ohio, Mr. Applegate, the gentleman from Georgia, Mr. Rowland, the gentleman from Minnesota, Mr. Penny, the Gentleman from Kansas, Mr. Slattery, and the gentleman from Illinois, Mr. Sangmeister. We will greatly miss these outstanding members of the Veterans Affairs Committee as they leave the House this year and I wish each of them the very best.

I also want to thank Senator Rockefeller and Senator Murkowski for their cooperation and hard work on this legislation. I strongly urge my colleagues to support this bill.

For the benefit of my colleagues and others interested in this legislation, there follows a complete explanation of the compromise prepared by the House and Senate Committees on Veterans' Affairs.

JOINT EXPLANATORY STATEMENT FOR H.R. 4386, THE VETERANS' BENEFITS IMPROVEMENTS ACT OF 1994

H.R. 4386 reflects a compromise agreement that the Senate and House of Representatives Committees on Veterans' Affairs have reached on certain bills considered in the Senate and the House of Representatives during the 103d Congress. These are the following: H.R. 4386, which the House passed on August 8, 1994; H.R. 4088, which the House Committee on Veterans' Affairs reported on August 4, 1994, and the House passed on August 8, 1994 as S. 1927; H.R. 4768, which the House passed on August 1, 1994; H.R. 4776, which the House passed on August 1, 1994; H.R. 4724, which the House passed on August 1, 1994; H.R. 949, which the House passed on September 21, 1993; H.R. 3013, which the House passed on June 13, 1994; H.R. 3456, which the House passed on November 16, 1993; S. 1908, which the Senate passed on August 19, 1994; S. 1546, which the Senate passed on March 25, 1994; S. 2330, which the Senate Committee on Veterans' Affairs reported on September 28, 1994; S. 2325, which the Senate Committee on Veterans' Affairs reported on September 27, 1994; S. 2094, which the Senate Committee on Veterans' Affairs reported on September 27, 1994; and S. 1626, which was reported by the Senate Committee on Veterans' Affairs on May 23, 1994, and passed by the Senate as part of H.R. 3313 on June 8, 1994.

The Committees on Veterans' Affairs of the Senate and House of Representatives have prepared the following explanation of H.R. 4386 as amended (hereinafter referred to as the "compromise agreement"). Differences between the provisions contained in the compromise agreement and the related provisions in the above-mentioned bills are noted in this document, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

TITLE 1—PERSIAN GULF WAR VETERANS

FINDINGS

Curent law: No provision.

House bill: Section 2 of H.R. 4386 sets forth specific congressional findings regarding Persian Gulf War veterans, including the following: (1) During the Persian Gulf War, members of the Armed Forces potentially were exposed to toxic substances and psychological stress; (2) Persian Gulf War veterans suffer from illnesses that cannot now be diagnosed or defined, and, as a result, VA does not consider these illnesses to be service connected for VA benefit purposes; (3) the National Institutes of Health Technology Assessment Workshop on the Persian Gulf Experience and Health, held on April 27–28, 1994, was unable to identify a single disease entity or syndrome responsible for these illnesses; (4) the workshop concluded that the data on the range and intensity of the exposure to toxic substances are limited and were collected after considerable delay; (5) under Public Law 102–585, VA established the Persian Gulf War Veterans Health Registry, authorized health examinations, and authorized NAS to conduct a review and assessment of the information about the health consequences of service during the Persian Gulf War, and to make recommendations for research; (6) Public Law 103–210 authorized priority health care for Persian Gulf War veterans; (7) Public Law 103–160, the National Defense Authorization Act for Fiscal Year 1994, provided funding for a specialized environmental research medical facility; and, (8)

further research and studies must be undertaken and veterans must be given the benefit of the doubt and provided compensation.

Senate bill: No comparable provision.

Compromise agreement: Section 102 follows the House, adding that the National Defense Authorization Act for Fiscal Year 1995 authorizes the Secretary of Defense to provide research grants for three types of studies of the Gulf War syndrome, including the following: (1) an epidemiological study or studies; (2) studies related to the health consequences of the use of pyridostigmine bromide; and (3) other studies on the causes, treatment, and possible transmission of Gulf War illnesses.

PURPOSES

Current law: No provision.

House bill: Section 3 of H.R. 4386 states the purposes of the House bill as follows: (1) To provide compensation to Persian Gulf War veterans suffering disabilities resulting from undiagnosed illnesses; (2) to require the development of case assessment strategies and definitions and diagnoses at the earliest possible date; (3) to promote greater outreach to Persian Gulf War veterans and their families; and (4) to fund research activities and surveys of Persian Gulf War veterans.

Senate bill: No comparable provision.

Compromise agreement: Section 103 follows the House bill.

DEVELOPMENT OF MEDICAL EVALUATION PROTOCOL

Current law: Title VII of the Veterans Health Care Act of 1992 (Public Law 102-585) requires the Secretary of Veterans Affairs to establish and maintain a Persian Gulf War Veterans Health Registry. Those individuals who served as a member of the Armed Forces in the Persian Gulf War become eligible for enrollment in the registry after they give historical information about their health and military exposures, receive a physical examination, and receive routine diagnostic testing.

On June 17, 1994, VA announced the implementation of a comprehensive case assessment protocol to be used by selected VA medical centers. The first phase of the protocol would continue to be the evaluation provided through enrollment into the VA Persian Gulf War Veterans Health Registry. If necessary, additional evaluations would be offered.

House bill: Section 104 of H.R. 4386 would require the Secretary of Veterans Affairs, in consultation with the Secretaries of Defense and Health and Human Services, to develop at the earliest possible date uniform case assessment protocols and case definitions or diagnoses for illnesses attributed to service in the Persian Gulf War. The Secretary of Veterans Affairs would be required to provide status reports on these activities, with the first such report due to the Committees on Veterans' Affairs of the House and Senate not later than 6 months after the date of enactment of the act.

Senate bill: Section 3 of S. 2330 is similar to the House bill and would require the Secretary to develop and implement a uniform and comprehensive evaluation protocol to provide extensive medical examinations to Persian Gulf War veterans who are suffering from illnesses the origins of which are unknown and that may be attributable to service in the Gulf War. It would not require VA to provide a case definition of the illness. Section 3 of S. 2330 also would require that the Secretary of Veterans Affairs, in consultation with the Secretary of Defense, ensure that information on the protocols of the two agencies is collected and maintained in a manner that enables the information to be analyzed together.

This section also would require that the VA provide the comprehensive clinical evaluations at as many VA medical centers are possible. This evaluation protocol must include evaluation for reproductive complaints, including but not limited to birth defects, miscarriages, and abnormal semen. If a VA medical center were to be unable to provide the comprehensive clinical evaluation, VA would have the authority to provide funding for the veteran to travel to a VA medical center or non-VA facility that can provide the necessary assessment, diagnosis, and treatment. VA would also have the authority to pay for care at non-VA medical facilities. For individuals whose symptoms or illnesses remain undiagnosed or unresponsive to treatment after comprehensive clinical evaluations at VA medical facilities, the Secretary of Veterans Affairs would be authorized to provide funds for the veteran to be evaluated by a recognized medical institution outside of the VA medical system. All information gathered by non-VA medical facilities as part of these protocols would be required to be maintained by VA.

VA would be authorized to enter into an agreement with the National Academy of Sciences under which appropriate members of the Academy would review the adequacy of the comprehensive clinical evaluation protocol and its implementation by VA.

Compromise agreement: Section 104 includes the requirement that VA develop a medical evaluation protocol, which was included in both the House and Senate bills. It includes the Senate provision requiring VA to make the medical protocol available in as many VA medical centers as possible and to include examinations and tests for reproductive complaints. The compromise agreement specifies that the Secretary has authority to contract out these medical examinations, tests, and consultations, and any necessary treatment, to non-VA facilities, and to pay for travel and incidental expenses, under section 1703 and section 111 of title 38. The Senate provision regarding reviews by the National Academy of Sciences is also included. The compromise agreement includes the House provision requiring that VA develop a case definition of "Gulf War Syndrome."

Section 104 reflects the Committees' concerns about the letters and Congressional testimony they have received from Gulf War veterans who report that they have had difficulty in obtaining appropriate medical examinations or diagnoses at numerous VA medical centers.

OUTREACH TO PERSIAN GULF VETERANS

Current law: Section 702(f) of Public Law 102-585 required VA to notify periodically individuals listed in the Persian Gulf War Veterans Health Registry of significant developments in research on the health effects of military service in the Persian Gulf during the Persian Gulf War. Neither this provision, nor any other provision in law otherwise specifically requires VA to establish an outreach program for Persian Gulf War veterans and their families. There are a number of benefits and services available to these individuals, but there currently is no single source of VA information to ensure that they know about the benefits and services for which they may be eligible, as well as the scientific studies and research currently being conducted and any developments with respect to such research.

House bill: Section 5 of H.R. 4386 would require the Secretary to develop and implement a comprehensive outreach program and information system to provide Persian Gulf War veterans and their families with information regarding VA's Persian Gulf War Veterans Health Registry, access to health services and health-related benefits, compensation and other benefits, and developments in research regarding the health consequences of service in the Persian Gulf, and to establish a toll-free telephone number for Persian Gulf veterans and their families.

This section also would amend section 702(f) of Public Law 102-585 to require VA to establish a newsletter to be distributed at least quarterly to all veterans listed on the VA's Persian Gulf War Veterans Health Registry, or survivors of such veterans. The newsletter would provide updates on the status and findings of Government-sponsored research on illnesses which may be related to the veteran's service in the Persian Gulf theater of operations. The newsletter also would include information regarding any VA or DOD compensation and benefits, including health care and other health-related benefits which may be available to Persian Gulf War veterans or their family members from either VA or DOD. The newsletter would be required to be prepared in consultation with veterans service organizations.

Senate bill: Section 4 of S. 2330 would require the Secretary to develop and implement a comprehensive outreach program to inform Persian Gulf veterans and their families of medical care and other benefits that may be available to them from VA and DOD. Subsection (b) would require that this outreach program include a newsletter to be updated and distributed at least annually to all veterans listed on VA's Persian Gulf War Veterans Health Registry. The newsletter would provide summaries of the status and findings of Goverment-sponsored research on illnesses which may be related to the veteran's service in the Persian Gulf theater of operations. The newsletter would also include information regarding any VA benefits which may be available to Persian Gulf veterans and their families. The newsletter would be required to be prepared in consultation with veterans service organizations.

Subsection (c) of section 4 would require that the outreach program include establishment of a toll-free number within 90 days after the enactment of the act to provide Persian Gulf War veterans and their families information about the Persian Gulf War Veterans Health Registry, health care, and other benefits provided by VA. In addition, the toll-free number would provide any other information the Secretary considers appropriate.

Compromise agreement: Section 105 follows the Senate bill, except that the Secretary would be required to issue the newsletter at least twice a year, and this requirement would terminate on December 31, 1999.

COMPENSATION BENEFITS FOR DISABILITY RESULTING FROM ILLNESS ATTRIBUTED TO SERVICE DURING THE PERSIAN GULF WAR

Current law: There is no provision in current law relating specifically to compensation for Persian Gulf War veterans.

House bill: Section 6 of H.R. 4386 would amend title 38 to add a new section 1117 which would require the Secretary to pay compensation to any Persian Gulf veteran suffering from a disability resulting from an undiagnosed illness that became manifest to a degree of at least 10 percent before October 1, 1996, or within 2 years after the veteran last performed active service in the Southwest Asia theater of operations, whichever is later. A veteran would not receive compensation if there was affirmative evidence that

the disability was not incurred during service in the Persian Gulf theater of operations during the Persian Gulf War or if there was affirmative evidence showing that the veteran suffered from an intercurrent injury or illness, recognized to be a cause of the disability, between the time of the veteran's departure from the Persian Gulf and the onset of the disability.

Payment of compensation under this provision would be for 3 years following enactment of the act, with an automatic extension of 3 years if the Secretary reports to the Committees on Veterans' Affairs of the Senate and the House of Representatives prior to the end of the first 3-year period that no diagnoses for the illnesses experienced by Persian Gulf veterans can be made, based on then-current medical knowledge. A report from the Secretary submitted to the Committees would be due by no later than April 1, 1997.

Senate bill: Section 2(a) of S. 2330 would amend title 38 to add a new section 1112A, which would provide the Secretary with express general authority to conduct an inquiry when the Secretary becomes aware of assertions that a group of veterans with the same or similar military service share similar diseases, illnesses, or medical signs or symptoms, and that such health conditions are related to their service. Such an inquiry would be carried out for the following purposes: To determine whether veterans with the particular military service in question have the claimed health conditions; to identify all veterans who had such service to determine which veterans have such health conditions; and to determine whether a presumption of service connection should be established for such health conditions.

Under this new authority, if the Secretary determines that a presumption of service connection for any such health condition should be established, the Secretary would be required to prepare a proposal for establishing such a presumption. The proposal would be required to include a description of the particular military service involved, the health condition at issue, the relevant medical characteristics associated with the health condition, and a statement of any limitations on the period for which the Secretary proposes to pay compensation.

After completion of the proposal, the Secretary would be required to submit a report to the Committees on Veterans' Affairs of the Senate and House of Representatives, including the proposal, as well as recommendations for legislation concerning the establishment of the presumption and the reasons for these recommendations.

With specific respect to veterans of the Persian Gulf War, section 2(c) of the Senate bill would require the Secretary to report to the Committees, within 30 days of enactment of the act, whether or not a presumption of service connection should be established between service in the Southwest Asia theater of operations and health conditions experienced by Persian Gulf War veterans. If the Secretary determines that such a presumption should be established, the Secretary, pursuant to section 2(d) of the bill, would be required to include in the report the elements of any report made under the provisions of the new section 1112A and publish proposed regulations relating to establishment of the presumption, allowing 30 days for public notice and comment on the proposed regulations. The Secretary would be required to publish final regulations within 30 days following the expiration of the public notice and comment period.

Section 2(e) would set certain requirements for the treatment of claims and compensation for Persian Gulf veterans if based on a presumption of service connection under the provisions of the Senate bill. First, an award of compensation under the new regulations would not preclude payment of retroactive benefits to a veteran with a claim pending on the date of enactment of these provisions, if VA later determines that the condition is service connected. Second, the Secretary would be required to consider sending all claims for compensation under the new regulations to one regional office for adjudication for purposes of ensuring consistency in rating decisions. Finally, VA would be required to reopen and readjudicate any claims for service-connected disability compensation for a health condition covered in the new regulations that were denied prior to enactment of these provisions. These claims would be considered original claims, and if compensation is eventually awarded, the effective date of the award would be the date the original claim was filed.

Compromise agreement: Section 106 would amend title 38 to add a new section 1117 which would provide the Secretary with authority to pay compensation to any Persian Gulf veteran suffering from a disability resulting from an undiagnosed illness that became manifest during active duty in the Southwest Asia theater of operations during the Persian Gulf War or to a degree of 10 percent or more within a period to be determined by the Secretary, based on a review of any available credible medical or scientific evidence and a review of the historic treatment afforded disabilities for which manifestation periods have been established. The Secretary also would be required to take into account other pertinent circumstances regarding the experiences of Persian Gulf veterans. The Secretary would be required to prescribe regulations to implement this provision.

New section 1117 would require the Secretary to include in the regulations a specification of the manifestation period of time following service in the Southwest Asia theater of operations that the Secretary finds appropriate for a presumption of service connection. In addition, the regulations would have to include a description of the particular military service involved, the illnesses for which compensation may be paid, and the relevant medical characteristics associated with each such illness.

Section 106 also contains a freestanding provision that would require the Secretary, within 60 days of enactment of the act, to submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report indicating whether or not the Secretary intends to pay compensation under new section 1117. If the Secretary states in the report to the Committees an intent to pay compensation under new section 1117, the Secretary must publish proposed regulations, as required by new section 1117, in the Federal Register within 30 days of the date of the report.

EVALUATION OF HEALTH STATUS OF SPOUSES AND CHILDREN OF PERSIAN GULF WAR VETERANS

Current law: Section 702 of Public Law 102-585 created a Persian Gulf War Veterans Health Registry. Only veterans can be included in this registry.

House bill: No comparable provisions.

Senate bill: Section 5 of S. 2330 would authorize the inclusion of up to 10,000 dependents in the Persian Gulf War Veterans Health Registry. VA would be required to conduct medical examinations and testing, consultation, and counseling for the dependent of any veteran who is listed in the registry if the veteran believes that the illness of any family member is related to the veteran's service in the Gulf War. The registry would also include information about miscarriages and stillbirths.

The Secretary would be required to determine the types of medical examinations and tests that are appropriate in order to determine the nature and extent of the connection, if any, between the illness or disorder of the individual and the illness of the veteran. These examinations are expected to be similar to registry exams for Gulf War veterans. These tests maybe provided by VA facilities or through contract with non-Department facilities.

Compromise agreement: Section 107, which is derived from the Senate provision, would require VA to conduct a pilot study, whereby VA would develop an evaluation protocol and guidelines for medical examinations, tests, and consultations with dependents of Gulf War veterans. These procedures would be restricted to those dependents whose illness, birth defects, or other disorder cannot be disassociated from the veterans' service in the Gulf War. There is no limit on the number of dependents who could be included in the registry; however, the number may be limited by the cost since the bill authorizes $2 million for the pilot study from November 1, 1994 through September 30, 1996. It would authorize VA to pay for the medical examinations, tests, and consultations through contracts with non-VA facilities. In addition, information provided by medical facilities that follow the VA protocol or guidelines could also be included in the registry even if the examinations and tests were not paid for by VA. The compromise also includes a provision regarding outreach to ensure that the maximum possible number of dependents would be included in this research.

The Committees expect that objective medical information on miscarriages, stillbirths, and birth defects can be included in the registry at minimum cost. The Committees also urge the VA to ensure that the pilot study is administered in such a way as to ensure that the medical information that is collected is sufficiently uniform, accurate, and appropriate to the goals of the study.

The purpose of the pilot study is to ensure that the VA conduct research on the illnesses of Gulf War veterans' spouses and children, using an existing data base and objective medical information. The VA is required to prepare a report to Congress describing the results of the pilot study, focusing on any information about the possible transmission of diseases associated with the Gulf War.

The Committees expect VA to use funds from the medical care account for the medical examinations and tests, data analysis, and administration of the pilot study.

CLARIFICATION OF SCOPE OF HEALTH EXAMINATIONS PROVIDED FOR VETERANS ELIGIBLE FOR INCLUSION IN HEALTH-RELATED REGISTRIES

Current law: Under section 703 of the Persian Gulf War Veterans' Health Status Act (Title VII of Public Law 102-585), VA is required to conduct medical examinations for any veteran and the information from those exams must be included in the Persian Gulf War Veterans' Health Registry.

House bill: No comparable provision.

Senate bill: Section 108 would clarify that the Persian Gulf War Veterans' Health Registry includes diagnostic tests in its definition of medical examinations.

Compromise agreement: The compromise follows the Senate provision.

SURVEY OF PERSIAN GULF VETERANS

Current law: There is no authorization in current law for VA to carry out a survey of Persian Gulf War veterans to gather information about their health status.

House bill: Section 8 of H.R. 4386 would require the Secretary of VA, in coordination with the Secretary of Defense, to carry out a survey of Gulf War veterans to gather information about their health problems and the health problems of family members.

Senate bill: No comparable provision.

Compromise agreement: Section 109 amends the House provision, so that it authorizes the survey as described in Section 8.

The Committees note that under the National Defense Authorization Act for FY 1995, Public Law 103-337, the Department of Defense will be providing research grants for non-Federal researchers to conduct similar research on Gulf War veterans, and encourages VA to ensure that VA funded research contributes unique information that will not be available from DoD-funded research.

AUTHORIZATION FOR EPIDEMIOLOGICAL STUDIES

Current law: Section 722 of the National Defense Authorization Act for FY 1995, Public Law 103-337, requires the Department of Defense to provide research funds to non-Federal scientists to conduct an epidemiological study or studies of U.S. service members and civilians who participated in the Persian Gulf War, and their families.

House bill: Section 9 of H.R.4386 would authorize VA to conduct an epidemiological study or studies if such a study is recommended by the National Academy of Sciences in the report required by section 706(b) of the Veterans Health Care Act of 1992 (Public Law 102-585).

Senate bill: No comparable provision.

Compromise agreement: Section 110 follows the House provision.

The Committees note that the National Defense Authorization Act for FY 1995, Public Law 103-337, requires the Department of Defense to provide research grants to non-Federal researchers to conduct an epidemiological study or studies of Gulf War veterans and their families. The Committees therefore encourage the VA to coordinate their research efforts to ensure that any epidemiological research funded by VA contributes unique information that will not be available from DoD-funded research.

COST-SAVING PROVISIONS

Current law: The Omnibus Budget Reconciliation Act of 1990 (OBRA 90), Public Law 101-508, amended section 3203 (new section 5503) of title 38 to limit monthly VA pension payments to $90 for Medicaid-eligible veterans with no dependents who are in nursing homes. Previously, veterans receiving nursing home care covered by Medicaid did not have their pension benefits reduced; however, the amount of their pension had to be applied toward the cost of the nursing home care. No part of that $90 payment can be applied to the cost of the veteran's nursing home care.

Under OBRA 90, this provision was originally due to expire September 30, 1992. The Veterans' Benefits Act of 1992 extended the provision through September 30, 1997, and added a provision applying the limitation to payment of pension to surviving spouses who have no dependents and are receiving nursing home care covered by Medicaid. OBRA 93 extended the provision through September 30, 1998.

There is no comparable protection for any amount of dependency and indemnity compensation (DIC) received by surviving spouses in nursing homes participating in Medicaid. The amount of their benefit payments, minus any amount allowed by the State for personal use, is available to be applied to the cost of their nursing home care.

Section 1317 of title 38 prohibits any person eligible to receive DIC based on a death after December 31, 1956, from being eligible for death pension.

There is no provision in current law which requires an adjustment of the rates of compensation and DIC based on an increase in the cost of living. However, Congress has passed legislation providing for a cost-of-living adjustment in these rates every year since 1976. With respect to calculating the annual cost-of-living adjustment in the rates of compensation and DIC, the Congressional Budget Office budget baseline assumes normal rounding, under which fractional dollar amounts of less than $0.50 are rounded down and fractional dollar amounts of $0.50 and more are rounded up.

House bill: Section 11(a) of H.R. of H.R. 4386 would amend section 1317 of title 38 to permit surviving spouses eligible to receive DIC to elect to receive death pension under chapter 15 in lieu of DIC. This would permit surviving spouses who are in Medicaid-covered nursing homes and who receive DIC to elect to receive death pension, in order to be able to retain $90 of their monthly benefits.

Section 11(b) of H.R. 4386 would provide that, with respect to any cost-of-living adjustment in the rates of compensation under chapter 11 and DIC under chapter 13 provided for fiscal year 1995, all increased rates (other than those equal to a whole dollar amount) must be rounded down to the next lower dollar.

Senate bill: No comparable provision.

Compromise agreement: Section 111 follows the House bill.

TITLE II—BOARD OF VETERANS' APPEALS ADMINISTRATION

Current law: Before 1990, members of the Board of Veterans' Appeals (BVA) had received pay and benefits comparable those received by Administrative Law Judges (ALJ's). However, the Pay Act of 1990, Public Law 101-194, removed ALJ's from the General Schedule, and thereby eliminated pay comparability between BVA members and ALJ's.

In 1988, Congress enacted the Veterans' Judicial Review Act of 1988, Public Law 100-687, which changed Board members' status (other than that of the Chairman) from permanent appointments to 9-year terms, subject to the possibility of reappointment. Under section 7101(b)(1) of title 38, the Chairman is appointed by the President, with the advice and consent of the Senate, for a term of 6 years.

Currently, a member of the Board may be removed by the Secretary, upon the recommendation of the Chairman. There are no standards that govern removal or reappointment of members. There is no statutory process for removal of a Board member. However, section 7101(b) provides grounds under which the President may remove the Chairman.

House bill: Sections 301 through 303 of H.R. 4088 would restore the pay comparability between members of BVA and ALJ's and eliminate term limits for board members (other than the Chairman). These provisions also would require the Chairman to establish job performance standards, with the approval of the Secretary, and would require that reviews be conducted not less than every 3 years. If the Chairman recommended that the member be noncertified, the Secretary would establish a panel of non-BVA employees of the Department or Federal employees from outside the Department, or a combination of VA and other Federal employees, to review the member's case.

Senate bill: Sections 302 through 304 of S. 2325 would restore the pay comparability between members of BVA and ALJ's, eliminate term limits for Board of Veterans' Appeals members (other than the Chairman), require the establishment of a peer review panel to periodically review the performance and fitness of Board members, and clarify that those BVA members who hold appointments through the Senior Executive Service (SES) retain their SES pay and status.

Compromise agreement: Section 201 would amend title 38 to add a new section 7101A which would eliminate term limits for Board members other than the Chairman and provide that members of the Board (other than the Chairman and Board members who are members of the SES) would receive the same basic pay as received by ALJ's (unless that would result in a reduction in pay). The pay provision would be effective on the first day of the first pay period beginning after December 31, 1994.

Under new section 7101A, the provisions for pay comparability with ALJ's and the elimination of term limits would be accompanied by new provisions instituting a system for periodic job performance review and recertification of members of the Board (other than the Chairman and any member who is a member of the SES). Section 7101A would require the Chairman to establish a panel, to include the Chairman and two other members of the Board (other than the Vice Chairman), that would conduct reviews of the job performance of Board members. The membership of this panel (other than the Chairman) would rotate among all members of the Board.

Section 7101A also would require that the Chairman, with the approval of the Secretary, establish job performance standards for Board members (except the Chairman and Board members who are members of the SES), which are to be objective and fair criteria for the evaluation of job performance. Section 202 would require that the job performance standards be established not later than 90 days after the enactment date of this act. This section also would require that the Secretary submit a report describing these standards to the Senate and House Committees on Veterans' Affairs no later than the date on which these standards take effect.

Within 1 year after the establishment of the job performance standards, section 7101A would require that the panel complete a review of the job performance of each member of the Board. Reviews would then have to be conducted and completed at least once every 3 years thereafter. If the panel determines that a Board member meets the performance standards, the Chairman would recertify the Board member. If a Board member does not meet the performance standards, the Chairman would be required either to grant the Board member conditional recertification or to recommend to the Secretary that the member be noncertified. A conditional recertification would require another review within 1 year after the conditional recertification. If the Board member does not meet the job performance standards after the period of conditional recertification, the Chairman must recommend to the Secretary that the member be noncertified.

If the Chairman recommends to the Secretary that a member be noncertified, either

after a performance review or after a period of a conditional recertification, the Secretary would be authorized to grant a conditional recertification or determine that the member should be noncertified. If the Secretary grants a conditional recertification, the performance review panel would review the member's job performance within 1 year and if the member still does not meet the standards, the Chairman would be required to recommend to the Secretary that the member be noncertified.

If the Secretary determines that the member should be noncertified, the member's appointment would be terminated and the member removed from the Board. Any Board member whose appointment is terminated and who was a career or career-conditional employee in the civil service prior to service on the Board would revert to the civil service grade and series held prior to appointment to the Board.

Section 7101A would require the Secretary to prescribe procedures for carrying out the provisions of the section, including the deadlines and time schedules for the actions required.

Section 203 would amend section 7101(b)(3) to specify that if the position of Chairman were to become vacant upon the expiration of the Chairman's term, the current Chairman would be authorized, with the approval of the Secretary, to continue to serve as Chairman until the Chairman is appointed to another term or a new Chairman is appointed. However, this section would provide that the Chairman would not be able to continue to serve under this provision beyond the end of the Congress during which the term of office expired.

TITLE III—ADJUDICATION IMPROVEMENTS

ACCEPTANCE OF CERTAIN DOCUMENTATION FOR CLAIMS PURPOSES

DOCUMENTS TO BE ACCEPTED AS PROOF OF RELATIONSHIPS

Current law: Until recently, VA's regulations did not allow acceptance of photocopies of documents that were not certified as evidence to show marriage, the annulment of a marriage, birth, the relationship of a child to the veteran, or death, or of any evidence from a foreign country (sections 3.202(c); 3.204(b) and (c); 3.205(a); 3.207(b); 3.209; 3.210; and 3.211 of title 38, Code of Federal Regulations). A photocopy could only be accepted if the original document had been viewed by an authorized individual and was certified as a true and exact copy of the original document. This requirement of certification existed only in VA's regulations; it was not a statutory requirement.

On September 8, 1994, VA published interim regulations to amend sections 3.202(c), 3.204(b) and (c), 3.205(a), 3.207(b), 3.209(a) and (b), 3.210(b) and (c), and 3.211(a) and (d) of title 38, Code of Federal Regulations, to implement the Secretary's decision to allow VA to accept photocopies of documents necessary to establish marriage, the annulment of a marriage, birth, the relationship of a child to the veteran, or death, or of any evidence from a foreign country for purposes of processing claims for VA benefits. Under these regulations, VA would still have the authority to request certified documentation in cases in which it is questionable whether the photocopies are genuine and free from alteration.

House bill: Section 405(a) of H.R. 4088 would amend title 38 to add a new section 5124 which would provide that, for purposes of determining eligibility for benefits, VA must accept a written statement from a claimant as proof of marriage, dissolution of a marriage, birth of a child, and death of any family member. The Secretary would be authorized to require the submission of documentation in support of the claimant's statement if the claimant does not reside in a State, or if the statement on its face raises a question as to its validity.

Senate bill: Section 202 of S. 1908 is a freestanding provision that would allow VA to accept photocopies of documents as proof of marriage, dissolution of marriage, birth, or death for purposes of determining eligibility for certain VA benefits. The Secretary would be authorized to require the claimant to submit additional supporting documentation if the document on its face raises a question with respect to its validity, or if there is reasonable indication of fraud or misrepresentation, in the document or otherwise.

Compromise agreement: Section 301(a) would amend title 38 to add a new section 5124 which would allow the Secretary to accept a statement from the claimant as evidence of marriage, dissolution of a marriage, birth of a child, or death of a family member for purposes of VA benefits. The Secretary would be authorized to require documentation in support of the statement if the claimant does not reside in a State, if the statement on its face raises a question as to its validity, if there is conflicting information in the record, or if there is reasonable indication of fraud or misrepresentation in the document or otherwise.

The Secretary is encouraged to exercise the authority granted under this section to the maximum extent feasible.

ACCEPTANCE OF PRIVATE PHYSICIAN EXAMINATIONS

Current law: Currently, under section 3.326 of title 38, Code of Federal Regulations (as amended by 59 Fed. Reg. 35851 (July 14, 1994)), VA generally requires a VA examination for purposes of determining eligibility for disability benefits. However, section 3.326(d) permits VA to accept the statement of a private physician in the following cases: (1) A claim for increased compensation due to an increase in the severity of a service-connected disability or due to the need of the veterans' spouse for aid and attendance; (2) a veteran's pension claim, including a claim for housebound or aid and attendance benefits; (3) a surviving spouse's claim for housebound or aid and attendance benefits; (4) a surviving parent's claim for aid and attendance benefits; or (5) a claim by or on behalf of a child who is permanently incapable of self-support.

House bill: Section 405(b) of H.R. 4088 would amend title 38 to add a new section 5125 which would require VA to accept the medical examination report of a private physician in support of a claim for benefits, without further examination by a physician employed by the Veterans Health Administration, if the report is sufficiently complete to be adequate for disability rating purposes.

Senate bill: Section 203 of S. 1908 is a freestanding provision which would allow VA to accept the medical examination report of a private physician in support of a claim for disability compensation or pension. Under this provision, a private physician's report would be required to contain sufficient clinical data to support the diagnosis or provide a reliable basis for a disability rating.

Compromise agreement: Section 301(b) would amend title 38 to add a new section 5125 which would allow the Secretary to accept the medical examination report of a private physician in support of any claim for VA compensation or pension, without a requirement for confirmation by an examination by a VA physician, if the report is sufficiently complete to be adequate for purposes of adjudicating the claim.

It is the express intention of the House and Senate Committees on Veterans' Affairs that, to the maximum extent feasible, the Secretary exercise the authority provided under this section as being in the best interest of veterans in furthering the timely adjudication of their claims for compensation by reducing the need for duplicative medical examinations by VA physicians.

EXPEDITED TREATMENT OF REMANDED CLAIMS

Current law: Section 7101 of title 38 provides that appeals to the Board of Veterans' Appeals (BVA) will be considered and decided in order according to their docket number. There is no statutory requirement government governing the treatment of claims on remand to the Board from the Court of Veterans Appeals or to regional offices from the Board.

House bill: Section 406 of H.R. 4088 is a freestanding provision that would require the Secretary to take such actions as may be necessary to provide that claims remanded by the BVA to regional offices or by the Court of Veterans Appeals to the Board be treated expeditiously.

Senate bill: No comparable provision.

Compromise agreement: Section 302 follows the House bill.

SCREENING OF APPEALS

Current law: Under section 7107 of title 38, appeals are considered and decided in order according to their docket numbers.

House bill: Section 407 of H.R. 4088 would amend section 7107 to permit the Board to screen cases on appeal at any point in the decision process (a) to determine whether the record is adequate for decisional purposes or (b) for the development or attempted development of a record that is inadequate for decisional purposes.

Senate bill: No Comparable provision.

Compromise agreement: Section 303 follows the House bill.

REPORT ON FEASIBILITY OF REORGANIZATION OF ADJUDICATION DIVISIONS IN VBA REGIONAL OFFICES

Current law: Currently, the administration of VA's compensation and pension programs is carried out in the 58 regional offices of the Veterans Benefits Administration, located in the 50 states, the District of Columbia, Puerto Rico, and the Republic of the Philippines. Each of these offices, except one, has an adjudication division.

House bill: Section 402 of H.R. 4088 would require the Secretary of Veterans Affairs to submit to the House and Senate Committees on Veterans' Affairs, within 180 days of enactment of this act, a report addressing the feasibility and impact of a reorganization of VA claims adjudication divisions to a number of such divisions that would result in improved efficiency in the processing of claims.

Senate bill: No Comparable provision.

Compromise agreement: Section 304 follows the House bill.

TITLE IV—VETERANS' CLAIMS ADJUDICATION COMMISSION

Current law: There is no provision in current law relating to a study of VA's system for adjudicating claims for benefits.

House bill: No comparable provision.

Senate bill: Section 101 of S. 1908 is a freestanding provision that would require an independent, comprehensive 18-month study by the Administrative Conference of the United States of VA's system for adjudicating benefit claims at the regional office level

and the appellate process at the Board of Veterans' Appeals (BVA).

The purpose of the study would be to evaluate the entire adjudication system in order to determine the efficiency of its processes an procedures, including the impact of judicial review on the system, means for reducing the backlog of pending cases in the system, and means for improving timeliness and quality of the claims process.

The study would be required to contain an evaluation and assessment of the entire claims adjudication system, including its historical development and the effect that the Veterans' Judicial Review Act of 1988 has had on the system; how claims are prepared and submitted; the procedures that exist for processing claims; the participation of attorney and nonattorney advocates in the system; VA's efforts to modernize its information management system; the impact of work performance standards at all levels of the claims process; the extent of implementation of the recommendations of the Blue Ribbon Panel on Claims Processing; the application of pilot programs initiated in regional offices; and the effectiveness of quality control and assurance practices.

In the course of its evaluation and study, ACUS would be required to consult with representatives of veterans service organizations and other organizations and entities representing veterans before VA, to include individuals who furnish such representation.

No later than 90 days following the enactment date of the legislation, VA would be required to provide ACUS and the Senate and House Committees on Veterans' Affairs with information deemed necessary by the chairman of ACUS for purposes of conducting the study, including specific statistical information concerning the adjudication of claims during the 5-year period October 1, 1988, through September 30, 1993.

Within 1 year after the date of enactment, ACUS would be required to submit to the Secretary and the Committees a preliminary report on the study. This preliminary report would contain the initial findings and conclusions of ACUS regarding the evaluation and assessment required. The preliminary report would not be required to include any recommendations for improving the system.

Within 18 months following enactment, ACUS would be required to submit a full report on its study to the Secretary and the Committees. The report would include: (1) The findings and conclusions of ACUS with respect to the study; (2) the recommendations of ACUS for improving the VA adjudication system; and (3) any other information and recommendations concerning the system that ACUS deems appropriate.

An appropriation of $150,000 would be authorized to VA for payment to ACUS for the costs associated with conducting the study and completing the report to be submitted to the Secretary and the Committees.

Compromise agreement: Title IV would require the establishment of an independent commission to study VA's system for the disposition of claims for benefits, both at the regional office level and at the Board of Veterans' Appeals. Section 401 would require that the commission be composed of nine members, all to be appointed by the Secretary of Veterans Affairs by February 1, 1995. The membership of the commission would be required to be composed of the following: One member who is a former VA official; two members from the private sector who have expertise in the adjudication of claims relating to insurance or similar benefits; two members who are employed in the Federal Government, outside VA, who have expertise in the adjudication of claims for Federal benefits other than VA benefits; two members who are representatives of veterans service organizations; one member recommended by the American Bar Association or a similar private organization who has expertise in administrative law issues; and one member who currently is a VA official.

Section 401 also would require that the commission hold its first meeting within 30 days after the last of the members has been appointed. Meetings would take place at the call of the chairman. The Secretary would be required to designate a member of the commission, other than the member who is a current official of the Department, to be the chairman.

Section 402(b), regarding the purposes of the study, is generally similar to section 101(b) of the Senate bill.

Section 402(c), regarding the contents of the study, is substantively similar to section 101(c) of the Senate bill. This section would require that the study consist of a comprehensive evaluation and assessment of VA's system for the disposition of claims and benefits delivery and any related issues the commission determines are relevant to such a study. However, section 402(c) would not include a specific requirement that the commission evaluate the historical development of the system and the effect that the Veterans' Judicial Review Act of 1988 has had on the system.

Section 402(d) would require the Secretary to submit to the commission and the Committees on Veterans' Affairs any information which the Chairman has determined necessary to carry out the study, not later than 30 days from the date on which the Chairman makes a request for such information.

Section 402(e), regarding the contents and timing of the preliminary and final reports required of the commission, is identical to section 101(f) of the Senate bill, requiring a preliminary report within 1 year of enactment of the act and a final report within 18 months of enactment.

Section 407 would authorize that $400,000 be made available from amounts appropriated to VA for fiscal year 1995 for the payment of compensation and pension for the activities of the commission.

TITLE V—MISCELLANEOUS BENEFITS-RELATED PROVISIONS

RESTATEMENT OF INTENT OF CONGRESS CONCERNING COVERAGE OF RADIATION-EXPOSED VETERANS COMPENSATION ACT OF 1988

RADIATION RISK ACTIVITIES

Current law: The Radiation-Exposed Veterans Compensation Act of 1988, Public Law 100-321, enacted on May 1, 1988, added a subsection (c) to section 1112 of title 38 which established a presumption of service connection for 13 cancers suffered by veterans who participated in a "radiation risk activity," defined as participation in an atmospheric test of nuclear devices, involvement in the occupation of Hiroshima and Nagasaki following World War II, or internment as a prisoner of war in Japan during World War II that might have resulted in exposure comparable to the occupation forces. Two additional cancers were added to this subsection by Public Law 102-578. On September 8, 1994, the Secretary published in the Federal Register a proposed amendment to section 3.309(d), Code of Federal Regulations, which would extend the presumption of service connection, and therefore eligibility for compensation, to U.S. veterans who participated in atmospheric nuclear tests conducted by Allied Governments.

House bill: Section 501(a) of H.R. 4088 would amend section 1112(c) of title 38 to clarify that participation in atmospheric testing of nuclear devices includes non-U.S. tests. The effective date of the amendment would be May 1, 1988, the date of enactment of Public Law 100-321.

Senate bill: No comparable provision.

Compromise agreement: Section 501(a) follows the House bill, except that the effective date of the amendment would be the date of enactment of the act.

SERVICE CONNECTION FOR CERTAIN DISABILITIES RELATING TO EXPOSURE TO IONIZING RADIATION

Current law: The "Veterans' Dioxin and Radiation Exposure Compensation Standards Act," Public Law 98-542, required VA to establish standards for adjudicating claims based on exposure to Agent Orange and radiation. VA adopted regulations for those claims in sections 3.311a and 3.311b of title 38, Code of Federal Regulations.

The United States Court of Veterans Appeals in Combee v. Principi, 4 Vet. App. 78 (1993), held that a veteran may not establish direct service connection for a disability based on radiation exposure unless the disability is on VA's regulatory list of "radiogenic diseases" issued pursuant to Public Law 98-542. The essence of the Court's decision was that by establishing a process in Public Law 98-542 relating to claims based on radiation exposure, Congress repealed the general compensation law as to such claims. This decision was reversed by the United States Court of Appeals for the Federal Circuit in Combee v. Brown, No. 93-7101 (Fed. Cir. Sept. 1, 1994).

At a March 24, 1994, hearing of the Senate Committee on Veterans' Affairs on this bill and other pending legislation, Under Secretary for Benefits R. John Vogel announced Secretary Brown's intention to publish a proposed amendment to the regulation to "permit a veteran to establish direct service connection for disability resulting from a disease claimed to be caused by radiation exposure even if that disease is not included in the list of diseases VA already recognizes as radiogenic." As of the date of passage of this legislation, VA has not published a proposed regulation to implement this change.

House bill: Section 501(b)(1) of H.R. 4088 would amend section 1113(b) of title 38, which provides that the provisions of law governing statutory presumptions may not be construed to prevent the establishment of service connection on a direct basis. The amendment would add a reference to the provisions of Public Law 98-542 to the provisions governing statutory presumptions, thereby affirming a claimant's right to attempt to establish direct service connection for a disability associated with exposure to ionizing radiation. This section applies to claims submitted after the date of enactment.

Senate bill: Section 301 of S. 1908 has the same intent as the House provision, but accomplished that goal through a proposed amendment to Public Law 98-542 in order to clarify Congress' intent in enacting the law. The amendment to Public Law 98-542 would add a new section, specifying that the regulations adopted by VA under the statute may not prohibit a veteran who served during an eligible period of service from establishing direct service connection for a disease or disability based on exposure to radiation, even though the veteran's condition is not considered by VA to be a "radiogenic disease."

Compromise agreement: Section 501(b) follows the House bill.

EXTENSION OF AUTHORITY TO MAINTAIN REGIONAL OFFICE IN THE PHILIPPINES

Current law: Under section 315(b) of title 38, the Secretary currently has the authority to maintain a regional office in the Republic of the Philippines until December 31, 1994.

House bill: Section 502 of H.R. 4088 would extend the Secretary's authority to maintain the regional office in the Republic of the Philippines until December 31, 1999.

Senate bill: No comparable provision.

Compromise agreement: Section 502 follows the House bill.

RENOUNCEMENT OF BENEFIT RIGHTS

Current law: Under section 5306 of title 38, if a claimant renounces his or her right to VA pension, compensation, or dependency and indemnity compensation, and subsequently reapplies, the new claim is treated as an original claim. Therefore, for purposes of any income-based program (pension or parents' DIC), only prospective income may be considered in determining the claimant's eligibility.

House bill: Section 503 of H.R. 4088 would amend section 5306 to provide that an application filed for non-service-connected pension under chapter 15 of title 38, or parents' DIC under chapter 13 of title 38, made within 1 year of a renouncement of such benefits, will not be treated as an original claim and benefits will be paid as though the renouncement had not occurred.

Senate bill: No comparable provision.

Compromise agreement: Section 503 follows the House provision.

CLARIFICATION OF PAYMENT OF ATTORNEY FEES UNDER CONTINGENT FEE AGREEMENTS

Current law: Under section 5904(d) of title 38, an attorney otherwise authorized to collect a fee for representation in a VA case may receive payment for such representation directly from VA out of a retroactive benefit award, provided that the total fee not exceed 20 percent of the amount of any past-due benefits awarded to the appellant, and provided that the fee is contingent upon whether or not the claim is ultimately resolved in favor of the appellant.

House bill: No comparable provision.

Senate bill: Section 4 of S. 1546 would amend 5904(d) to clarify that an attorney may receive payment for representation in proceedings before VA or the Court of Veterans Appeals directly from VA out of a retroactive benefit only if the total amount of the fee is contingent upon the claim being resolved in favor of the appellant.

Compromise agreement: Section 504 follows the Senate bill.

CODIFICATION HERBICIDE-EXPOSURE PRESUMPTIONS ESTABLISHED ADMINISTRATIVELY

Current Law: The Agent Orange Act of 1991, Public Law 102-4, enacted on February 6, 1991, established a statutory presumption of service connection for three conditions resulting from exposure to herbicides in the Republic of Vietnam during the Vietnam era: chloracne, soft-tissue sarcoma, and non-Hodgkins lymphoma. In addition, the act required VA to contract with the National Academy of Sciences for a review of the scientific literature on the health effects of exposure to herbicides. NAS was required to report its findings to the Secretary, who then was required to decide whether presumptions of service connection should be established for any of the conditions considered by NAS. In 1993, following the submission by NAS of the first report under the act, the Secretary announced decisions to add to the presumptive list Hodgkins disease, porphyria cutanea tarda, respiratory cancers (lung, trachea, bronchus, and larynx), and multiple myeloma. VA has finalized regulations to implement these decisions, found in section 3.309(e) of title 38, Code of Federal Regulations.

House bill: Section 201 of H.R. 4088 would amend section 1116 of title 38 to codify the presumptions of service connection based on exposure to herbicides for Hodgkin's disease, porphyria cutanea tarda, respiratory cancers (lung, trachea, bronchus, and larynx), and multiple myeloma established administratively by the Secretary.

Senate bill: No comparable provision.

Compromise agreement: Section 505 follows the House bill.

TREATMENT OF CERTAIN INCOME OF ALASKA NATIVES FOR PURPOSES OF NEEDS-BASED BENEFITS

Current law: Under current law, VA pays disability pension to non-service-connected wartime veterans whose annual incomes fall below levels specified in section 1521 of title 38 and who meet other qualifying criteria specified by statute. For purposes of computing annual income (and, thus, determining eligibility for pension and the amount of benefits paid), VA takes into account "all payments of any kind or from any source" received by the veteran, except as specified in section 1503 of title 38, or as otherwise excepted by law.

The Alaska Natives Claims Settlement Act, Public Law 92-203, codified at 43 U.S.C. section 1601 et seq. (ANCSA), sets forth the provisions under which the aboriginal land claims of Alaska's Native peoples were settled. ANCSA authorized the creation of 12 Native-owned and -operated regional corporations to administer assets transferred under the act for the benefit of Alaska Native shareholders. These corporations continue to exist today, and they distribute funds received in settlement of Native land claims and funds generated from corporate earnings to Native village corporations and to Alaska Native shareholders.

House bill: No comparable provision.

Senate bill: Section 5 of S. 1626 would amend section 1503(a) by adding a new paragraph (11), to exclude payments received from Alaska Native corporations under ANCSA from the calculation of income for purposes of determining eligibility for VA pension, but only to the extent that these payments are excluded for purposes of other means-tested Federal benefits programs as specified in ANCSA.

Compromise agreement: Section 506 would establish a freestanding provision of law which reflects the intent of the Senate bill.

ELIMINATION OF REQUIREMENT FOR PAYMENT OF CERTAIN BENEFITS IN PHILIPPINE PESOS

Current law: Sections 107, 3532(d) and 3565(b)(1) of title 38, provide that VA benefits paid to certain eligible veterans in the Republic of the Philippines will be paid in Philippine pesos.

House bill: No comparable provision.

Senate bill: Section 402 of S. 2325 would amend sections 107, 3532(d), and 3565(b)(1) of title 38 to eliminate the requirement that certain VA benefits paid to eligible veterans in the Republic of the Philippines be paid in pesos, thereby allowing VA to issue regulations in order to comply with the requests of the Departments of State and Treasury that such restrictions be eliminated.

Compromise agreement: Section 507 follows the Senate bill.

STUDY OF HEALTH CONSEQUENCES FOR FAMILY MEMBERS OF ATOMIC VETERANS OF EXPOSURE OF ATOMIC VETERANS TO IONIZING RADIATION

Current law: There is no provision in current law relating to a study of the family members of atomic veterans.

House bill: No comparable provision.

Senate bill: Section 401 of S. 2325 would require the VA to enter into a contract with the Medical Follow-up Agency of the National Academy of Sciences, or a similar research entity, to convene an expert panel to determine the feasibility of a study of reproductive problems among atomic veterans. MFUA would be required to convene the panel and report their findings to Congress within 180 days. If MFUA concludes that such a study would be feasible, VA would be required to seek to enter into a contract with MFUA or a similar research entity to conduct such a study.

Compromise agreement: Section 509 is derived from the Senate provision but would delete the authorization for the research project itself, while maintaining the requirement that VA enter into a contract with MFUA to convene an expert panel to determine the feasibility of such research.

CENTER FOR MINORITY VETERANS AND CENTER FOR WOMEN VETERANS

Current law: Section 317 of title 38 requires the Secretary to designate one Assistant Secretary as VA's Chief Minority Affairs Officer (CMAO) with overall responsibility for assessing the needs of minority and women veterans, and for evaluating VA policies, regulations, programs, and other activities as they affect such veterans. Section 542 of title 38 establishes a VA Advisory Committee on Women Veterans and requires that the Committee consist of representatives of women veterans, experts in fields pertinent to the needs of women veterans, and representatives of both male and female veterans with service-connected disabilities.

House bill: H.R. 3013 would add a new section to Chapter 3 of title 38 to (a) establish a Center for Women Veterans in the Department of Veterans Affairs; (b) provide that the Director of the Center would report directly to the Secretary or the Deputy Secretary concerning the activities of the Center; (c) specify the functions for which the Director would be responsible; (d) require the Secretary to ensure that the Director is furnished with sufficient resources in order to carry out the functions of the Center in a timely manner; and (e) require that VA's documents regarding the budget include information about the Center.

Senate bill: S. 2429 would (a) create an Office for Minority Veterans which is similar in structure and purpose to the Center for Women Veterans in the House bill, in order to assist minority veterans; (b) establish an Advisory Committee on Minority Veterans; (c) designate a minority veterans representative at each VA facility; (d) create an Office for Women Veterans, which is substantively identical to the Center for Women Veterans established in the House bill; and (e) require that a representative of women veterans who have served in combat and a representative of those who have not served in combat serve on the Advisory Committee on Women Veterans.

Compromise agreement: Section 509 contains provisions derived from the House bill and the Senate bill which would establish a Center for Minority Veterans and a Center for Women Veterans.

ADVISORY COMMITTEE ON MINORITY VETERANS

Current law: There is no current law regarding the establishment of a VA Advisory Committee for Minority Veterans.

House bill: No comparable provision.

Senate bill: Section 2 of S. 2429 would (a) require the Secretary to establish an Advisory Committee for Minority Veterans; (b) require the Committee membership to represent certain groups relating to minority veterans; and (c) require the Committee to submit a report to the Secretary, not later than July 1 of each even-numbered year, which assesses the needs of and programs for minority veterans, and require the Secretary to share this report with Congress.

Compromise agreement: Section 510 follows the Senate bill, except that the statutory requirement to have an Advisory Committee for Minority Veterans would be for a period of three years.

MAILING OF NOTICES OF APPEAL TO THE COURT OF VETERANS APPEALS

Current law: Under section 7266 of title 38, in order to obtain review of a final BVA decision by the United States Court of Veterans Appeals, an appellant must file a notice of appeal with the Court within 120 days after the date on which the notice of the BVA decision is mailed under section 7104(e). The Court implemented this statutory provision through adoption of Rule 4 of the Court's Rules of Practice and Procedure, which requires that a notice of appeal must actually be received by the Court within the statutory time limit in order to be timely filed. In a series of decisions, the Court has dismissed for lack of jurisdiction appeals that were mailed before, but received by the Court after, the 120-day limit had expired. (See, e.g., DiDonato v. Derwinski, 2 Vet.App. 42 (1991)).

Rule of the Court's Rules of Practice and Procedure also allows the filing of a notice of appeal by "facsimile or other printed electronic transmission."

House bill: No comparable provision.

Senate bill: Section 3 of the S. 1546 would amend section 7266(a) of title 38 to require that a notice of appeal be deemed received by the Court on the date it is postmarked, if it is mailed. Only legible United States Postal Service postmarks would be sufficient. The Court's determination as to the legibility of a postmark would be final and not subject to review by any other court.

Under amended section 7266(a), if a notice of appeal is delivered to the Court (for example, by private courier or delivery service), it would be considered timely filed if it is received by the Court within the 120-day limit established by Congress.

Section 3(b) of the Senate bill would provide that the effective date of the amendment to section 7266(a) would be the date of the enactment of the act and would apply only to notices of appeal delivered or mailed to the Court on or after that date.

Compromise agreement: Section 511 follows the Senate bill, except that it also would require specifically that the notice of appeal be properly addressed to the Court.

TITLE VI—EDUCATION AND TRAINING PROGRAMS

FLIGHT TRAINING

Current law: Sections 3034(d) and 3241(b) of title 38, and Section 2136(c) of title 10, allow eligible persons to use VA educational benefits for approved programs of vocational flight training commencing before October 1, 1994.

House bill: Section 2 of H.R. 4768 would establish vocational flight training as a permanent program under chapters 30 and 32 of title 38, and chapter 106 of title 10.

Senate bill: Section 1 of S. 2094 is substantively identical to the House provision, except that the Senate bill specifies that the provision would take effect on October 1, 1994.

Compromise agreement: Section 601 follows the Senate bill.

TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

Current law: Section 3115 of title 38 authorizes vocational rehabilitation programs providing training or work experience for service-disabled veterans to be implemented through Federal, State, City, and local governments.

House bill: Section 3 of H.R. 4768 authorizes the use of Indian reservations for the purposes of section 3115 of title 38, in order to allow eligible veterans to participate in non-pay programs of on-the-job training on Indian reservations.

Senate bill: No comparable provision.

Compromise agreement: Section 602 follows the House bill.

ALTERNATIVE TEACHER CERTIFICATION PROGRAMS

Current law: Section 3452(c) of title 38 defines the term "educational institution" for the purposes of chapters 34 and 36 of title 38.

House bill: Section 4 of H.R. 4768 would add to the definition of the term "educational institution" as described in section 3452(c), for the purposes of chapters 34 and 36, entities which provide training required for completion of any State-approved alternative teacher certification program as determined by the Secretary, effective upon enactment for the period ending September 30, 1996.

Senate bill: No comparable provision.

Compromise agreement: Section 603 follows the House bill.

EDUCATION OUTSIDE THE UNITED STATES

Current law: Section 3476 of title 38 denies education benefits to eligible individuals who pursue a course of education not in a State unless that course is pursued at an approved institution of higher learning and the course is approved by the Secretary.

House bill: Section 5 of H.R. 4768 would amend section 3476 to remove the requirement that courses offered by approved foreign universities and colleges be located at the site of the approved institution in order for such courses to be eligible for approval by the Secretary.

Senate bill: No comparable provision.

Compromise agreement: section 604 follows the House bill.

CORRESPONDENCE COURSES

Current law: Section 3672 of title 38 does not specifically address the requirements for approval of correspondence or combination correspondence-residence programs or courses.

House bill: Section 6 of H.R. 4768 would add to section 3672 of title 38 a provision requiring that a correspondence program or combination correspondence-residence course is eligible for approval by State Approving Agencies only if the educational institution offering such program or course is accredited by an agency recognized by the Secretary of Education. This section would also add a provision to section 3672 requiring that no less than 50 percent of the graduates of any such program or course take a minimum of 6 months to complete the program or course.

Senate bill: No comparable provision.

Compromise agreement: Section 605 follows the House bill except that the word "agency" is changed to "entity."

STATE APPROVING AGENCIES

Current law: Section 3674(a)(4) of title 38, relating to payments by VA to State and local agencies for reasonable expenses associated with approval of courses of education, limits the total amount made available under that section to $12,000,000 per fiscal year. Section 3674(a)(3) requires the Secretary to functionally supervise course approval services.

House bill: Section 7 of H.R. 4768 would amend section 3674(a)(4) to increase the maximum amount available under the section to $13,000,000 per fiscal year, and would strike sections 3674(a)(3)(B) and 3674A(a)(3), thereby eliminating the reporting and supervision requirements contained therein.

Senate bill: No comparable provision.

Compromise agreement: Section 606 follows the House bill.

MEASUREMENT OF COURSES

Current law: Under Section 3688(b) of title 38, the Secretary defines full and part-time training for purposes of courses pursued under chapters 30, 32, 35, or 36,

House bill: Section 8 of H.R. 4768 would add chapter 106 of title 10 to the sources of educational and training benefits for which the Secretary will define full and part-time training.

Senate bill: No comparable provision.

Compromise agreement: Section 607 follows the House bill.

VETERANS' ADVISORY COMMITTEE ON EDUCATION

Current law: Section 3692 of title 38 establishes a Veterans' Advisory Committee on Education which shall remain in existence until December 31, 1994. The Secretary is required to consult with and seek the advice of the committee with respect to the administration of chapters 30, 32, 34, 35, and 36 of title 38.

House bill: Section 9 of H.R. 4768 would extend the Advisory Committee until December 31, 2003, and make technical changes to the Committee's mandate.

Senate bill: No comparable provision.

Compromise agreement: Section 608 follows the House bill.

CONTRACT EDUCATIONAL AND VOCATIONAL COUNSELING

Current law: Section 3697(b) of title 38 limits payments made under section 3697 for contractual educational and vocational counseling services to $5,000,000 in any fiscal year.

House bill: Section 10 of H.R. 4768 would amend section 3697(b) to raise the payment limitation to "$6,000,000," effective October 1, 1994.

Senate bill: No comparable provision.

Compromise agreement: Section 609 follows the House bill.

SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING ACT OF 1992

Current law: The Service Members Occupational Conversion and Training Act (SMOCTA), enacted by Public Law 102-484, authorizes payment of a subsidy to employers who train recently separated service members who are unemployed, whose military skills do not transfer to the civilian job market, or who are disabled. The subsidy is 50 percent of the starting training wage payable over a period of 18 months up to a maximum of $10,000 ($12,000 for disabled veterans). Under current law, the 18-month limitation on payment of the subsidy is phrased in terms of an 18-month limit on the period of training.

House bill: Section 11 of H.R. 4768 would allow the employer and veteran to agree to a training program that lasts longer than 18 months, but with no payment of a subsidy for the extended training period. The provision would also: (a) Clarify that the requirement in current law that employers pay a

comparable wage refers to wages paid in the community where the veteran is being trained; (b) clarify that payment of the subsidy is limited to an 18-month period, or the equivalent where the length of a training program is calculated in hours; (c) amend the requirement that a portion of the reimbursement be retained until the 4th month of the veteran's employment by also permitting payment 4 months after completion of the 18th month of training, whichever is earlier; (d) allow a trainee to switch into an alternative approved training program with the employer; and (e) permit an eligible veteran to begin an approved training program on the date that the notice of approval is transmitted.

Senate bill: Section 2 of S. 2094 is substantively identical to the House provision, except that: (a) The amount of payment an employer may receive would be measured in the number of hours equivalent to 18 months, rather than in months; (b) the provision for retaining a portion of the reimbursement until the fourth month of employment would not be changed; (c) and the limit on assistance paid to employers would include amounts received but not amounts due.

Compromise agreement: Section 610 follows the House bill except that it includes the Senate provision which measures the amount of payment an employer may receive in the number of hours equivalent to 18 months.

TITLE VII—EMPLOYMENT PROGRAMS

JOB COUNSELING, TRAINING, AND PLACEMENT

DEPUTY ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING

Current law: There is no provision in law for a Deputy Assistant Secretary for Veterans' Employment and Training.

House bill: Section 2(a) of H.R. 4776 provides that there shall be a Deputy Assistant Secretary of Labor for Veterans' Employment and Training who shall perform such duties as the Assistant Secretary of Labor for Veterans' Employment and Training prescribes, that the position shall be a career position, and that the Deputy Assistant Secretary shall be a veteran.

Senate bill: No comparable provision.

Compromise agreement: Section 701(a) follows the House provision, except that the Deputy Assistant Secretary for Veterans' Employment and Training shall not be a career position.

DVOP SPECIALISTS' COMPENSATION RATES

Current law: Section 4103A(a)(1) of title 38 provides that compensation for disabled veterans' outreach program (DVOP) specialists shall be set at a rate not less than the rate prescribed for an entry level professional in the State Government of the State in which the DVOP is employed.

House bill: Section 2(b) of H.R. 4776 would require compensation for DVOP's to be set at rates comparable to those paid other professionals in the State Government.

Senate bill: No comparable provision.

Compromise agreement: Section 701(b) follows the House provision with an addition providing that compensation shall be set at rates comparable to those paid other professionals performing essentially similar duties.

SPECIAL UNEMPLOYMENT STUDY

Current law: Section 4110A requires the Secretary, through the Bureau of Labor Statistics, to conduct a biennial study of unemployment among special disabled veterans and veterans who served in the Vietnam theater of operations during the Vietnam era.

House bill: Section 2(c) of H.R. 4776 expands the scope of the study to include veterans who served after the Vietnam era and veterans discharged or released from active duty within the 4 years prior to the study, and requires that information regarding women veterans shall be compiled for each category.

Senate bill: No comparable provision.

Compromise agreement: Section 701(c) provides that the scope of the study shall be expanded to include veterans of the Vietnam era who served outside of the theater of operations, veterans who served after the Vietnam era, and veterans discharged or released from active duty within the 4 years prior to the study. It requires that, for each of the classifications of veterans, there shall be a category for women veterans.

The Committees recognize that the Bureau of Labor Statistics uses a survey methodology that produces a small sample size for women veterans.

EMPLOYMENT AND TRAINING OF VETERANS

FEDERAL CONTRACTS

Current law: Section 4212(a) of title 38 requires, among other things, that the President promulgate regulations which require Federal contractors to list all "suitable" job openings with the local employment service office.

House bill: Section 3(a)(1)(C) of H.R. 4776 would strike the word "suitable" from section 4212(a).

Senate bill: No comparable provision.

Compromise agreement: Section 702(a) would amend section 4212(a) to require Federal contractors to immediately list all open positions except executive and top management positions, those positions that will be filled from within the contractor's organization, and positions lasting three days or less.

It is the Committees' intent that Federal contractors may not exclude from the listings positions at the middle management and supervisory level.

ELIGIBILITY REQUIREMENTS FOR VETERANS UNDER FEDERAL EMPLOYMENT AND TRAINING PROGRAMS

Current Law: Section 4213 of title 38 excludes certain pay and other amounts received by veterans and eligible persons when determining the needs or qualifications of participants in employment or training programs financed in whole or in part with Federal funds.

House bill: Section 3(b) of H.R. 4776 would add benefits received under chapter 30 of title 38 and chapter 106 of title 10 to the amounts disregarded pursuant to section 4213, and would delete reference to chapter 34.

Senate bill: No comparable provision.

Compromise agreement: Section 702(b) follows the House bill, and, in addition, would delete the words "the needs or qualifications of participants in" in section 4213, and would insert, in lieu thereof, the words "eligibility under."

TITLE VIII—CEMETERIES AND MEMORIAL AFFAIRS

ELIGIBILITY FOR BURIAL IN NATIONAL CEMETERIES OF SPOUSES WHO PREDECEASE VETERANS

Current Law: Section 2402 of title 38 specifies who is eligible to be buried in an open national cemetery. The Veterans' Benefits Improvement and Health Care Authorization Act of 1986, Public Law 99-576, made a technical correction in section 5 in order to make the section gender neutral. However, the change unintentionally deleted the statutory eligibility for burial in a national cemetery for a veteran's spouse who predeceases the veteran.

House bill: No comparable provision.

Senate bill: Section 403 of S. 2325 would restore the statutory eligibility for burial in national cemeteries of spouses who predecease veterans eligible for such burial.

Compromise agreement: Section 801 follows the Senate bill.

RESTORATION OF BURIAL ELIGIBILITY FOR UNREMARRIED SPOUSES

Current Law: Section 2402 of title 38 permits the surviving spouse of a veteran to be buried in any open national cemetery. The term "surviving spouse" is currently defined in section 101(3) of title 38 as one who is the spouse of a veteran at the time of the veteran's death and who has not remarried. Section 8004 of the Omnibus Reconciliation Act of 1990, Public Law 101-508, precluded eligibility for certain benefits under title 38, including eligibility for burial in national cemeteries, for remarried surviving spouses whose subsequent marriages were ended by death or divorce.

House bill: Section 4 of H.R. 3456 would reinstate eligibility for burial in national cemeteries of surviving spouses whose subsequent marriage ended by death or divorce.

Senate bill: No comparable provision.

Compromise agreement: Section 802 follows the House bill.

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR STATE CEMETERY GRANT PROGRAM

Current law: Section 2408(a)(2) of title 38 authorizes appropriations of such funds as may be necessary for fiscal year 1985, and for each of the 9 succeeding fiscal years, for the purpose of making grants to any State in establishing, expanding, or improving veterans' cemeteries owned by such State.

House bill: Section 7 of H.R. 949 would extend the authorization of appropriations for the State Cemetery Grants Program from September 30, 1994, to September 30, 1999.

Senate bill: No comparable provision.

Compromise agreement: Section 803 follows the House bill.

AUTHORITY TO USE FLAT GRAVE MARKERS AT THE WILLAMETTE NATIONAL CEMETERY, OREGON

Current law: Section 2404(c)(2) of title 38 requires that all grave markers in national cemeteries be upright for interments on or after January 1, 1987, except that flat grave markers may be used (a) in any section of a cemetery that used flat grave markers prior to October 28, 1986, (b) in any cemetery located on the grounds of or adjacent to a VA health care facility, or (c) at those grave sites where cremated remains are interred.

House bill: No comparable provision.

Senate bill: Section 404 of S. 2325 would authorize the use of flat grave markers at the Willamette National Cemetery in Oregon, notwithstanding section 2404(c)(2) of title 38.

Compromise agreement: Section 804 follows the Senate bill.

TITLE IX—HOUSING PROGRAMS

ELIGIBILITY

Current law: Subsections (b)(2) and (b)(5)(A) of section 3701 of title 38 expand the definition of the term "veteran" for purposes of chapter 37.

House bill: Section 1 of H.R. 4724 would add to the definition of veteran, persons discharged or released from the Selected Reserves before completing 6 years of service because of a service-connected disability, and would extend eligibility to surviving spouses of reservists who died on active duty or due to a service-connected disability.

Senate bill: No comparable provision.

Compromise agreement: Section 901 follows the House bill.

REVISION IN COMPUTATION OF AGGREGATE GUARANTY

Current law: Section 3702 of title 38 provides for the calculation of the loan guaranty entitlement. Subsection (b)(1)(A) of section 3702 requires that any home acquired with a VA-guaranteed loan must have been disposed of or destroyed as one precondition to the restoration of entitlement.

House bill: No comparable provision.

Senate bill: Section 2 of S. 1626 would eliminate the precondition to restoration of loan guaranty entitlement provided for in subsection 3702(b)(1)(A).

Compromise agreement: Section 902 follows the Senate bill, but provides that the Secretary may waive the precondition to restoration of loan guaranty entitlement contained in subsection 3702(b)(1)(A) once for each veteran.

PUBLIC AND COMMUNITY WATER AND SEWERAGE SYSTEMS

Current law: Section 3704(e) of title 38 prohibits VA from guaranteeing a loan to purchase or construct a home not served by public water and sewerage systems where such service is certified as economically feasible.

House bill: Section 4 of H.R. 4724 would eliminate the prohibition contained in section 3704(e).

Senate bill: No comparable provision.

Compromise agreement: Section 903 follows the House bill.

AUTHORITY TO GUARANTEE HOME REFINANCE LOANS FOR ENERGY EFFICIENCY IMPROVEMENTS

Current law: Section 3710 of title 38 identifies the types of loans that may be guaranteed under the VA home loan program, and establishes certain conditions and restrictions with respect to such loans.

House bill: Section 3(a) of H.R. 4724 would allow for the costs of energy efficiency improvements to be added to the loan balance in connection with a loan refinanced for the purpose of reducing the interest rate.

Senate bill: Section 3 of S. 1626 would allow for the costs of energy efficiency improvements to be added to the balance of a loan being refinanced, and would provide an exception for such purposes from the maximum loan amount as provided in section 3710(e)(1)(C).

Compromise agreement: Section 904 follows both bills, except that it includes the exception to the maximum loan amount in a refinance as provided in the Senate bill.

AUTHORITY TO GUARANTEE LOANS TO REFINANCE ADJUSTABLE RATE MORTGAGES TO FIXED RATE MORTGAGES

Current law: Subsection 3710(e)(1)(A) of title 38 requires that the interest rate of a loan which is guaranteed in order to refinance an existing loan must be lower than the rate of the loan which is being refinanced.

House bill: Section 3(b) of H.R. 4724 would authorize the refinancing of adjustable rate mortgage loans to fixed rate mortgage loans at a higher interest rate.

Senate bill: No comparable provision.

Compromise agreement: Section 905 follows the House bill.

MANUFACTURED HOME LOAN INSPECTIONS

Current law: Section 3712(h)(2)(a) of title 38 requires the Secretary to make certain inspections with respect to the financing of loans for the purchase of manufactured housing.

House bill: Section 4 of H.R. 4724 would eliminate VA inspection requirements under section 3712(h)(2)(A), and would provide that manufactured housing that is certified to conform to standards under section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 shall be deemed in compliance with requirements of subsection 3712(h)(1).

Senate bill: No comparable provision.

Compromise agreement: Section 906 follows the House bill.

PROCEDURES ON DEFAULT

Current law: Section 3732(c) of title 38 permits the Secretary to acquire property from a loan officer who has purchased the property at foreclosure for a price not exceeding the lesser of the net value of the property or the total indebtedness.

House bill: Section 5 of H.R. 4724 would permit VA to acquire property from the lender at the price provided for under current law, despite the fact that the lender's bid at the foreclosure sale might have exceeded that price.

Senate bill: No comparable provision.

Compromise agreement: Section 907 follows the House bill.

MINIMUM ACTIVE-DUTY SERVICE REQUIREMENT

Current law: Section 5303A establishes, with certain exceptions, a minimum of 24 months of active duty service for eligibility for benefits under title 38.

House bill: Section 6 of H.R. 4724 would add an exception from the 2-year minimum service requirement with respect to eligibility under chapter 37 of title 38 for service members discharged because of a reduction in force.

Senate bill: No comparable provision.

Compromise agreement: Section 908 follows the House bill.

TITLE X—HOMELESS VETERANS PROGRAMS

REPORTS ON ACTIVITIES OF THE DEPARTMENT OF VETERANS AFFAIRS TO ASSIST HOMELESS VETERANS

Current law: Section 10 of the Homeless Veterans Comprehensive Service Programs Act of 1992, Public Law 102-590, requires VA to submit, no later than May 1 of each year 1994, 1995, and 1996, reports to the Senate and House Committees on Veterans' Affairs on the implementation of that act, including the numbers of veterans served, the services provided, and an analysis of the clinical value and cost effectiveness of the programs authorized under that act. However, there is no other provision in current law that requires VA to submit a report to Congress on all of the Department's activities to assist homeless veterans.

House bill: No comparable provision.

Senate bill: Section 105 of S. 2325 would require VA to submit an annual report by April 15 on its activities to assist homeless veterans, including information on the numbers of homeless veterans served and the costs to the Department of its activities, and to report biannually on the effectiveness of these activities.

Compromise agreement: Section 1001 follows the Senate bill and repeals the reporting requirement under section 10 of Public Law 102-590.

It is the Committees' intention that the information that VA is required to furnish to the Committees under section 10 of Public Law 102-590 would be contained, along with other matters, in the reports required under this section of the compromise agreement.

REPORT ON ASSESSMENT AND PLANS FOR RESPONSE TO NEEDS OF HOMELESS VETERANS

Current law: Section 107 of the Veterans' Medical Programs Amendments of 1992, Public Law 102-405, enacted on October 9, 1992, requires the Secretary to assess programs developed by VA facilities which have been designed to assist homeless veterans. In carrying out this assessment, the Secretary is directed to require the director of each VA medical center and regional office (a) to assess the needs of homeless veterans within the area served by the facility, including veterans' needs for health care, education and training, employment, shelter, counseling, and outreach services; and (b) to develop, along with other local officials and providers of services to the homeless, a list of all public and private programs to assist homeless persons in the areas served by the VA facilities. Public Law 102-405 does not set a date for submission of this report.

House bill: No comparable provision.

Senate bill: Section 106 of S. 2325 would require VA to submit the report described above to the Senate and House Committees on Veterans' Affairs by December 31, 1994, and update this report annually thereafter, through December 31, 1997.

Compromise agreement: Section 1002 follows the Senate bill.

INCREASE IN NUMBER OF DEMONSTRATION PROGRAMS UNDER HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS ACT OF 1992

Current law: Section 2 of the Homeless Veterans Comprehensive Service Programs Act of 1992, Public Law 102-590, requires VA to establish no more than four demonstration programs to be centers for the provision of comprehensive services to homeless veterans.

House bill: No comparable provision.

Senate bill: Section 108(a) of S. 2325 would raise the limit on the number of comprehensive homeless centers that VA may establish from 4 to 12.

Compromise agreement: Section 1003 follows the Senate bill, except that the limit would be raised to eight centers.

REMOVAL OF FUNDING REQUIREMENT OF HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS ACT OF 1992

Current law: Section 12 of the Homeless Veterans Comprehensive Service Programs Act of 1992, Public Law 102-590, specifies that no funds may be used to carry out certain provisions in that law unless expressly provided for in an appropriations statute.

House bill: Section 8 of H.R. 949 would delete this requirement.

Senate bill: Section 108(b) of S. 2325 is identical to the House bill.

Compromise agreement: Section 1004 contains this provision.

SENSE OF CONGRESS

House resolution: H. Res. 503 would express the sense of the House of Representatives that Congress, in providing funds for any fiscal year for programs to assist homeless individuals, should ensure that these funds are fairly apportioned for homeless veterans to help return homeless veterans to self-sufficient and productive lives.

Senate bill: No comparable provision.

Compromise agreement: Section 1005 is derived from the House resolution and would express that it is the sense of the Congress that (a) of the funds appropriated for any fiscal year for programs to assist homeless individuals, a share more closely approximately the proportion of the population of homeless individuals who are veterans should be appropriated to VA for VA homeless programs; (b) of the Federal grants made available to assist community organizations that assist homeless individuals, a share of such grants more closely approximating the

79-059 O—97 Vol. 140 (Pt. 21) 18

proportion of the population of homeless individuals who are veterans should be provided to community organizations that provide assistance primarily to homeless veterans; and (c) the Secretary should encourage Federal agencies that assist homeless individuals, including homeless veterans, to be aware of and make appropriate referrals to VA for benefits, such as health care, substance abuse treatment, counseling, and income assistance.

TITLE XI—REDUCTIONS IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL

REQUIREMENT FOR MINIMUM NUMBER OF FULL-TIME EQUIVALENT POSITIONS

Current law: There is no provision in current law law relating to the specific number of personnel in VA.

Section 5(b) of the Federal Workforce Restructuring Act of 1994, Public Law 103-226, requires the President, through the Director of the Office of Management and Budget, to ensure that the total number of full-time equivalent employees (FTEE) in all Federal agencies not exceed specified levels set for each of fiscal years 1994 through 1999. The Office of Management and Budget has the authority to determine how and from where these cuts will be taken.

House bill: Section 2 of H.R. 4013 would (a) prohibit, during fiscal years 1995 to 1999, any reduction in the number of FTEE in the Veterans Health Administration (VHA) other than as specifically required by a law directing a reduction in personnel from VHA or by the availability of funds; and (b) require that the personnel of VHA be managed on the basis of the needs of eligible veterans and the availability of funds. Section 3 of H.R. 4013 would require the Secretary to submit, not later than January 15, 1995, a report to the Senate and House Committees on Veterans' Affairs on streamling activities in VHA.

Senate bill: Section 7 of S. 2330 would limit the number of FTEE cuts in VA over the next 5 years, and impose certain requirements relating to VA personnel.

Specifically, section 7(b) would set the number of FTEE in VA between the date of enactment of this measure and September 30, 1999, at 224,377 (which is 10,051 FTEE lower than VA's personnel level during fiscal year 1993).

Section 7(c) would require that, in determining the number of FTEE in VA during a fiscal year for purposes of achieving Federal workforce reductions, as required by section 5(b) of Public Law 103-226, only those VA employees whose salaries and benefits are paid with appropriated funds may be counted as VA FTEE. In fiscal year 1993, the administration counted 5,375 positions in VA (including 3,065 in the Veterans Canteen Service, 2,066 in the Medical Care Cost Recovery program, and 244 in the Medical Center Research Organizations) that were paid with funds other than federally appropriated funds.

Section 7(d) would allow the level of VA FTEE to fall below 224,377 if cuts necessary due to a reduction in funds available to the Department, or if a law enacted after the enactment of this measure specifically requires additional cuts.

Section 7(e) would require the Secretary to submit an annual report, through the year 2000, to the Senate and House Committees on Veterans' Affairs that describes the numbers and positions of all VA employees cut and the rationale behind such cuts. This information would be required to be contained in the annual President's budget submitted to Congress pursuant to section 1105 of title 31, United States Code.

Compromise agreement: Section 1102 follows the Senate bill.

The Committees believe that, for purposes of determining an accurate estimate of the number of Federal employees in VA, those employees whose salaries and benefits are not paid with taxpayers' money should not be counted. The Committees note VA's intention to pay 2,218 medical residents in VA medical centers on a contract basis with the residents' medical schools.

The Committees strongly discourage VA from achieving the workforce reduction required under this section by cutting staff in an arbitrary, across-the-board manner. Such arbitrary cuts cause indefensible staffing imbalances among VA programs and facilities, and hurt VA's ability to provide services to veterans. Although this section does not direct the Secretary how to implement personnel reductions, section 7(e) would require VA to share with the Committees the numbers and positions of any personnel cuts, and to justify such cuts. The Committees also believe that section 1103 of the compromise agreement would give VA a mechanism to avoid implementing across-the-board cuts.

ENHANCED AUTHORITY TO CONTRACT FOR NECESSARY SERVICES

Current law: Subsection 8110(c) of title 38 precludes VA from entering into contracts under which VA direct patient care or activities incident to direct patient care would be converted to activities performed by non-VA providers. For services other than those services, this section requires (a) that VA receive at least two bids from financially autonomous bidders; (b) that the cost to the Government of such contract service over the first 5 years to be 15 percent lower than the cost of Federal employees performing such services; and (c) that the quality and quantity of health care provided to veterans at the facility where such contract work is to be performed would be maintained or enhanced. Before carrying out a study in connection with a decision to consider entering such a contract, VA must submit notice to the appropriate Committees of the Congress of its intention to carry out such a study.

House bill: No comparable provision.

Senate bill: Section 8 of S. 2330 would (a) waive, during fiscal years 1995 to 1999, the limitations provided for under section 8110(c) of title 38; (b) require the Secretary to ensure that, in any contract for services that had been provided by VA employees, the contractor give priority to former VA employees who were displaced by the award of the contract; and (c) require the Secretary to provide to such former VA employees all possible assistance in obtaining other Federal employment or entrance into job training programs.

Compromise agreement: Section 1103 follows the Senate bill. The Committees note that providing VA enhanced authority to contract for services will assist VA in achieving its workforce reduction.

STUDY

Current law: No provision in current law requires a study of the feasibility and advisability of alternative organizational structures, such as the establishment of a quasi-Government corporation, to provide health care to veterans.

House bill: No comparable provision.

Senate bill: Section 9 of S. 2330 would (a) require the Secretary to contract with an appropriate non-Federal entity to study and report to Congress on the feasibility and advisability of alternative organizational structures, such as the establishment of a quasi-Government corporation, to provide health care services to veterans; and (b) authorize appropriations of $1 million for this purpose.

Compromise agreement: Section 1104 follows the Senate bill.

The Committees intend by this provision to draw on the expertise of an independent management consultant to study and assess the management structures and organization of the VA health care delivery system with particular reference to the likelihood that VA will need to compete with private health care providers. The Committees anticipate receiving a detailed evaluation of VA from a business perspective and recommendations on how VA's health care system might be improved and altered, if appropriate, to provide the highest quality medical services to our Nation's veterans in the most effective and efficient manner possible. It is the Committees' view that certain aspects of VA's health delivery system likely could operate more like nongovernment businesses.

Any analysis of VA's health care system must be made in the context of VA's overall mission to help veterans, especially those with service-connected disabilities. In this context, the Committees note that there are many aspects of VA that should and must remain federally funded and centrally administered, particularly programs to assist veterans who suffer from post-traumatic stress disorder, spinal cord dysfunction, or who need blind rehabilitation. VA provides a public good—a necessity which may or may not be adaptable to a competitive business environment. This study would attempt to find the most effective and efficient health delivery mechanism given this reality.

Mr. MONTGOMERY. Mr. Speaker, I would like to say because of the problems we have had over in the other body that I would like to commend the Parliamentarian and the floor staff people for the job they have done, Charlie, John, Marti, Craig, Jay, Gay, and Dan. There has been some chaos over here because of the problems we have had, but they have worked with us, and I just wanted that to go on the record.

Mr. STUMP. Mr. Speaker, further reserving the right to object, I would like to commend the gentleman from Mississippi for the excellent job he has done this year in guiding these bills through this process, and he has done an excellent job with veterans always. I commend him.

Mr. Speaker, I rise in strong support of H.R. 5244 the Veterans' Benefits Improvement Act of 1994. As Chairman MONTGOMERY observed, this compromise bill encompasses a number of veterans bills the House has passed this Congress. We have reached a bipartisan agreement with the other body which will be of great benefit to veterans and which we can all be proud of.

The entire leadership of the Veterans' Affairs Committees of both bodies on both sides of the aisle shares the credit for this legislation. Each of the Veterans' Affairs Committee's four legislative subcommittees have significant provisions in it.

Some of our Persian Gulf War veterans are seriously ill from unknown causes. Medical experts are baffled and

unable to diagnose their illnesses. We should not turn our backs on the young men and women who have served their country so well. Title I of this bill would comprehensively address their situation. It would provide for medical evaluation protocols, outreach, compensation benefits for those veterans who are disabled, and authorize epidemiological studies to try to find out what is causing these health problems.

It must be acknowledged that the Congress has never before authorized compensation for any veterans' disability when its cause was undiagnosed. The Congress has been previously faced with difficult policy decisions on radiation exposure from atomic bomb testing and on agent orange exposure in Vietnam. They were eventually resolved, but in retrospect, they were resolved much too slowly. Our veterans who are too sick to work can not put their lives on hold until scientists can tell them what is wrong with them, if they can find out.

This situation is not like any that veterans have faced before and it must be dealt with accordantly. Because we are faced with something unique, the way in which the Congress fashions this legislative policy should not be considered a precedent for future situations we are unable to foresee today. As we learn more about what is often being called the "Persian Gulf Syndrome," it may well be necessary to revisit the issue and modify our course. But, for now, I am satisfied that the approach in title I is appropriate under the circumstances.

Mr. Speaker, title II of the bill would address a serious problem facing the VA's Board of Veterans' Appeals. The Board's members are compensated at about $20,000 less than administrative law judges at the Social Security Administration, yet they do substantially equivalent work. Consequently, with the Social Security Administration hiring hundreds of new ALJs, Board members are leaving to become ALJs. About 10 percent of the Board's members have already left. Given the crisis proportions of the backlog of veterans' claims appeals, the Board can ill afford the loss of some of its most experienced and capable members. Mr. BILIRAKIS, ranking minority member of the Subcommittee on Compensation, Pension and Insurance, joined by Mr. EVANS, chairman of the Subcommittee on Oversight and Investigations, brought the problem to the attention of Mr. SLATTERY, chairman of the Subcommittee on Compensation, Pension and Insurance. Mr. SLATTERY agreed with their efforts and moved the legislation which ultimately became title II of this bill. Under its provisions, the pay of the board members would be equalized with ALJs and a new system of performance evaluation would be established to ensure they are earning their money. I commend all three of my colleagues for their initiative and hard work in effectively addressing this problem.

Title III of the bill would make certain adjudication improvements in the continuing effort to streamline the VA's claims adjudication system, which is also having problems of crisis proportions with timeliness and quality in handling veterans claims. Among these improvements would be expedited treatment of remanded claims and screening of appeals for quick identification of problems which must be corrected before they can be considered.

Title IV would establish a veterans' claims adjudication commission with a full-time staff to explore new ways in which the VA's claims adjudication system can be improved. The crisis which I referred to earlier in my statement is so serious that the adjudication system is, in my judgment, not operating satisfactorily. Fresh thinking and outside expertise is needed, and that is what I hope this commission will bring.

Title V contains certain veterans benefits-related provisions, including a provision to make it clear that Congress intended the Radiation-Exposed Veterans Compensation Act of 1988 to apply to all atmospheric atomic bomb tests in which U.S. military personnel participated, not just to U.S. conducted tests. This title also would codify herbicide-exposure presumptions which the VA has already established administratively. These are for hodgkin's disease, porhyria cutanea, respiratory cancers, and multiple myeloma.

Title VI would, among other things, permanently authorize the inclusion of flight training as part of veterans' education benefits. The title would additionally authorize, for 2 years, the inclusion of alternative teacher certification programs for which veterans may use their GI bill benefits. For example, veterans who are part of the Department of Defense drawdown would be able to use their benefits for the Troops to Teachers Program. I am particularly pleased that this title would also provide a long-awaited increase in the authorization for State approving agencies for veterans' education benefits from $12 million to $13 million, to help them deal with increases in operating costs and increased workloads associated with the DOD drawdown. And, finally, this title would allow employers participating in veterans' job training under the Service Members Occupational Conversion and Training Act of 1992 more flexibility by clarifying that the length of job training programs may extend beyond 18 months. However, payments for extended training may not exceed amounts which would be payable for an 18-month period.

Title VII would in part require the Bureau of Labor Statistics to expand its special unemployment study from special disabled veterans and veterans of the Vietnam theater of operations to include other Vietnam era veterans, veterans who served on active duty after the Vietnam era, and veterans leaving active duty within 4 years of the applicable study. This would give a much better picture of veterans' unemployment rates.

Title VIII would extend authority for the successful State Cemetery Grants Program to the beginning for fiscal year 2000.

Title IX would extend home loan guaranty benefits to members of the Selected Reserves and eliminate antiquated, redundant VA reporting requirements. It would also authorize the VA to correct bidding errors that result from unintended communication problems at foreclosure sale under the Home Loan Guaranty Program. In addition, the title would increase flexibility in veterans' use of adjustable rate mortgages under the Home Loan Guaranty Program.

Mr. Speaker, I want to highlight a resolution contained in title X of this legislation. Earlier this year, I introduced a resolution calling on Congress to provide a more proportionate share of Federal homeless assistance funding to help homeless veterans. I am pleased that the conference accepted a strong statement in this regard and hope that the statement would help retarget services to those veterans who once proudly served their country in the armed services.

The provisions of title XI would limit the number of FTEE cuts to the VA, mandated by the Clinton administration, and thereby offer some protection to the forced reduction in Federal employment of 252,000 positions over the next 5 years. The arbitrary cut imposed on the VA was slated at a reduction of 25,000 positions. In particular, this provision would enable the VA to maintain a work force level of 224,377 FTEE over the next 5 years and represents a reduction of 10,051 FTEE to the personnel level of fiscal year 1993. Although the cuts will be less than originally targeted, the reduction will affect all veterans' programs. In an effort to avoid the crippling effects of across-the-board cuts, the Secretary is required to subrnit an annual report to Congress outlining the rationale behind any planned reductions.

Finally, title XII would contain technical and clerical amendments.

Mr. Speaker, this legislation represents a substantial portion of the work of the House and Senate Veterans' Affairs Committees during the 103d Congress. I appreciate the constructive approach taken by the leadership of the Senate Veterans' Affairs Committee to the negotiations which led to the various titles of this bill. Senator ROCKEFELLER, the chairman, and Senator MURKOWSKI, the ranking minority member, have both gone the extra mile to reach these agreements, and I commend them for it.

Mr. Speaker, I urge the support of my colleagues for H.R. 5244. By doing so, they will be showing their support for America's veterans.

Mr. SLATTERY. Mr. Speaker, as a coauthor of the Persian Gulf provisions included in this compromise measure, I want to highly commend Chairman MONTGOMERY, the gentleman from Arizona [Mr. STUMP], and the gentleman from Florida [Mr. BILIRAKIS] for their tireless efforts in reaching an agreement with our counterparts in the other body on this historic measure. I also want to thank the staff of the Committee on Veterans' Affairs, particularly my very able counsel, John Brizzi, for the very fine work that was done on this and numerous other matters.

These efforts have resulted in a bill that will truly benefit Persian Gulf war veterans who are now suffering disabilities resulting from undiagnosed illnesses. It will also further the government's research efforts into the adverse health risks that may be associated with their service in the Persian Gulf, including the health risks that may also have affected their families. As I have said before, we owe these sick veterans the benefit of the doubt as to the

questions that remain about the illnesses from which they suffer.

As the chairman has indicated, there are numerous provisions in this bill which originated in H.R. 4088 that will favorably affect the benefits programs for veterans and the manner in which determinations on veterans' claims and appeals will be made in the future. We have worked long and hard to accomplish the goal of making the VA system work better for veterans. There is more work to be done and I am confident that my efforts will be taken up by other upcoming members of the committee. I wish them well.

I am proud to have served with the many fine members of the Veterans' Affairs Committee over the years, but am especially pleased to have had the opportunity to serve our Nation's veterans to the best of my ability. There is no more deserving a group than those who have borne the battle on our behalf.

I strongly urge my colleagues to support this bill.

Mr. BILIRAKIS. Mr. Speaker, I rise in strong support of H.R. 5244, the Veterans' Benefits Improvement Act, as amended.

H.R. 5244 will provide compensation to Persian Gulf veterans who are suffering from mysterious illnesses. Currently, these veterans are unable to be compensated since, to date, we have been unable to precisely define a causal link.

Chairman SONNY MONTGOMERY introduced the original legislation to compensate Persian Gulf veterans, and I want to commend him for his efforts to address the problems facing Persian Gulf veterans.

I would also like to recognize the Compensation Subcommittee Chairman, JIM SLATTERY, for his hard work on this important legislation. In addition, I would like to thank my colleagues BOB STUMP, LANE EVANS, and JOE KENNEDY for their valuable input on H.R. 5244.

With the passage of H.R. 5244, we will be setting a new precedent in veterans benefits. For the first time, we will be providing compensation for medical conditions for which there is no definitive scientific evidence that they are service connected.

While we are setting a new precedent with this legislation, I think it is important to remember that we have responsibility for our servicemembers' financial well-being as well as their physical well-being. We cannot ignore the needs of our Persian Gulf veterans.

I believe H.R. 5244 is an appropriate step toward assisting our Persian Gulf war veterans. These veterans answered the call to duty, and we should not force them to wait for an irrefutable scientific diagnosis before we recognize their claims for disability compensation.

H.R. 5244 also makes improvements to the claims adjudication process. Throughout the 103d Congress, the Compensation Subcommittee has been examining the VA's claims processing system. If enacted, H.R. 5244 will help reduce the huge backlog currently plaguing the system.

I would like to thank subcommittee Chairman JIM SLATTERY for his assistance in correcting a problem which, I strongly believe, has had a negative impact on the ability of the Board of Veterans Appeals to process veterans claims in a timely fashion. The problem I am referring to is the exodus of experienced board members.

In the last year, the Board of Veterans Appeals has lost over 10 percent of its membership to the Social Security Administration. These board members have left to become administrative law judges. If losses to the board continue, it will take many years to regain the knowledge, experience, and expertise departing members take with them.

One of the main reasons members are leaving the board is the pay differential between board members and administrative law judges. At one time, the board members were recognized as performing professional responsibilities at least comparable to those of administrative law judges.

However, since the Federal Employees Pay Comparability Act of 1990, ALJS have been placed on a pay scale that awards them compensation averaging at least $20,000 more per year than that of the average board member.

I have introduced legislation that restores pay comparability between board members and ALJS. I am pleased that my colleagues on the Veterans' Affairs Committee have recognized the seriousness of this issue and included a pay comparability provision in H.R. 5244.

In addition, H.R. 5244 eliminates term limits for members of the Board of Veterans Appeals. Term limits are another reason why many members are considering leaving the board. While H.R. 5244 eliminates terms, the bill sets up a new recertification process for board members. I believe this new system will ensure that board members are treated fairly and that veterans claims are adjudicated in a timely manner.

In closing, I want to take a moment to commend Chairman SLATTERY for the leadership he has brought to this subcommittee. JIM is leaving Congress at the end of the current session. I have enjoyed working with him on several important matters this Congress, and I want to wish him the best of luck in his future endeavors.

I urge my colleagues to support H.R. 5244.

Mr. HUTCHINSON. Mr. Speaker, I rise today in strong support of the pending measure, H.R. 5244, an omnibus bill that embodies a compromise we have reached with our counterparts in the Senate on H.R. 4386, the Veterans Benefits Improvement Act of 1994. This is a comprehensive piece of legislation that includes a number of initiatives that have been considered and approved by both the House and the Senate.

Most importantly, H.R. 5244 would authorize the Secretary of Veterans Affairs to provide compensation to veterans suffering from illnesses attributed to service in the Persian Gulf war and would establish an outreach program to Persian Gulf war veterans and their families to inform them of ongoing research activities as well as the services and benefits to which they are entitled. The compromise agreement would also authorize further research activities on the health risks and effects of military service in the Southwest theater of operations during the Persian Gulf war.

As the ranking member of the Veterans Affairs Subcommittee on Education, Training and Employment, I was especially pleased with the provisions outlined in title VI, Education and Training Programs and title VII, Employment programs. Title VI closely reflects H.R. 4768, the Veterans' Education and Training Act of 1994 which expands and improves education and training programs provided for veterans. In particular, this title would make permanent the VA's authority to approve educational assistance benefits for vocational flight training and would increase the maximum amount made available to State approving agencies by $1 million.

Also noteworthy is a provision to amend the Service Members Occupational Conversion and Training Act of 1992 [SMOCTA] to allow for a training period longer than 18 months. This will benefit both veterans and employers alike and will improve the program's flexibility.

Title VII of the compromise is derived from H.R. 4776, the Veterans' Employment Act of 1994. Some of the important provisions of this title would require certain Federal contractors to list all of the openings associated with their Federal contract with the appropriate local employment service office and would encourage more people to pursue employment in this field by requiring that Disabled Veteran's Outreach Program specialists [DVOPS] be compensated at rates comparable to those paid other professionals performing essentially the same duties.

Mr. Speaker, in closing, I would like to thank Chairman MONTGOMERY and the ranking Republican member for their hard work on this bill, particularly with respect to the education and employment provisions which ensure that all possible steps are taken to provide our veterans with the education, training, and employment opportunities available to them. I urge my colleagues' strong support of H.R. 5244.

Mr. STUMP. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits Improvements Act of 1994".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—PERSIAN GULF WAR VETERANS

Sec. 101. Short title.
Sec. 102. Findings.
Sec. 103. Purposes.
Sec. 104. Development of medical evaluation protocol.
Sec. 105. Outreach to Persian Gulf veterans.
Sec. 106. Compensation benefits for disability resulting from illness attributed to service during the Persian Gulf War.
Sec. 107. Evaluation of health status of spouses and children of Persian Gulf War veterans.
Sec. 108. Clarification of scope of health examinations provided for veterans eligible for inclusion in health-related registries.

Sec. 109. Survey of Persian Gulf veterans.
Sec. 110. Authorization for epidemiological studies.
Sec. 111. Cost-savings provisions.
TITLE II—BOARD OF VETERANS' APPEALS ADMINISTRATION
Sec. 201. Appointment, pay comparability, and performance reviews for members of the Board of Veterans' Appeals.
Sec. 202. Deadline for establishment of performance evaluation criteria for Board members.
Sec. 203. Continuation in office of Chairman pending appointment of successor.
TITLE III—ADJUDICATION IMPROVEMENTS
Sec. 301. Acceptance of certain documentation for claims purposes.
Sec. 302. Expedited treatment of remanded claims.
Sec. 303. Screening of appeals.
Sec. 304. Report on feasibility of reorganization of adjudication divisions in VBA regional offices.
TITLE IV—VETERANS' CLAIMS ADJUDICATION COMMISSION
Sec. 401. Establishment of commission.
Sec. 402. Duties of the commission.
Sec. 403. Powers of the commission.
Sec. 404. Commission personnel matters.
Sec. 405. Termination of the commission.
Sec. 406. Definitions.
Sec. 407. Funding.
TITLE V—MISCELLANEOUS PROVISIONS
Sec. 501. Restatement of intent of Congress concerning coverage of Radiation-Exposed Veterans Compensation Act of 1988.
Sec. 502. Extension of authority to maintain regional office in the Philippines.
Sec. 503. Renouncement of benefit rights.
Sec. 504. Clarification of payment of attorney fees under contingent fee agreements.
Sec. 505. Codification of herbicide-exposure presumptions established administratively.
Sec. 506. Treatment of certain income of Alaska natives for purposes of needs-based benefits.
Sec. 507. Elimination of requirement for payment of certain benefits in Philippine pesos.
Sec. 508. Study of health consequences for family members of atomic veterans of exposure of atomic veterans to ionizing radiation.
Sec. 509. Center for Minority Veterans and Center for Women Veterans.
Sec. 510. Advisory Committee on Minority Veterans.
Sec. 511. Mailing of notices of appeal to the Court of Veterans Appeals.
TITLE VI—EDUCATION AND TRAINING PROGRAMS
Sec. 601. Flight training.
Sec. 602. Training and rehabilitation for veterans with service-connected disabilities.
Sec. 603. Alternative teacher certification programs.
Sec. 604. Education outside the United States.
Sec. 605. Correspondence courses.
Sec. 606. State approving agencies.
Sec. 607. Measurement of courses.
Sec. 608. Veterans' Advisory Committee on Education.
Sec. 609. Contract educational and vocational counseling.
Sec. 610. Service Members Occupational Conversion and Training Act of 1992.
TITLE VII—EMPLOYMENT PROGRAMS
Sec. 701. Job counseling, training, and placement.
Sec. 702. Employment and training of veterans.
TITLE VIII—CEMETERIES AND MEMORIAL AFFAIRS
Sec. 801. Eligibility for burial in national cemeteries of spouses who predecease veterans.
Sec. 802. Restoration of burial eligibility for unremarried spouses.
Sec. 803. Extension of authorization of appropriations for State cemetery grant program.
Sec. 804. Authority to use flat grave markers at the Willamette National Cemetery, Oregon.
TITLE IX—HOUSING PROGRAMS
Sec. 901. Eligibility.
Sec. 902. Revision in computation of aggregate guaranty.
Sec. 903. Public and community water and sewerage systems.
Sec. 904. Authority to guarantee home refinance loans for energy efficiency improvements.
Sec. 905. Authority to guarantee loans to refinance adjustable rate mortgages to fixed rate mortgages.
Sec. 906. Manufactured home loan inspections.
Sec. 907. Procedures on default.
Sec. 908. Minimum active-duty service requirement.
TITLE X—HOMELESS VETERANS PROGRAMS
Sec. 1001. Reports on activities of the Department of Veterans Affairs to assist homeless veterans.
Sec. 1002. Report on assessment and plans for response to needs of homeless veterans.
Sec. 1003. Increase in number of demonstration programs under Homeless Veterans Comprehensive Service Programs Act of 1992.
Sec. 1004. Removal of funding requirement of Homeless Veterans Comprehensive Service Programs Act of 1992.
Sec. 1005. Sense of Congress.
TITLE XI—REDUCTIONS IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL
Sec. 1101. Findings.
Sec. 1102. Requirement for minimum number of full-time equivalent positions.
Sec. 1103. Enhanced authority to contract for necessary services.
Sec. 1104. Study.
TITLE XII—TECHNICAL AND CLERICAL AMENDMENTS.
Sec. 1201. Amendments to title 38, United States Code.
Sec. 1202. Amendments to other laws administered by Secretary of Veterans Affairs.
Sec. 1203. Amendments to other laws.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—PERSIAN GULF WAR VETERANS

SEC. 101. SHORT TITLE.

This Act may be cited as the "Persian Gulf War Veterans' Benefits Act".

SEC. 102. FINDINGS.

The Congress makes the following findings:

(1) During the Persian Gulf War, members of the Armed Forces were exposed to numerous potentially toxic substances, including fumes and smoke from military operations, oil well fires, diesel exhaust, paints, pesticides, depleted uranium, infectious agents, investigational drugs and vaccines, and indigenous diseases, and were also given multiple immunizations. It is not known whether these servicemembers were exposed to chemical or biological warfare agents. However, threats of enemy use of chemical and biological warfare heightened the psychological stress associated with the military operation.

(2) Significant numbers of veterans of the Persian Gulf War are suffering from illnesses, or are exhibiting symptoms of illness, that cannot now be diagnosed or clearly defined. As a result, many of these conditions or illnesses are not considered to be service connected under current law for purposes of benefits administered by the Department of Veterans Affairs.

(3) The National Institutes of Health Technology Assessment Workshop on the Persian Gulf Experience and Health, held in April 1994, concluded that the complex biological, chemical, physical, and psychological environment of the Southwest Asia theater of operations produced complex adverse health effects in Persian Gulf War veterans and that no single disease entity or syndrome is apparent. Rather, it may be that the illnesses suffered by those veterans result from multiple illnesses with overlapping symptoms and causes that have yet to be defined.

(4) That workshop concluded that the information concerning the range and intensity of exposure to toxic substances by military personnel in the Southwest Asia theater of operations is very limited and that such information was collected only after a considerable delay.

(5) In response to concerns regarding the health-care needs of Persian Gulf War veterans, particularly those who suffer from illnesses or conditions for which no diagnosis has been made, the Congress, in Public Law 102–585, directed the establishment of a Persian Gulf War Veterans Health Registry, authorized health examinations for veterans of the Persian Gulf War, and provided for the National Academy of Sciences to conduct a comprehensive review and assessment of information regarding the health consequences of military service in the Persian Gulf theater of operations and to develop recommendations on avenues for research regarding such health consequences. In Public Law 103–210, the Congress authorized the Department of Veterans Affairs to provide health care services on a priority basis to Persian Gulf War veterans. The Congress also provided in Public Law 103–160 (the National Defense Authorization Act for Fiscal Year 1994) for the establishment of a specialized environmental medical facility for the conduct of research into the possible health effects of exposure to low levels of hazardous chemicals, especially among Persian Gulf veterans, and for research into the possible health effects of battlefield exposure in such veterans to depleted uranium.

(6) In response to concerns about the lack of objective research on Gulf War illnesses, Congress included research provisions in the

National Defense Authorization Act for Fiscal Year 1995, which was passed by the House and Senate in September 1994. This legislation requires the Secretary of Defense to provide research grants to non-Federal researchers to support three types of studies of the Gulf War syndrome. The first type of study will be an epidemiological study or studies of the incidence, prevalence, and nature of the illness and symptoms and the risk factors associated with symptoms or illnesses. This will include illnesses among spouses and birth defects and illnesses among offspring born before and after the Gulf War. The second group of studies shall be conducted to determine the health consequences of the use of pyridostigmine bromide as a pretreatment antidote enhancer during the Persian Gulf War, alone or in combination with exposure to pesticides, environmental toxins, and other hazardous substances. The final group of studies shall include clinical research and other studies on the causes, possible transmission, and treatment of Gulf War syndrome, and will include studies of veterans and their spouses and children.

(7) Further research and studies must be undertaken to determine the underlying causes of the illnesses suffered by Persian Gulf War veterans and, pending the outcome of such research, veterans who are seriously ill as the result of such illnesses should be given the benefit of the doubt and be provided compensation benefits to offset the impairment in earnings capacities they may be experiencing.

SEC. 103. PURPOSES.

The purposes of this title are—

(1) to provide compensation to Persian Gulf War veterans who suffer disabilities resulting from illnesses that cannot now be diagnosed or defined, and for which other causes cannot be identified;

(2) to require the Secretary of Veterans Affairs to develop at the earliest possible date case assessment strategies and definitions or diagnoses of such illnesses;

(3) to promote greater outreach to Persian Gulf War veterans and their families to inform them of ongoing research activities, as well as the services and benefits to which they are currently entitled; and

(4) to ensure that research activities and accompanying surveys of Persian Gulf War veterans are appropriately funded and undertaken by the Department of Veterans Affairs.

SEC. 104. DEVELOPMENT OF MEDICAL EVALUATION PROTOCOL.

(a) UNIFORM MEDICAL EVALUATION PROTOCOL.—(1) The Secretary of Veterans Affairs shall develop and implement a uniform and comprehensive medical evaluation protocol that will ensure appropriate medical assessment, diagnosis, and treatment of Persian Gulf War veterans who are suffering from illnesses the origins of which are (as of the date of the enactment of this Act) unknown and that may be attributable to service in the Southwest Asia theater of operations during the Persian Gulf War. The protocol shall include an evaluation of complaints relating to illnesses involving the reproductive system.

(2) If such a protocol is not implemented before the end of the 120-day period beginning on the date of the enactment of this Act, the Secretary shall, before the end of such period, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report as to why such a protocol has not yet been developed.

(3)(A) The Secretary shall ensure that the evaluation under the protocol developed under this section is available at all Department medical centers that have the capability of providing the medical assessment, diagnosis, and treatment required under the protocol.

(B) The Secretary may enter into contracts with non-Department medical facilities for the provision of the evaluation under the protocol.

(C) In the case of a veteran whose residence is distant from a medical center described in subparagraph (A), the Secretary may provide the evaluation through a Department medical center described in that subparagraph and, in such a case, may provide the veteran the travel and incidental expenses therefor pursuant to the provisions of section 111 of title 38, United States Code.

(4)(A) If the Secretary is unable to diagnose the symptoms or illness of a veteran provided an evaluation, or if the symptoms or illness of a veteran do not respond to treatment provided by the Secretary, the Secretary may use the authority in section 1703 of title 38, United States Code, in order to provide for the veteran to receive diagnostic tests or treatment at a non-Department medical facility that may have the capability of diagnosing or treating the symptoms or illness of the veteran. The Secretary may provide the veteran the travel and incidental expenses therefor pursuant to the provisions of section 111 of title 38, United States Code.

(B) The Secretary shall request from each non-Department medical facility that examines or treats a veteran under this paragraph such information relating to the diagnosis or treatment as the Secretary considers appropriate.

(5) In each year after the implementation of the protocol, the Secretary shall enter into an agreement with the National Academy of Sciences under which agreement appropriate experts shall review the adequacy of the protocol and its implementation by the Department of Veterans Affairs.

(b) RELATIONSHIP TO OTHER COMPREHENSIVE CLINICAL EVALUATION PROTOCOLS.—The Secretary, in consultation with the Secretary of Defense, shall ensure that the information collected through the protocol described in this section is collected and maintained in a manner that permits the effective and efficient cross-reference of that information with information collected and maintained through the comprehensive clinical protocols of the Department of Defense for Persian Gulf War veterans.

(c) CASE DEFINITIONS AND DIAGNOSES.—The Secretary shall develop case definitions or diagnoses for illnesses associated with the service described in subsection (a)(1). The Secretary shall develop such definitions or diagnoses at the earliest possible date.

SEC. 105. OUTREACH TO PERSIAN GULF VETERANS.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall implement a comprehensive outreach program to inform Persian Gulf War veterans and their families of the medical care and other benefits that may be provided by the Department of Veterans Affairs and the Department of Defense arising from service in the Persian Gulf War.

(b) NEWSLETTER.—(1) The outreach program shall include a newsletter which shall be updated and distributed at least semi-annually and shall be distributed to the veterans listed on the Persian Gulf War Veterans Health Registry. The newsletter shall include summaries of the status and findings of Government sponsored research on illnesses of Persian Gulf War veterans and their families, as well as on benefits available to such individuals through the Department of Veterans Affairs. The newsletter shall be prepared in consultation with veterans service organizations.

(2) The requirement under this subsection for the distribution of the newsletter shall terminate on December 31, 1999.

(c) TOLL-FREE NUMBER.—The outreach program shall include establishment of a toll-free telephone number to provide Persian Gulf War veterans and their families information on the Persian Gulf War Veterans Health Registry, health care and other benefits provided by the Department of Veterans Affairs, and such other information as the Secretary considers appropriate. Such toll-free telephone number shall be established not later than 90 days after the date of the enactment of this Act.

SEC. 106. COMPENSATION BENEFITS FOR DISABILITY RESULTING FROM ILLNESS ATTRIBUTED TO SERVICE DURING THE PERSIAN GULF WAR.

(a) IN GENERAL.—(1) Chapter 11 is amended by adding at the end of subchapter II the following new section:

"§ 1117. Compensation for disabilities occurring in Persian Gulf War veterans

"(a) The Secretary may pay compensation under this subchapter to any Persian Gulf veteran suffering from a chronic disability resulting from an undiagnosed illness (or combination of undiagnosed illnesses) that—

"(1) became manifest during service on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War; or

"(2) became manifest to a degree of 10 percent or more within the presumptive period prescribed under subsection (b).

"(b) The Secretary shall prescribe by regulation the period of time following service in the Southwest Asia theater of operations during the Persian Gulf War that the Secretary determines is appropriate for presumption of service connection for purposes of this section. The Secretary's determination of such period of time shall be made following a review of any available credible medical or scientific evidence and the historical treatment afforded disabilities for which manifestation periods have been established and shall take into account other pertinent circumstances regarding the experiences of veterans of the Persian Gulf War.

"(c)(1) The Secretary shall prescribe regulations to carry out this section.

"(2) Those regulations shall include the following:

"(A) A description of the period and geographical area or areas of military service in connection with which compensation under this section may be paid.

"(B) A description of the illnesses for which compensation under this section may be paid.

"(C) A description of any relevant medical characteristic (such as a latency period) associated with each such illness.

"(d) A disability for which compensation under this subchapter is payable shall be considered to be service connected for purposes of all other laws of the United States.

"(e) For purposes of this section, the term 'Persian Gulf veteran' means a veteran who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1116 the following new item:

"1117. Compensation for disabilities occurring in Persian Gulf War veterans.".

(b) CONFORMING AMENDMENTS.—Section 1113 is amended—

(1) by striking out "section 1112 or 1116" in the first and third place it appears and inserting in lieu thereof "section 1112, 1116, or 1117";

(2) by striking out "title" the second place it appears and inserting in lieu thereof "title, or payments of compensation pursuant to section 1117 of this title,"; and

(3) by inserting "or disabilities" after "diseases" both places it appears in subsection (a).

(c) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report stating whether or not the Secretary intends to pay compensation as provided in section 1117 of title 38, United States Code, as added by subsection (a).

(d) REGULATIONS.—If the Secretary states in the report under subsection (c) that the Secretary intends to pay compensation as provided in section 1117 of title 38, United States Code, as added by subsection (a), the Secretary shall, not later than 30 days after the date on which such report is submitted, publish in the Federal Register proposed regulations under subsections (b) and (c) of that section.

SEC. 107. EVALUATION OF HEALTH STATUS OF SPOUSES AND CHILDREN OF PERSIAN GULF WAR VETERANS.

(a) EVALUATION PROGRAM.—Subject to subsection (c), the Secretary of the Veterans Affairs shall conduct a study to evaluate the health status of spouses and children of Persian Gulf War veterans. Under the study, the Secretary shall provide for the conduct of diagnostic testing and appropriate medical examinations of any individual—

(1) who is the spouse or child of a veteran who—

(A) is listed in the Persian Gulf War Veterans Registry established under section 702 of Public Law 102–585; and

(B) is suffering from an illness or disorder;

(2) who is apparently suffering from, or may have suffered from, an illness or disorder (including a birth defect, miscarriage, or stillbirth) which cannot be disassociated from the veteran's service in the Southwest Asia theater of operations; and

(3) who, in the case of a spouse, has granted the Secretary permission to include in the Registry relevant medical data (including a medical history and the results of diagnostic testing and medical examinations) and such other information as the Secretary considers relevant and appropriate with respect to such individual.

Such testing and examinations shall be carried out so as to gather such medical data as the Secretary considers relevant and appropriate in order to determine the nature and extent of the association, if any, between illness or disorder of the spouse or child and the illness of the veteran.

(b) DURATION OF PROGRAM.—The program shall be carried out during the period beginning on November 1, 1994, and ending on September 30, 1996.

(c) FUNDING LIMITATION.—The amount spent for the program under subsection (a) may not exceed $2,000,000.

(d) CONTRACTING.—The Secretary shall provide for the conduct of testing and examinations under subsection (a) through appropriate contract arrangements.

(e) STANDARD PROTOCOLS AND GUIDELINES.—The Secretary shall seek to ensure uniform development of medical data through the development of standard protocols and guidelines for such testing and examinations. If such protocols and guidelines have not been adopted before the end of the 120-day period beginning on the date of the enactment of this Act, the Secretary shall, before the end of such period, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report as to why such protocols and guidelines have not yet been developed.

(f) ENTRY OF RESULTS IN REGISTRY.—The results of diagnostic tests, medical histories, and medical examinations conducted under subsection (a) shall be entered into the Persian Gulf War Veterans Health Registry.

(g) OUTREACH.—The Secretary shall conduct such outreach activities as the Secretary determines necessary to ensure that implementation of this section results in sufficient information to enable the Secretary—

(1) to analyze the health status of large numbers of spouses and children of Persian Gulf veterans; and

(2) to formulate research hypotheses regarding possible association between illnesses or disorders suffered by Persian Gulf veterans and illnesses or disorders (including birth defects, miscarriages, and stillbirths) suffered by their spouses and children.

(h) USE OUTSIDE DEPARTMENT OF STANDARD PROTOCOLS AND GUIDELINES.—The Secretary shall—

(1) make the standard protocols and guidelines developed under this section available to any entity which requests a copy of such protocols and guidelines; and

(2) enter into the registry the results of any examination of the spouse or child of a veteran who served in the Persian Gulf theater which a licensed physician certifies was conducted using those standard protocols and guidelines.

(i) REPORTS TO CONGRESS.—(1) The Secretary shall submit to Congress no later than October 31, 1995, a report on the Secretary's implementation of this section.

(2) The Secretary shall analyze the data entered into the registry under this section and shall submit to Congress, not later than March 1, 1997, a report on that analysis and on the Secretary's recommendation for any further legislation or studies regarding the health status of spouses and children of Persian Gulf War veterans.

(j) DEFINITIONS.—For purposes of this section, the terms "child" and "spouse" have the meanings given those terms in paragraphs (4) and (31), respectively, of section 101 of title 38, United States Code.

SEC. 108. CLARIFICATION OF SCOPE OF HEALTH EXAMINATIONS PROVIDED FOR VETERANS ELIGIBLE FOR INCLUSION IN HEALTH-RELATED REGISTRIES.

Section 703 of the Persian Gulf War Veterans' Health Status Act (title VII of Public Law 102–585; 38 U.S.C. 527 note) is amended—

(1) by inserting "(including diagnostic tests)" after "examination" each place it appears other than in subsection (a)(1)(A);

(2) in subsection (a)(1)(A)—

(A) by inserting "(including any appropriate diagnostic tests)" after "a health examination"; and

(B) by inserting "and the tests" after "the examination"; and

(3) in subsection (a)(2), by inserting "(including any diagnostic tests)" after "examinations".

SEC. 109. SURVEY OF PERSIAN GULF VETERANS.

(a) IN GENERAL.—The Secretary of Veterans Affairs may carry out a survey of Persian Gulf veterans to gather information on the incidence and nature of health problems occurring in Persian Gulf veterans and their families.

(b) COORDINATION WITH DEPARTMENT OF DEFENSE.—Any survey under subsection (a) shall be carried out in coordination with the Secretary of Defense.

(c) PERSIAN GULF VETERAN.—For purposes of this section, a Persian Gulf veteran is an individual who served on active duty in the Armed Forces in the Southwest Asia theater of operations during the Persian Gulf War as defined in section 101(33) of title 38, United States Code.

SEC. 110. AUTHORIZATION FOR EPIDEMIOLOGICAL STUDIES.

(a) STUDY OF HEALTH CONSEQUENCES OF PERSIAN GULF SERVICE.—If the National Academy of Sciences includes in the report required by section 706(b) of the Veterans Health Care Act of 1992 (Public Law 102–585) a finding that there is a sound basis for an epidemiological study or studies on the health consequences of service in the Persian Gulf theater of operations during the Persian Gulf War and recommends the conduct of such a study or studies, the Secretary of Veterans Affairs is authorized to carry out such study.

(b) OVERSIGHT.—(1) The Secretary shall seek to enter into an agreement with the Medical Follow-Up Agency (MFUA) of the Institute of Medicine of the National Academy of Sciences for (A) the review of proposals to conduct the research referred to in subsection (a), (B) oversight of such research, and (C) review of the research findings.

(2) If the Secretary is unable to enter into an agreement under paragraph (1) with the entity specified in that paragraph, the Secretary shall enter into an agreement described in that paragraph with another appropriate scientific organization which does not have a connection to the Department of Veterans Affairs. In such a case, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives, at least 90 days before the date on which the agreement is entered into, notice in writing identifying the organization with which the Secretary intends to enter into the agreement.

(c) ACCESS TO DATA.—The Secretary shall enter into agreements with the Secretary of Defense and the Secretary of Health and Human Services to make available for the purposes of any study described in subsection (a) all data that the Secretary, in consultation with the National Academy of Sciences and the contractor for the study, considers relevant to the study.

(d) AUTHORIZATION.—There are authorized to be appropriated to the Department such sums as are necessary for the conduct of studies described in subsection (a).

SEC. 111. COST-SAVINGS PROVISIONS.

(a) ELECTION OF DEATH PENSION BY SURVIVING SPOUSE.—Section 1317 is amended—

(1) by striking out "No person" and inserting in lieu thereof "(a) Except as provided in subsection (b), no person"; and

(2) by adding at the end the following:

"(b) A surviving spouse who is eligible for dependency and indemnity compensation may elect to receive death pension instead of such compensation.".

(b) POLICY REGARDING COST-OF-LIVING ADJUSTMENT IN COMPENSATION RATES FOR FISCAL YEAR 1995.—The fiscal year 1995 cost-of-living adjustments in the rates of and limitations for compensation payable under chapter 11 of title 38, United States Code, and of dependency and indemnity compensation

payable under chapter 13 of such title will be no more than a percentage equal to the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1994, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)), with all increased monthly rates and limitations (other than increased rates or limitations equal to a whole dollar amount) rounded down to the next lower dollar.

TITLE II—BOARD OF VETERANS' APPEALS ADMINISTRATION

SEC. 201. APPOINTMENT, PAY COMPARABILITY, AND PERFORMANCE REVIEWS FOR MEMBERS OF THE BOARD OF VETERANS' APPEALS.

(a) MEMBERS OTHER THAN CHAIRMAN.—(1) Chapter 71 is amended by inserting after section 7101 the following new section:

"§ 7101A. Members of Board: appointment; pay; performance review

"(a) The members of the Board of Veterans' Appeals other than the Chairman (and including the Vice Chairman) shall be appointed by the Secretary, with the approval of the President, based upon recommendations of the Chairman.

"(b) Members of the Board (other than the Chairman and any member of the Board who is a member of the Senior Executive Service) shall, in accordance with regulations prescribed by the Secretary, be paid basic pay at rates equivalent to the rates payable under section 5372 of title 5.

"(c)(1)(A) The Chairman shall establish a panel to review the performance of members of the Board. The panel shall be comprised of the Chairman and two other members of the Board (other than the Vice Chairman). The Chairman shall periodically rotate membership on the panel so as to ensure that each member of the Board (other than the Vice Chairman) serves as a member of the panel for and within a reasonable period.

"(B) Not less than one year after the job performance standards under subsection (f) are initially established, and not less often than once every three years thereafter, the performance review panel shall determine, with respect to each member of the Board (other than the Chairman or a member who is a member of the Senior Executive Service), whether that member's job performance as a member of the Board meets the performance standards for a member of the Board established under subsection (f). Each such determination shall be in writing.

"(2) If the determination of the performance review panel in any case is that the member's job performance as a member of the Board meets the performance standards for a member of the Board established under subsection (f), the Chairman shall recertify the member's appointment as a member of the Board.

"(3) If the determination of the performance review panel in any case is that the member's job performance does not meet the performance standards for a member of the Board established under subsection (f), the Chairman shall, based upon the individual circumstances, either—

"(A) grant the member a conditional recertification; or

"(B) recommend to the Secretary that the member be noncertified.

"(4) In the case of a member of the Board who is granted a conditional recertification under paragraph (3)(A) or (5)(A), the performance review panel shall review the member's job performance record and make a further determination under paragraph (1) concerning that member not later than one year after the date of the conditional recertification. If the determination of the performance review panel at that time is that the member's job performance as a member of the Board still does not meet the performance standards for a member of the Board established under subsection (f), the Chairman shall recommend to the Secretary that the member be noncertified.

"(5) In a case in which the Chairman recommends to the Secretary under paragraph (3) or (4) that a member be noncertified, the Secretary, after considering the recommendation of the Chairman, may either—

"(A) grant the member a conditional recertification; or

"(B) determine that the member should be noncertified.

"(d)(1) If the Secretary, based upon the recommendation of the Chairman, determines that a member of the Board should be noncertified, that member's appointment as a member of the Board shall be terminated and that member shall be removed from the Board.

"(2) Upon removal from the Board under paragraph (1), a member of the Board (other than the Chairman) who was a career or career-conditional employee in the civil service before commencement of service as a member of the Board shall revert to the civil service grade and series held by the member immediately before the appointment of the member to the Board.

"(e)(1) A member of the Board (other than the Chairman or a member of the Senior Executive Service) may be removed as a member of the Board by reason of job performance only as provided in subsections (c) and (d). Such a member may be removed by the Secretary, upon the recommendation of the Chairman, for any other reason as determined by the Secretary.

"(2) In the case of a removal of a member under this section for a reason other than job performance that would be covered by section 7521 of title 5 in the case of an administrative law judge, the removal of the member of the Board shall be carried out subject to the same requirements as apply to removal of an administrative law judge under that section. Section 554(a)(2) of title 5 shall not apply to a removal action under this subsection. In such a removal action, a member shall have the rights set out in section 7513(b) of that title.

"(f) The Chairman, subject to the approval of the Secretary, shall establish standards for the performance of the job of a member of the Board (other than the Chairman or a member of the Senior Executive Service). Those standards shall establish objective and fair criteria for evaluation of the job performance of a member of the Board.

"(g) The Secretary shall prescribe procedures for the administration of this section, including deadlines and time schedules for different actions under this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7101 the following new item:

"7101A. Members of Board: appointment; pay; performance review.".

(b) SAVE PAY PROVISION.—The rate of basic pay payable to an individual who is a member of the Board of Veterans' Appeals on the date of the enactment of this Act may not be reduced by reason of the amendments made by this section to a rate below the rate payable to such individual on the day before such date.

(c) EFFECTIVE DATE.—Section 7101A(b) of title 38, United States Code, as added by subsection (a), shall take effect on the first day of the first pay period beginning after December 31, 1994.

(d) CONFORMING AMENDMENTS.—Section 7101(b) is amended—

(1) by striking out paragraph (2);

(2) by designating as paragraph (2) the text in paragraph (1) beginning "The Chairman may be removed"; and

(3) by striking out "Members (including the Chairman)" in paragraph (3) and inserting in lieu thereof "The Chairman".

SEC. 202. DEADLINE FOR ESTABLISHMENT OF PERFORMANCE EVALUATION CRITERIA FOR BOARD MEMBERS.

(a) DEADLINE.—The job performance standards required to be established by section 7101A(f) of title 38, United States Code, as added by section 201(a), shall be established not later than 90 days after the date of the enactment of this Act.

(b) SUBMISSION TO CONGRESSIONAL COMMITTEES.—Not later than the date on which the standards referred to in subsection (a) take effect, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report describing the standards established by the Chairman of the Board of Veterans' Appeals.

SEC. 203. CONTINUATION IN OFFICE OF CHAIRMAN PENDING APPOINTMENT OF SUCCESSOR.

Section 7101(b)(3) is amended by adding at the end the following new sentence: "If, upon the expiration of the term of office for which the Chairman was appointed, the position of Chairman would become vacant, the individual serving as Chairman may, with the approval of the Secretary, continue to serve as Chairman until either appointed to another term or a successor is appointed, but not beyond the end of the Congress during which the term of office expired.".

TITLE III—ADJUDICATION IMPROVEMENTS

SEC. 301. ACCEPTANCE OF CERTAIN DOCUMENTATION FOR CLAIMS PURPOSES.

(a) STATEMENTS OF CLAIMANT TO BE ACCEPTED AS PROOF OF RELATIONSHIPS.—Chapter 51 is amended by adding at the end the following new section:

"§ 5124. Acceptance of claimant's statement as proof of relationship

"(a) For purposes of benefits under laws administered by the Secretary, the Secretary may accept the written statement of a claimant as proof of the existence of any relationship specified in subsection (b) for the purpose of acting on such individual's claim for benefits.

"(b) Subsection (a) applies to proof of the existence of any of the following relationships between a claimant and another person:

"(1) Marriage.

"(2) Dissolution of a marriage.

"(3) Birth of a child.

"(4) Death of any family member.

"(c) The Secretary may require the submission of documentation in support of the claimant's statement if—

"(1) the claimant does not reside within a State;

"(2) the statement on its face raises a question as to its validity;

"(3) there is conflicting information of record; or

"(4) there is reasonable indication, in the statement or otherwise, of fraud or misrepresentation.".

(b) REPORTS OF EXAMINATIONS BY PRIVATE PHYSICIANS.—Such chapter, as amended by

subsection (a), is further amended by adding at the end the following new section:

"§ 5125. Acceptance of reports of private physician examinations

"For purposes of establishing any claim for benefits under chapter 11 or 15 of this title, a report of a medical examination administered by a private physician that is provided by a claimant in support of a claim for benefits under that chapter may be accepted without a requirement for confirmation by an examination by a physician employed by the Veterans Health Administration if the report is sufficiently complete to be adequate for the purpose of adjudicating such claim.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"5124. Acceptance of claimant's statement as proof of relationship.
"5125. Acceptance of reports of private physician examinations.".

SEC. 302. EXPEDITED TREATMENT OF REMANDED CLAIMS.

The Secretary of Veterans Affairs shall take such actions as may be necessary to provide for the expeditious treatment, by the Board of Veterans' Appeals and by the regional offices of the Veterans Benefits Administration, of any claim that has been remanded by the Board of Veterans' Appeals or by the United States Court of Veterans Appeals for additional development or other appropriate action.

SEC. 303. SCREENING OF APPEALS.

Section 7107 is amended—

(1) in subsection (a)(1), by striking out "Each case" and inserting in lieu thereof "Except as provided in subsection (f), each case"; and

(2) by adding at the end the following new subsection:

"(f) Nothing in this section shall preclude the screening of cases for purposes of—

"(1) determining the adequacy of the record for decisional purposes; or

"(2) the development, or attempted development, of a record found to be inadequate for decisional purposes.".

SEC. 304. REPORT ON FEASIBILITY OF REORGANIZATION OF ADJUDICATION DIVISIONS IN VBA REGIONAL OFFICES.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report addressing the feasibility and impact of a reorganization of the adjudication divisions located within the regional offices of the Veterans Benefits Administration to a number of such divisions that would result in improved efficiency in the processing of claims filed by veterans, their survivors, or other eligible persons for benefits administered by the Secretary.

TITLE IV—VETERANS' CLAIMS ADJUDICATION COMMISSION

SEC. 401. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a commission to be known as the Veterans' Claims Adjudication Commission (hereinafter in this title referred to as the "commission").

(b) MEMBERSHIP.—(1) The commission shall be composed of nine members, appointed by the Secretary of Veterans Affairs as follows:

(A) One member shall be appointed from among former officials of the Department of Veterans Affairs (or the Veterans' Administration).

(B) Two members shall be appointed from among individuals in the private sector who have expertise in the adjudication of claims relating to insurance or similar benefits.

(C) Two members shall be appointed from among individuals employed in the Federal Government (other than the Department of Veterans Affairs) who have expertise in the adjudication of claims for benefits under Federal law other than under laws administered by the Secretary of Veterans Affairs.

(D) Two members shall be appointed from among individuals recommended to the Secretary by representatives of veterans service organizations.

(E) One member shall be appointed based on a recommendation of the American Bar Association or a similar private organization from among individuals who have expertise in the field of administrative law.

(F) One member shall be appointed from among current officials of the Department of Veterans Affairs.

(2) The appointment of members of the commission under this subsection shall be made not later than February 1, 1995.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members of the commission shall be appointed for the life of the commission. A vacancy in the commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—The commission shall hold its first meeting not later than 30 days after the date on which all members of the commission have been appointed.

(e) MEETINGS.—The commission shall meet at the call of the chairman.

(f) QUORUM.—A majority of the members of the commission shall constitute a quorum, but a lesser number may hold hearings.

(g) CHAIRMAN.—The Secretary shall designate a member of the commission (other than the commission member who is a current official of the Department of Veterans Affairs) to be chairman of the commission.

SEC. 402. DUTIES OF THE COMMISSION.

(a) IN GENERAL.—The commission shall carry out a study of the Department of Veterans Affairs system for the disposition of claims for veterans benefits.

(b) PURPOSE OF STUDY.—The purpose of the study is to evaluate the Department of Veterans Affairs system for the disposition of claims for veterans benefits in order to determine the following:

(1) The efficiency of current processes and procedures under the system for the adjudication, resolution, review, and final disposition of claims for veterans benefits, including the effect of judicial review on the system, and means of increasing the efficiency of the system.

(2) Means of reducing the number of claims under the system for which final disposition is pending.

(3) Means of enhancing the ability of the Department of Veterans Affairs to achieve final determination regarding claims under the system in a prompt and appropriate manner.

(c) CONTENTS OF STUDY.—The study to be carried out by the commission under this section is a comprehensive evaluation and assessment of the Department of Veterans Affairs system for the disposition of claims for veterans benefits (as defined in section 406) and of the system for the delivery of such benefits, together with any related issues that the commission determines are relevant to the study. The study shall include an evaluation and assessment of the following:

(1) The preparation and submission of claims by veterans under the system.

(2) The processes and procedures under the system for the disposition of claims, including—

(A) the scope and nature of the review undertaken with respect to a claim at each stage in the claims disposition process, including the role of hearings throughout the process;

(B) the number, Federal employment grade, and experience and qualifications required of the persons undertaking such review at each such stage;

(C) opportunities for the submittal of new evidence; and

(D) the availability of alternative means of completing claims.

(3) The effect on the system of the participation of attorneys, members of veterans service organizations, and other advocates on behalf of veterans.

(4) The effect on the system of actions taken by the Secretary to modernize the information management system of the Department, including the use of electronic data management systems.

(5) The effect on the system of any work performance standards used by the Secretary at regional offices of the Department and at the Board of Veterans' Appeals.

(6) The extent of the implementation in the system of the recommendations of the Blue Ribbon Panel on Claims Processing submitted to the Committees on Veterans' Affairs of the Senate and House of Representatives on December 2, 1993, and the effect of such implementation on the system.

(7) The effectiveness in improving the system of any pilot programs carried out by the Secretary at regional offices of the Department and of efforts by the Secretary to implement such programs throughout the system.

(8) The effectiveness of the quality control practices and quality assurance practices under the system in achieving the goals of such practices.

(d) COOPERATION OF SECRETARY.—Upon the request of the chairman of the commission, the Secretary shall, within 30 days of such request, submit to the commission, and to the Committees on Veterans' Affairs of the Senate and House of Representatives, such information as the chairman shall determine is necessary for the commission to carry out the study required under this section.

(e) REPORTS.—(1) Not later than one year after the date of the enactment of this Act, the commission shall submit to the Secretary and to the Committees on Veterans' Affairs of the Senate and House of Representatives a preliminary report on the study required under subsection (c). The report shall contain the preliminary findings and conclusions of the commission with respect to the evaluation and assessment required under the study.

(2) Not later than 18 months after such date, the commission shall submit to the Secretary and to such committees a report on such study. The report shall include the following:

(A) The findings and conclusions of the commission, including its findings and conclusions with respect to the matters referred to in subsection (c).

(B) The recommendations of the commission for means of improving the Department of Veterans Affairs system for the disposition of claims for veterans benefits.

(C) Such other information and recommendations with respect to the system as the commission considers appropriate.

SEC. 403. POWERS OF THE COMMISSION.

(a) HEARINGS.—The commission may hold such hearings, sit and act at such times and

places, take such testimony, and receive such evidence as the commission considers advisable to carry out the purposes of this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—In addition to the information referred to in section 402(d), the commission may secure directly from any Federal department or agency such information as the commission considers necessary to carry out the provisions of this title. Upon request of the chairman of the commission, the head of such department or agency shall furnish such information to the commission.

(c) POSTAL SERVICES.—The commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 404. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the commission. All members of the commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the commission.

(c) STAFF.—(1) The chairman of the commission may, without regard to the civil service laws and regulations, appoint an executive director and such other personnel as may be necessary to enable the commission to perform its duties. The appointment of an executive director shall be subject to approval by the commission.

(2) The chairman of the commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the chairman of the commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of the department or agency to the commission to assist it in carrying out its duties.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chairman of the commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 405. TERMINATION OF THE COMMISSION.

The commission shall terminate 90 days after the date on which the commission submits its report under section 402(e)(2).

SEC. 406. DEFINITIONS.

For the purposes of this title:

(1) The term "Department of Veterans Affairs system for the disposition of claims for veterans benefits" means the processes and procedures of the Department of Veterans Affairs for the adjudication, resolution, review, and final disposition of claims for benefits under the laws administered by the Secretary.

(2) The term "Secretary" means the Secretary of Veterans Affairs.

(3) The term "veterans service organizations" means any organization approved by the Secretary under section 5902(a) of title 38, United States Code.

SEC. 407. FUNDING.

(a) FISCAL YEAR 1995.—From amounts appropriated to the Department of Veterans Affairs for fiscal year 1995 for the payment of compensation and pension, the amount of $400,000 is hereby made available for the activities of the commission under this title.

(b) AVAILABILITY.—Any sums appropriated to the commission shall remain available until expended.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. RESTATEMENT OF INTENT OF CONGRESS CONCERNING COVERAGE OF RADIATION-EXPOSED VETERANS COMPENSATION ACT OF 1988.

(a) RESTATEMENT OF ABSENCE OF STATUTORY LIMITATION TO UNITED STATES TESTS.—Clause (i) of section 1112(c)(3)(B) is amended by inserting "(without regard to whether the nation conducting the test was the United States or another nation)" after "nuclear device".

(b) PROOF OF SERVICE CONNECTION OF DISABILITIES RELATING TO EXPOSURE TO IONIZING RADIATION.—(1) Section 1113(b) is amended—

(A) by striking out "title or" and inserting in lieu thereof "title,"; and

(B) by inserting ", or section 5 of Public Law 98-542 (38 U.S.C. 1154 note)" after "of this section".

(2) The amendments made by paragraph (1) shall apply with respect to applications for veterans benefits that are submitted to the Secretary of Veterans Affairs after the date of the enactment of this Act.

SEC. 502. EXTENSION OF AUTHORITY TO MAINTAIN REGIONAL OFFICE IN THE PHILIPPINES.

Section 315(b) is amended by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 1999".

SEC. 503. RENOUNCEMENT OF BENEFIT RIGHTS.

Section 5306 is amended by adding at the end the following new subsection:

"(c) Notwithstanding subsection (b), if a new application for pension under chapter 15 of this title or for dependency and indemnity compensation for parents under section 1315 of this title is filed within one year after renouncement of that benefit, such application shall not be treated as an original application and benefits will be payable as if the renouncement had not occurred.".

SEC. 504. CLARIFICATION OF PAYMENT OF ATTORNEY FEES UNDER CONTINGENT FEE AGREEMENTS.

(a) CLARIFICATION.—Subparagraph (A) of section 5904(d)(2) is amended to read as follows:

"(A) A fee agreement referred to in paragraph (1) is one under which the total amount of the fee payable to the attorney—

"(i) is to be paid to the attorney by the Secretary directly from any past-due benefits awarded on the basis of the claim; and

"(ii) is contingent on whether or not the matter is resolved in a manner favorable to the claimant.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to fee agreements entered into on or after the date of the enactment of this Act.

SEC. 505. CODIFICATION OF HERBICIDE-EXPOSURE PRESUMPTIONS ESTABLISHED ADMINISTRATIVELY.

Section 1116(a)(2) is amended by adding at the end the following new subparagraphs:

"(D) Hodgkin's disease becoming manifest to a degree of disability of 10 percent or more.

"(E) Porphyria cutanea tarda becoming manifest to a degree of disability of 10 percent or more within a year after the last date on which the veteran performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

"(F) Respiratory cancers (cancer of the lung, bronchus, larynx, or trachea) becoming manifest to a degree of 10 percent or more within 30 years after the last date on which the veteran performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

"(G) Multiple myeloma becoming manifest to a degree of disability of 10 percent or more.".

SEC. 506. TREATMENT OF CERTAIN INCOME OF ALASKA NATIVES FOR PURPOSES OF NEEDS-BASED BENEFITS.

Any receipt by an individual from a Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) of cash, stock, land, or other interests referred to in subparagraphs (A) through (E) of section 29(c) of that Act (43 U.S.C. 1626(c)) (whether such receipt is attributable to the disposition of real property, profits from the operation of real property, or otherwise) shall not be countable as income for purposes of any law administered by the Secretary of Veterans Affairs.

SEC. 507. ELIMINATION OF REQUIREMENT FOR PAYMENT OF CERTAIN BENEFITS IN PHILIPPINE PESOS.

(a) GENERAL RULE.—The second sentence of each of subsections (a) and (b) of section 107 is amended—

(1) by striking out "rate in pesos as is equivalent to" and inserting in lieu thereof "rate of"; and

(2) by striking out "rate in Philippine pesos as is equivalent to" and inserting in lieu thereof "rate of".

(b) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Sections 3532(d) and 3565(b)(1) are amended by striking out "a rate in Philippine pesos equivalent to" and inserting in lieu thereof "the rate of".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to payments made after December 31, 1994.

SEC. 508. STUDY OF HEALTH CONSEQUENCES FOR FAMILY MEMBERS OF ATOMIC VETERANS OF EXPOSURE OF ATOMIC VETERANS TO IONIZING RADIATION.

(a) INTERAGENCY AGREEMENT.—The Secretary of Veterans Affairs shall enter into an agreement with the Medical Follow-Up Agency of the Institute of the Medicine of the National Academy of Sciences under which that agency shall convene a panel of appropriate individuals to carry out the evaluation described in subsection (b).

(b) EVALUATION OF FEASIBILITY OF STUDY.—(1) The panel convened under subsection (a) shall evaluate the feasibility of carrying out a study as described in subsection (c).

(2) The panel shall submit the results of the evaluation under paragraph (1) to the Secretary not later than 180 days after the date of the enactment of this Act. The Secretary shall promptly notify the Committees

on Veterans' Affairs of the Senate and the House of Representatives of such results.

(c) DESCRIPTION OF STUDY TO BE EVALUATED.—The study referred to in subsection (b) (the feasibility of which is to be evaluated under that subsection by the panel convened under subsection (a)) is one which would determine the nature and extent, if any, of the relationship between the exposure of veterans described in subsection (d) to ionizing radiation and the following:

(1) Genetic defects and illnesses in the children and grandchildren of such veterans.

(2) Untoward pregnancy outcomes experienced by the wives of such veterans, including premature births, stillbirths, miscarriages, neonatal illnesses and deaths.

(3) Periparturient diseases of the mother which are the direct result of such untoward pregnancy outcomes.

(d) COVERED VETERANS.—Subsection (c) applies to—

(1) any veteran who was exposed (as determined by the Secretary) to ionizing radiation as a result of—

(A) participation while on active duty in the Armed Forces in an atmospheric nuclear test that included the detonation of a nuclear device;

(B) service in the Armed Forces with the United States occupation force of Hiroshima or Nagasaki, Japan, before July 1, 1946; or

(C) internment or detention as a prisoner of war of Japan before that date in circumstances providing the opportunity for exposure to ionizing radiation comparable to the exposure of individuals who served with such occupation force before that date; and

(2) any other veteran who the Secretary designates for coverage under the study.

SEC. 509. CENTER FOR MINORITY VETERANS AND CENTER FOR WOMEN VETERANS.

(a) IN GENERAL.—Chapter 3 is amended by striking out section 317 and inserting in lieu thereof the following new sections:

"§317. Center for Minority Veterans

"(a) There is in the Department a Center for Minority Veterans. There is at the head of the Center a Director.

"(b) The Director shall be a noncareer appointee in the Senior Executive Service. The Director shall be appointed for a term of six years.

"(c) The Director reports directly to the Secretary or the Deputy Secretary concerning the activities of the Center.

"(d) The Director shall perform the following functions with respect to veterans who are minorities:

"(1) Serve as principal adviser to the Secretary on the adoption and implementation of policies and programs affecting veterans who are minorities.

"(2) Make recommendations to the Secretary, the Under Secretary for Health, the Under Secretary for Benefits, and other Department officials for the establishment or improvement of programs in the Department for which veterans who are minorities are eligible.

"(3) Promote the use of benefits authorized by this title by veterans who are minorities and the conduct of outreach activities to veterans who are minorities, in conjunction with outreach activities carried out under chapter 77 of this title.

"(4) Disseminate information and serve as a resource center for the exchange of information regarding innovative and successful programs which improve the services available to veterans who are minorities.

"(5) Conduct and sponsor appropriate social and demographic research on the needs of veterans who are minorities and the extent to which programs authorized under this title meet the needs of those veterans, without regard to any law concerning the collection of information from the public.

"(6) Analyze and evaluate complaints made by or on behalf of veterans who are minorities about the adequacy and timeliness of services provided by the Department and advise the appropriate official of the Department of the results of such analysis or evaluation.

"(7) Consult with, and provide assistance and information to, officials responsible for administering Federal, State, local, and private programs that assist veterans, to encourage those officials to adopt policies which promote the use of those programs by veterans who are minorities.

"(8) Advise the Secretary when laws or policies have the effect of discouraging the use of benefits by veterans who are minorities.

"(9) Publicize the results of medical research which are of particular significance to veterans who are minorities.

"(10) Perform such other duties consistent with this section as the Secretary shall prescribe.

"(e) The Secretary shall ensure that the Director is furnished sufficient resources to enable the Director to carry out the functions of the Center in a timely manner.

"(f) The Secretary shall include in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year—

"(1) detailed information on the budget for the Center;

"(2) the Secretary's opinion as to whether the resources (including the number of employees) proposed in the budget for that fiscal year are adequate to enable the Center to comply with its statutory and regulatory duties; and

"(3) a report on the activities and significant accomplishments of the Center during the preceding fiscal year.

"§318. Center for Women Veterans

"(a) There is in the Department a Center for Women Veterans. There is at the head of the Center a Director.

"(b) The Director shall be a noncareer appointee in the Senior Executive Service. The Director shall be appointed for a term of six years.

"(c) The Director reports directly to the Secretary or the Deputy Secretary concerning the activities of the Center.

"(d) The Director shall perform the following functions with respect to veterans who are women:

"(1) Serve as principal adviser to the Secretary on the adoption and implementation of policies and programs affecting veterans who are women.

"(2) Make recommendations to the Secretary, the Under Secretary for Health, the Under Secretary for Benefits, and other Department officials for the establishment or improvement of programs in the Department for which veterans who are women are eligible.

"(3) Promote the use of benefits authorized by this title by veterans who are women and the conduct of outreach activities to veterans who are women, in conjunction with outreach activities carried out under chapter 77 of this title.

"(4) Disseminate information and serve as a resource center for the exchange of information regarding innovative and successful programs which improve the services available to veterans who are women.

"(5) Conduct and sponsor appropriate social and demographic research on the needs of veterans who are women and the extent to which programs authorized under this title meet the needs of those veterans, without regard to any law concerning the collection of information from the public.

"(6) Analyze and evaluate complaints made by or on behalf of veterans who are women about the adequacy and timeliness of services provided by the Department and advise the appropriate official of the Department of the results of such analysis or evaluation.

"(7) Consult with, and provide assistance and information to, officials responsible for administering Federal, State, local, and private programs that assist veterans, to encourage those officials to adopt policies which promote the use of those programs by veterans who are women.

"(8) Advise the Secretary when laws or policies have the effect of discouraging the use of benefits by veterans who are women.

"(9) Publicize the results of medical research which are of particular significance to veterans who are women.

"(10) Advise the Secretary and other appropriate officials on the effectiveness of the Department's efforts to accomplish the goals of section 492B of the Public Health Service Act (relating to the inclusion of women and minorities in clinical research) and of particular health conditions affecting womens' health which should be studied as part of the Department's medical research program and promote cooperation between the Department and other sponsors of medical research of potential benefit to veterans who are women.

"(11) Provide support and administrative services to the Advisory Committee on Women Veterans established under section 542 of this title.

"(12) Perform such other duties consistent with this section as the Secretary shall prescribe.

"(e) The Secretary shall ensure that the Director is furnished sufficient resources to enable the Director to carry out the functions of the Center in a timely manner.

"(f) The Secretary shall include in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year—

"(1) detailed information on the budget for the Center;

"(2) the Secretary's opinion as to whether the resources (including the number of employees) proposed in the budget for that fiscal year are adequate to enable the Center to comply with its statutory and regulatory duties; and

"(3) a report on the activities and significant accomplishments of the Center during the preceding fiscal year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 317 and inserting in lieu thereof the following new items:

"317. Center for Minority Veterans.
"318. Center for Women Veterans.".

SEC. 510. ADVISORY COMMITTEE ON MINORITY VETERANS.

(a) ESTABLISHMENT.—Subchapter III of chapter 5 is amended by adding at the end the following new section:

"§544. Advisory Committee on Minority Veterans

"(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Minority Veterans (hereinafter in this section referred to as 'the Committee').

"(2)(A) The Committee shall consist of members appointed by the Secretary from the general public, including—

"(i) representatives of veterans who are minority group members;

"(ii) individuals who are recognized authorities in fields pertinent to the needs of veterans who are minority group members;

"(iii) veterans who are minority group members and who have experience in a military theater of operations; and

"(iv) veterans who are minority group members and who do not have such experience.

"(B) The Committee shall include, as ex officio members, the following:

"(i) The Secretary of Labor (or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment).

"(ii) The Secretary of Defense (or a representative of the Secretary of Defense designated by the Secretary of Defense).

"(iii) The Secretary of the Interior (or a representative of the Secretary of the Interior designated by the Secretary of the Interior).

"(iv) The Secretary of Commerce (or a representative of the Secretary of Commerce designated by the Secretary of Commerce).

"(v) The Secretary of Health and Human Services (or a representative of the Secretary of Health and Human Services designated by the Secretary of Health and Human Services).

"(vi) The Under Secretary for Health and the Under Secretary for Benefits, or their designees.

"(C) The Secretary may invite representatives of other departments and agencies of the United States to participate in the meetings and other activities of the Committee.

"(3) The Secretary shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that a term of service of any such member may not exceed three years. The Secretary may reappoint any such member for additional terms of service.

"(4) The Committee shall meet as often as the Secretary considers necessary or appropriate, but not less often than twice each fiscal year.

"(b) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits by the Department for veterans who are minority group members, reports and studies pertaining to such veterans and the needs of such veterans with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department.

"(c)(1) Not later than July 1 of each year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that pertain to veterans who are minority group members. Each such report shall include—

"(A) an assessment of the needs of veterans who are minority group members with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department;

"(B) a review of the programs and activities of the Department designed to meet such needs; and

"(C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

"(2) The Secretary shall, within 60 days after receiving each report under paragraph (1), submit to Congress a copy of the report, together with any comments concerning the report that the Secretary considers appropriate.

"(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

"(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to such section.

"(d) In this section, the term 'minority group member' means an individual who is—

"(1) Asian American;

"(2) Black;

"(3) Hispanic;

"(4) Native American (including American Indian, Alaskan Native, and Native Hawaiian); or

"(5) Pacific-Islander American.

"(e) The Committee shall cease to exist December 31, 1997.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 543 the following new item:

"544. Advisory Committee on Minority Veterans.".

SEC. 511. MAILING OF NOTICES OF APPEAL TO THE COURT OF VETERANS APPEALS.

(a) IN GENERAL.—Section 7266(a) is amended to read as follows:

"(a)(1) In order to obtain review by the Court of Veterans Appeals of a final decision of the Board of Veterans' Appeals, a person adversely affected by such decision shall file a notice of appeal with the Court within 120 days after the date on which notice of the decision is mailed pursuant to section 7104(e) of this title.

"(2) An appellant shall file a notice of appeal under this section by delivering or mailing the notice to the Court.

"(3) A notice of appeal shall be deemed to be received by the Court as follows:

"(A) On the date of receipt by the Court, if the notice is delivered.

"(B) On the date of the United States Post Service postmark stamped on the cover in which the notice is posted, if the notice is properly addressed to the Court and is mailed.

"(4) For a notice of appeal mailed to the Court to be deemed to be received under paragraph (3)(B) on a particular date, the United States Postal Service postmark on the cover in which the notice is posted must be legible. The Court shall determine the legibility of any such postmark and the Court's determination as to legibility shall be final and not subject to review by any other Court.".

(b) APPLICATION.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to notices of appeal that are delivered or mailed to the United States Court of Veterans Appeals on or after that date.

TITLE VI—EDUCATION AND TRAINING PROGRAMS

SEC. 601. FLIGHT TRAINING.

(a) ACTIVE DUTY PROGRAM.—Section 3034(d) is amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(d)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(b) POST-VIETNAM ERA.—Section 3241(b) is amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(b)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(c) RESERVE PROGRAM.—Section 2136(c) of title 10, United States Code, is amended—

(1) by striking out paragraph (2);

(2) by striking out "(1)" after "(c)"; and

(3) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 1994.

SEC. 602. TRAINING AND REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

(a) REHABILITATION RESOURCES.—Section 3115 is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking out "or" after "(including the Department of Veterans Affairs),"; and

(ii) by inserting "or of any federally recognized Indian tribe," after "financial assistance,"; and

(B) in paragraph (4), by inserting "any federally recognized Indian tribe," after "contributions,"; and

(2) by adding at the end the following:

"(c) For purposes of this section, the term 'federally recognized Indian tribe' means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

(b) ALLOWANCES.—Section 3108(c)(2) is amended by inserting "or federally recognized Indian tribe" after "local government agency".

(c) TECHNICAL CORRECTION.—(1) Section 404(b) of the Veterans' Benefits Act of 1992 (106 Stat. 4338) is amended by striking out the period at the end and inserting in lieu thereof ", but shall not apply to veterans and other persons who originally applied for assistance under chapter 31 of title 38, United States Code, before November 1, 1990.".

(2) The amendment made by paragraph (1) shall take effect as of October 29, 1992.

SEC. 603. ALTERNATIVE TEACHER CERTIFICATION PROGRAMS.

(a) IN GENERAL.—Section 3452(c) is amended by adding at the end the following: "For the period ending on September 30, 1996, such term includes any entity that provides training required for completion of any State-approved alternative teacher certification program (as determined by the Secretary).".

(b) CLARIFYING AMENDMENT.—Section 3002 is amended by adding at the end the following new paragraph:

"(8) The term 'educational institution' has the meaning given such term in section 3452(c) of this title.".

SEC. 604. EDUCATION OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—The first sentence of section 3476 is amended to read as follows: "An eligible veteran may not enroll in any course offered by an educational institution not located in a State unless that educational institution is an approved institution of higher learning and the course is approved by the Secretary.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to courses approved on or after the date of the enactment of this Act.

SEC. 605. CORRESPONDENCE COURSES.

(a) APPROVAL OF PROGRAMS OF EDUCATION.—(1) Section 3672 is amended by adding at the end the following new subsection:

"(e) A program of education exclusively by correspondence, and the correspondence portion of a combination correspondence-residence course leading to a vocational objective, that is offered by an educational institution (as defined in section 3452(c) of this title) may be approved only if (1) the educational institution is accredited by an entity recognized by the Secretary of Education, and (2) at least 50 percent of those pursuing such a program or course require six months or more to complete the program or course.".

(2)(A) Section 3675(a)(2)(B) is amended by striking out "A State" and inserting in lieu thereof "Except as provided in section 3672(e) of this title, a State".

(B) Section 3680(a) is amended—

(i) by inserting "or" at the end of paragraph (2);

(ii) by striking out "; or" at the end of paragraph (3) and inserting in lieu thereof a period; and

(iii) by striking out paragraph (4).

(C) Section 3686(c) is amended by striking out "(other than one subject to the provisions of section 3676 of this title)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to programs of education exclusively by correspondence and to correspondence-residence courses commencing more than 90 days after the date of the enactment of this Act.

SEC. 606. STATE APPROVING AGENCIES.

(a) REIMBURSEMENT.—(1) Section 3674(a)(4) is amended by striking out "$12,000,000" each place it appears and inserting in lieu thereof "$13,000,000".

(2) The amendments made by subsection (a) shall apply with respect to services provided under such section after September 30, 1994.

(b) ELIMINATION OF REQUIREMENT FOR QUARTERLY REPORT TO CONGRESS.—Section 3674(a)(3) is amended—

(1) by striking out subparagraph (B); and

(2) by striking out "(A)" after "(3)".

(c) EVALUATION OF AGENCY PERFORMANCE.—Section 3674A is amended—

(1) in subsection (a)—

(A) by striking out paragraph (3); and

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(2) in subsection (b)—

(A) by striking out "subsection (a)(5) of this section" both places it appears and inserting in lieu thereof "subsection (a)(4)"; and

(B) by inserting "of this title" after "section 3674(a)" both places it appears.

SEC. 607. MEASUREMENT OF COURSES.

Section 3688(b) is amended—

(1) by striking out "this chapter or" and inserting in lieu thereof "this chapter,"; and

(2) by inserting before the period at the end thereof the following: ", or chapter 106 of title 10".

SEC. 608. VETERANS' ADVISORY COMMITTEE ON EDUCATION.

Section 3692 is amended—

(1) in the first sentence of subsection (a)—

(A) by striking out "34,"; and

(B) by inserting "and chapter 106 of title 10" before the period at the end;

(2) in the first sentence of subsection (b), by striking out "this chapter" and all that follows through "of this title" and inserting in lieu thereof "this chapter, chapter 30, 32, and 35 of this title, and chapter 106 of title 10"; and

(3) in subsection (c), by striking out "December 31, 1994" and inserting in lieu thereof "December 31, 2003".

SEC. 609. CONTRACT EDUCATIONAL AND VOCATIONAL COUNSELING.

(a) PAYMENT LIMITATION.—Section 3697(b) is amended by striking out "$5,000,000" and inserting in lieu thereof "$6,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1994.

SEC. 610. SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING ACT OF 1992.

(a) PERIOD OF TRAINING.—(1) Section 4485(d) of the Service Members Occupational Conversion and Training Act of 1992 (106 Stat. 2759; 10 U.S.C. 1143 note) is amended by striking out "or more than 18 months".

(2)(A) Section 4486(d)(2) of such Act (102 Stat. 2760; 10 U.S.C. 1143 note) is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "in the community for the entire period of training of the eligible person.".

(B) The amendment made by subparagraph (A) shall apply with respect to programs of training under the Service Members Occupational Conversion and Training Act of 1992 beginning after the date of the enactment of this Act.

(b) PAYMENTS.—Section 4487 of such Act (106 Stat. 2762; 10 U.S.C. 1143 note) is amended—

(1) in subsection (a)(1)—

(A) by striking out "subparagraph (B)" in subparagraph (A) and inserting in lieu thereof "subparagraphs (B) and (C)";

(B) by inserting before the period at the end of subparagraph (A) the following: "but in no event to exceed hours equivalent to 18 months of training"; and

(C) by adding at the end the following new subparagraph:

"(C) Assistance may be paid under this subtitle on behalf of an eligible person to that person's employer for training under two or more programs of job training under this subtitle if such employer has not received (or is not due) on that person's behalf assistance in an amount aggregating the applicable amount set forth in subparagraph (B).."; and

(2) in subsection (b)(3), by inserting before the period at the end thereof ", or upon the completion of the 18th month of training under the last training program approved for the person's pursuit with that employer under this subtitle, whichever is earlier".

(c) ENTRY INTO PROGRAM OF JOB TRAINING.—Section 4488(a) of such Act (106 Stat. 2764; 10 U.S.C. 1143 note) is amended by striking out the third sentence thereof and inserting in lieu thereof "The eligible person may begin such program of job training with the employer on the day that notice is transmitted to such official by means prescribed by such official. However, assistance under this subtitle may not be provided to the employer if such official, within two weeks after the date on which such notice is transmitted, disapproves the eligible person's entry into that program of job training in accordance with this section.".

TITLE VII—EMPLOYMENT PROGRAMS

SEC. 701. JOB COUNSELING, TRAINING, AND PLACEMENT.

(a) DEPUTY ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.—Section 4102A(a) is amended—

(1) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end the following:

"(2) There shall be within the Department of Labor a Deputy Assistant Secretary of Labor for Veterans' Employment and Training. The Deputy Assistant Secretary shall perform such functions as the Assistant Secretary of Labor for Veterans' Employment and Training prescribes. The Deputy Assistant Secretary shall be a veteran.".

(b) DVOP SPECIALISTS COMPENSATION RATES.—Section 4103A(a)(1) is amended by striking out "a rate not less than the rate prescribed for an entry level professional" and inserting in lieu thereof "rates comparable to those paid other professionals performing essentially similar duties".

(c) SPECIAL UNEMPLOYMENT STUDY.—Subsection (a) of section 4110A is amended to read as follows:

"(a)(1) The Secretary, through the Bureau of Labor Statistics, shall conduct a study every two years of unemployment among each of the following categories of veterans:

"(A) Special disabled veterans.

"(B) Veterans of the Vietnam era who served in the Vietnam theater of operations during the Vietnam era.

"(C) Veterans who served on active duty during the Vietnam era who did not serve in the Vietnam theater of operations.

"(D) Veterans who served on active duty after the Vietnam era.

"(E) Veterans discharged or released from active duty within four years of the applicable study.

"(2) Within each of the categories of veterans specified in paragraph (1), the Secretary shall include a separate category for women who are veterans.

"(3) The Secretary shall promptly submit to Congress a report on the results of each study under paragraph (1).".

SEC. 702. EMPLOYMENT AND TRAINING OF VETERANS.

(a) FEDERAL CONTRACTS.—Section 4212(a) is amended by striking out "all of its suitable employment openings," in clause (1) of the third sentence and inserting in lieu thereof "all of its employment openings except that the contractor may exclude openings for executive and top management positions, positions which are to be filled from within the contractor's organization, and positions lasting three days or less,".

(b) ELIGIBILITY REQUIREMENTS FOR VETERANS UNDER FEDERAL EMPLOYMENT AND TRAINING PROGRAMS.—Section 4213 is amended—

(1) by striking out "chapters 11, 13, 31, 34, 35, and 36 of this title by an eligible veteran and" and inserting in lieu thereof "chapters 11, 13, 30, 31, 35, and 36 of this title by an eligible veteran,";

(2) by inserting "and any amounts received by an eligible person under chapter 106 of title 10," after "chapters 13 and 35 of such title, and"; and

(3) by striking out "the needs or qualifications of participants in" and inserting in lieu thereof "eligibility under".

TITLE VIII—CEMETERIES AND MEMORIAL AFFAIRS

SEC. 801. ELIGIBILITY FOR BURIAL IN NATIONAL CEMETERIES OF SPOUSES WHO PREDECEASE VETERANS.

Section 2402(5) is amended by inserting "spouse," after "The".

SEC. 802. RESTORATION OF BURIAL ELIGIBILITY FOR UNREMARRIED SPOUSES.

Section 2402(5), as amended by section 801, is further amended by inserting after "surviving spouse" the following: "(which for purposes of this chapter includes an unremarried surviving spouse who had a subsequent remarriage which was terminated by death or divorce)".

SEC. 803. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR STATE CEMETERY GRANT PROGRAM.

Paragraph (2) of section 2408(a) is amended by striking out "nine" and inserting in lieu thereof "fourteen".

SEC. 804. AUTHORITY TO USE FLAT GRAVE MARKERS AT THE WILLAMETTE NATIONAL CEMETERY, OREGON.

Notwithstanding section 2404(c)(2) of title 38, United States Code, the Secretary of Veterans Affairs may provide for flat grave markers at the Willamette National Cemetery, Oregon.

TITLE IX—HOUSING PROGRAMS

SEC. 901. ELIGIBILITY.

(a) RESERVISTS DISCHARGED BECAUSE OF A SERVICE-CONNECTED DISABILITY.—Section 3701(b)(5)(A) is amended—

(1) by inserting "(i)" before "who has"; and

(2) by striking out the period at the end and inserting in lieu thereof ", or (ii) who was discharged or released from the Selected Reserve before completing 6 years of service because of a service-connected disability.".

(b) SURVIVING SPOUSES OF RESERVISTS WHO DIED WHILE IN ACTIVE MILITARY, NAVAL, OR AIR SERVICE.—The second sentence of section 3701(b)(2) is amended—

(1) by inserting "or service in the Selected Reserve" after "duty" each place it appears; and

(2) by striking out "spouse shall" and inserting in lieu thereof "deceased spouse shall".

SEC. 902. REVISION IN COMPUTATION OF AGGREGATE GUARANTY.

Section 3702(b) is amended—

(1) in the matter preceding paragraph (1), by striking out "loan, if—" and inserting in lieu thereof "loan under the following circumstances:";

(2) in paragraph (1)—

(A) by striking out "the property" at the beginning of subparagraph (A) and inserting in lieu thereof "The property";

(B) by striking out the semicolon at the end and inserting in lieu thereof a period;

(3) in paragraph (2)—

(A) by striking out "a veteran-transferee" at the beginning and inserting in lieu thereof "A veteran-transferee";

(B) by striking out "; or" at the end and inserting in lieu thereof a period;

(4) in paragraph (3), by striking out "the loan" at the beginning of subparagraph (A) and inserting in lieu thereof "The loan";

(5) by inserting after paragraph (3) the following new paragraph:

"(4) In a case not covered by paragraph (1) or (2)—

"(A) the loan has been repaid in full and, if the Secretary has suffered a loss on the loan, the loss has been paid in full; or

"(B) the Secretary has been released from liability as to the loan and, if the Secretary has suffered a loss on the loan, the loss has been paid in full.";

(6) in the last sentence, by striking out "clause (1) of the preceding sentence" and inserting in lieu thereof "paragraph (1)"; and

(7) by adding at the end the following new sentence: "The authority of the Secretary under this subsection to exclude an amount of guaranty or insurance housing loan entitlement previously used by a veteran may be exercised only once for that veteran under the authority of paragraph (4).".

SEC. 903. PUBLIC AND COMMUNITY WATER AND SEWERAGE SYSTEMS.

Section 3704 is amended—

(1) by striking out subsection (e); and

(2) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

SEC. 904. AUTHORITY TO GUARANTEE HOME REFINANCE LOANS FOR ENERGY EFFICIENCY IMPROVEMENTS.

(a) LOANS.—Section 3710(a) is amended by inserting after paragraph (10) the following new paragraph:

"(11) To refinance in accordance with subsection (e) an existing loan guaranteed, insured, or made under this chapter, and to improve the dwelling securing such loan through energy efficiency improvements, as provided in subsection (d).".

(b) AMOUNT OF GUARANTY.—Section 3710(e)(1) is amended—

(1) in the matter preceding subparagraph (A), by inserting "or for the purpose specified in subsection (a)(11)" after "subsection (a)(8)"; and

(2) in subparagraph (C), by striking out "may not exceed" and all that follows in such subparagraph and inserting in lieu thereof "may not exceed—

"(i) an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 3703(c)(3)(A) of this title) as may be authorized by the Secretary (under regulations which the Secretary shall prescribe) to be included in the loan; or

"(ii) in the case of a loan for the purpose specified in subsection (a)(11), an amount equal to the sum of the amount referred to with respect to the loan under clause (i) and the amount specified under subsection (d)(2);".

(c) FEE.—Section 3729(a)(2)(E) is amended by inserting "3710(a)(11)," after "3710(a)(9)(B)(i),".

SEC. 905. AUTHORITY TO GUARANTEE LOANS TO REFINANCE ADJUSTABLE RATE MORTGAGES TO FIXED RATE MORTGAGES.

Section 3710(e)(1)(A) is amended by inserting before the semicolon at the end the following: "or, in a case in which the loan is a fixed rate loan and the loan being refinanced is an adjustable rate loan, the loan bears interest at a rate that is agreed upon by the veteran and the mortgagee".

SEC. 906. MANUFACTURED HOME LOAN INSPECTIONS.

(a) CERTIFICATION OF CONFORMITY WITH STANDARDS.—Paragraph (2) of subsection (h) of section 3712 is amended to read as follows:

"(2) Any manufactured housing unit properly displaying a certification of conformity to all applicable Federal manufactured home construction and safety standards pursuant to section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5415) shall be deemed to meet the standards required by paragraph (1).".

(b) REPEAL OF INSPECTION REQUIREMENTS.—Subsection (j) of such section is amended by striking out "in the case of" the first place it appears and all that follows and inserting in lieu thereof "in the case of—

"(1) manufactured homes constructed by a manufacturer who fails or is unable to discharge the manufacturer's obligations under the warranty;

"(2) manufactured homes which are determined by the Secretary not to conform to the standards provided for in subsection (h); or

"(3) a manufacturer of manufactured homes who has engaged in procedures or practices determined by the Secretary to be unfair or prejudicial to veterans or the Government.".

(c) ELIMINATION OF REPORTING REQUIREMENT.—Subsection (l) of such section is amended—

(1) by striking out "the results of inspections required by subsection (h) of this section,"; and

(2) by striking out "of this section,".

SEC. 907. PROCEDURES ON DEFAULT.

(a) IN GENERAL.—Paragraph (7) of section 3732(c) is amended—

(1) in the matter preceding subparagraph (A), by striking out "that was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale";

(2) in subparagraph (A)—

(A) by striking out "the Secretary may accept conveyance of the property to the United States for a price not exceeding" and inserting in lieu thereof "(i) the amount was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to"; and

(B) by striking out "and" after "loan;" and inserting in lieu thereof "or";

(C) by adding at the end the following:

"(ii) there was no minimum amount for which the property had to be sold at the liquidation sale under applicable State law, the holder shall have the option to convey the property to the United States in return for payment by the Secretary of an amount equal to the lesser of such net value or total indebtedness; and"; and

(3) in subparagraph (B), by striking out "paragraph (6)(B)" and inserting in lieu thereof "paragraph (6)".

(b) CONFORMING AMENDMENT.—Paragraph (6) of such section is amended—

(1) by striking out "either";

(2) by striking out "sale or acquires" and all that follows through "(B) the" and inserting in lieu thereof "sale, the"; and

(3) by redesignating clauses (i) and (ii) as clauses (A) and (B), respectively.

SEC. 908. MINIMUM ACTIVE-DUTY SERVICE REQUIREMENT.

Subparagraph (F) of section 5303A(b)(3) is amended by inserting "or chapter 37" after "chapter 30" in the matter preceding clause (i).

TITLE X—HOMELESS VETERANS PROGRAMS

SEC. 1001. REPORTS ON ACTIVITIES OF THE DEPARTMENT OF VETERANS AFFAIRS TO ASSIST HOMELESS VETERANS.

(a) ANNUAL REPORT.—(1) Not later than April 15 of each year, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities of the Department of Veterans Affairs during the year preceding the report under programs of the Department for the provision of assistance to homeless veterans.

(2) The report shall—

(A) set forth the number of homeless veterans provided assistance under those programs;

(B) describe the cost to the Department of providing such assistance under those programs; and

(C) provide any other information on those programs and on the provision of such assistance that the Secretary considers appropriate.

(b) BI-ANNUAL REQUIREMENT.—The Secretary shall include in the report submitted under subsection (a)(1) in 1995, and every two years thereafter, an evaluation of the effectiveness of the programs of the Department in providing assistance to homeless veterans.

(c) CONFORMING REPEAL.—Section 10 of Public Law 102-590 (106 Stat. 5141; 37 U.S.C. 7721 note) is repealed.

SEC. 1002. REPORT ON ASSESSMENT AND PLANS FOR RESPONSE TO NEEDS OF HOMELESS VETERANS.

(a) UPDATE OF ASSESSMENT.—Subsection (b) of section 107 of the Veterans' Medical Programs Amendments of 1992 (Public Law 102-405; 106 Stat. 1977; 38 U.S.C. 527 note) is amended by adding at the end the following new paragraph:

"(6) The Secretary shall require that the directors referred to in paragraph (1) update the assessment required under that paragraph during each of 1995, 1996, and 1997.".

(b) REPORTS ON ASSESSMENTS AND PLAN.—Subsection (i) of such section (106 Stat. 1978) is amended—

(1) by striking out "REPORT.—" and inserting in lieu thereof "REPORTS.—(1)"; and

(2) by adding at the end the following:

"(2) Not later than December 31, 1994, the Secretary shall submit to such committees a report that—

"(A) describes the results of the assessment carried out under subsection (b);

"(B) sets forth the lists developed under paragraph (1) of subsection (c); and

"(C) describes the progress, if any, made by the directors of the medical centers and the directors of the benefits offices referred to in such subsection (c) in developing the plan referred to in paragraph (2) of such subsection (c).

"(3) Not later than December 31 of each of 1995, 1996, and 1997, the Secretary shall submit to such committees a report that describes the update to the assessment that is carried out under subsection (b)(6) in the year preceding the report.".

SEC. 1003. INCREASE IN NUMBER OF DEMONSTRATION PROGRAMS UNDER HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS ACT OF 1992.

Section 2(b) of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended in the first sentence by striking out "four" and inserting in lieu thereof "eight".

SEC. 1004. REMOVAL OF FUNDING REQUIREMENT OF HOMELESS VETERANS COMPREHENSIVE SERVICE PROGRAMS ACT OF 1992.

Section 12 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) is amended by striking out the second sentence.

SEC. 1005. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) of the funds appropriated for any fiscal year to support Federal programs which are designed to assist homeless individuals, a share more closely approximating the proportion of the population of homeless individuals who are veterans should be appropriated to the Secretary of Veterans Affairs for programs to assist homeless veterans that are administered by that Secretary;

(2) of the Federal grants made available to assist community organizations that assist homeless individuals, a share of such grants more closely approximating the proportion of the population of homeless individuals who are veterans should be provided to community organizations that provide assistance primarily to homeless veterans; and

(3) the Secretary of Veterans Affairs should take such actions as are necessary to ensure that Federal agencies that provide assistance, either directly or indirectly, to homeless individuals, including homeless veterans, are aware of and encouraged to make appropriate referrals to facilities of the Department of Veterans Affairs for benefits and services, such as health care, substance abuse treatment, counseling, and income assistance.

TITLE XI—REDUCTIONS IN DEPARTMENT OF VETERANS AFFAIRS PERSONNEL

SEC. 1101. FINDINGS.

Congress makes the following findings:

(1) Under proposals for national health care reform, the Department of Veterans Affairs will be required to provide health care services to veterans on a competitive basis with other health care providers.

(2) The elimination of positions from the Department that the Office of Management and Budget has scheduled to occur in fiscal years 1995 through 1999 would prevent the Department from meeting the responsibilities of the Department to provide health care to veterans under law and from maintaining the quality of health care that is currently provided to veterans.

SEC. 1102. REQUIREMENT FOR MINIMUM NUMBER OF FULL-TIME EQUIVALENT POSITIONS.

(a) IN GENERAL.—Chapter 7 is amended by adding at the end the following new section:

"§ 712. Full-time equivalent positions: limitation on reduction

"(a) Notwithstanding any other provision of law, the number of full-time equivalent positions in the Department of Veterans Affairs during the period beginning on the date of the enactment of this section and ending on September 30, 1999, may not (except as provided in subsection (c)) be less than 224,377.

"(b) In determining the number of full-time equivalent positions in the Department of Veterans Affairs during a fiscal year for purposes of ensuring under section 5(b) of the Federal Workforce Restructuring Act of 1994 (Public Law 103-226; 108 Stat. 115; 5 U.S.C. 3101 note) that the total number of full-time equivalent positions in all agencies of the Federal Government during a fiscal year covered by that section does not exceed the limit prescribed for that fiscal year under that section, the total number of full-time equivalent positions in the Department of Veterans Affairs during that fiscal year shall be the number equal to—

"(1) the number of such positions in the Department during that fiscal year, reduced by

"(2) the sum of—

"(A) the number of such positions in the Department during that fiscal year that are filled by employees whose salaries and benefits are paid primarily from funds other than appropriated funds; and

"(B) the number of such positions held during that fiscal year by persons involved in medical care cost recovery activities under section 1729 of this title.

"(c) The Secretary shall not be required to make a reduction in the number of full-time equivalent positions in the Department unless such reduction—

"(1) is necessary due to a reduction in funds available to the Department; or

"(2) is required under a law that is enacted after the date of the enactment of this section and that refers specifically to this section.

"(d) The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report, through the year 2000, on the number and type of full-time equivalent positions in the Department that are reduced under this section. The report shall include a justification for the reductions and shall be submitted with the materials provided in support of the budget for the Department contained in the President's budget submitted to Congress for a fiscal year pursuant to section 1105 of title 31.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"712. Full-time equivalent positions: limitation on reduction.".

SEC. 1103. ENHANCED AUTHORITY TO CONTRACT FOR NECESSARY SERVICES.

Section 8110(c) is amended by striking out paragraph (7) and inserting in lieu thereof the following:

"(7) Paragraphs (1) through (6) shall not be in effect during fiscal years 1995 through 1999.

"(8) During the period covered by paragraph (7), whenever an activity at a Department health-care facility is converted from performance by Federal employees to performance by employees of a contractor of the Government, the Secretary shall—

"(A) require in the contract for the performance of such activity that the contractor, in hiring employees for the performance of the contract, give priority to former employees of the Department who have been displaced by the award of the contract; and

"(B) provide to such former employees of the Department all possible assistance in obtaining other Federal employment or entrance into job training and retraining programs.

"(9) The Secretary shall include in the Secretary's annual report to Congress under section 529 of this title, for each fiscal year covered by paragraph (7), a report on the use during the year covered by the report of contracting-out authority made available by reason of paragraph (7). The Secretary shall include in each such report a description of each use of such authority, together with the rationale for the use of such authority and the effect of the use of such authority on patient care and on employees of the Department.".

SEC. 1104. STUDY.

(a) REQUIREMENT.—The Secretary of Veterans Affairs shall enter into an agreement with an appropriate non-Federal entity under which the entity shall carry out a study of the feasibility and advisability of alternative organizational structures, such as the establishment of a wholly-owned Government corporation or a Government-sponsored enterprise, for the effective provision of health care services to veterans.

(b) SUBMISSION OF REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the study required under subsection (a). The report shall be submitted not later than one year after the date of the enactment of this Act.

(c) AUTHORIZATION OF FUNDS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs the sum of $1,000,000 for the purposes of carrying out the study required under subsection (a).

TITLE XII—TECHNICAL AND CLERICAL AMENDMENTS

SEC. 1201. AMENDMENTS TO TITLE 38, UNITED STATES CODE.

(a) REFERENCES TO "SECRETARY" AND "DEPARTMENT".—Title 38, United States Code, is amended as follows:

(1) Paragraph (1) of section 101 is amended to read as follows:

"(1) The terms 'Secretary' and 'Department' mean the Secretary of Veterans Affairs and the Department of Veterans Affairs, respectively.".

(2) Section 1532(c) is amended by striking out "Secretary" and inserting in lieu thereof "Veterans' Administration".

(3) Section 3745(a) is amended by striking out "Secretary" after "consult with the" and inserting in lieu thereof "Administrator".

(4) Section 4102A(e) is amended by striking out "Regional Secretary" both places it appears and inserting in lieu thereof "Regional Administrator".

(5) Section 4110(d)(9) is amended by striking out "Secretary of the Small Business Administration" and inserting in lieu thereof "Administrator of the Small Business Administration".

(b) REFERENCES TO DEPARTMENT OF MEDICINE AND SURGERY.—

(1) The following sections of title 38, United States Code, are amended by striking out "Department of Medicine and Surgery" each place it appears and inserting in lieu thereof "Veterans Health Administration": sections 3120(a), 3120(f), 3121(a)(3), 7603(a), 7603(c)(1)(B), 7604(1)(B), 7604(2)(D), 7612(c)(1)(B), 7615, 7616(b)(2), 7616(c), 7622(b)(1), 7622(c)(2)(A), 7623(b), 7635(a)(1), 7635(a)(2), and 8110(a).

(2) Section 7622(c)(2)(B) of such title is amended by striking out "such Department" and inserting in lieu thereof "the Veterans Health Administration".

(c) CONFORMING AMENDMENTS RELATING TO CONVERSION OF POSITIONS OF CHIEF MEDICAL DIRECTOR AND CHIEF BENEFITS DIRECTOR TO UNDER SECRETARY POSITIONS.—Title 38, United States Code, is amended as follows:

(1) Section 305 is amended—

(A) in subsection (a)(1), by striking out "a Under Secretary" and inserting in lieu thereof "an Under Secretary"; and

(B) in subsection (d)(2)(F), by striking out "Under Secretary" the second place it appears and all that follows through the closing parenthesis and inserting in lieu thereof "Chief Medical Director of the Veterans' Administration)".

(2) Section 306 is amended—

(A) in subsection (a), by striking out "a Under Secretary" and inserting in lieu thereof "an Under Secretary"; and

(B) in subsection (d)(2)(F), by striking out "Under Secretary" the second place it appears and all that follows through the closing parenthesis and inserting in lieu thereof "Chief Benefits Director of the Veterans' Administration)".

(3) Section 7306 is amended—

(A) in subsection (a)—

(i) in paragraph (3), by striking out "Assistant Chief Medical Directors" and inserting in lieu thereof "Assistant Under Secretaries for Health";

(ii) by redesignating the last three paragraphs as paragraphs (8), (7), and (9) respectively;

(iii) by reversing the order in which the penultimate and antepenultimate paragraphs appear; and

(iv) in paragraph (8), as so redesignated, by striking out "Chief Medical Director" and inserting in lieu thereof "Under Secretary for Health";

(B) in subsection (b), by striking out "Assistant Chief Medical Directors" in the matter preceding paragraph (1) and inserting in lieu thereof "Assistant Under Secretaries for Health"; and

(C) in subsection (c), by striking out "and (7)" and inserting in lieu thereof "and (8)".

(4) Section 7314(d) is amended—

(A) in paragraph (1)—

(i) by striking out "the Chief Medical Director and the Secretary to carry out" and inserting in lieu thereof "the Secretary and the Under Secretary for Health in carrying out"; and

(ii) by striking out "the Assistant Chief Medical Director described in section 7306(b)(3)" and inserting in lieu thereof "the Assistant Under Secretary for Health described in section 7306(b)(3)"; and

(B) in paragraph (3), by striking out "Assistant Chief Medical Director" both places it appears and inserting in lieu thereof "Assistant Under Secretary".

(5) Section 7318 is amended by striking out "Chief Medical Director" each place it appears and inserting in lieu thereof "Under Secretary for Health".

(6) Section 7440(1) is amended by striking out "Chief Medical Director's" and inserting in lieu thereof "Under Secretary for Health's".

(7) Section 7451(g)(1) is amended by striking out "Chief Medical Director's" and inserting in lieu thereof "Under Secretary for Health's".

(d) CROSS REFERENCE AMENDMENTS TO PROVISIONS OF TITLE 38.—Title 38, United States Code, is amended as follows:

(1) Section 115 is amended by striking out "sections 230" and inserting in lieu thereof "sections 314, 315, 316,".

(2) Section 1710(f)(3)(E) is amended by striking out "section 1712(f)" and "section 1712(f)(4)" and inserting in lieu thereof "section 1712(a)" and "section 1712(f)", respectively.

(3) Section 1712 is amended—

(A) in subsection (i)(5), by striking out "section 1722(a)(1)(C)" and inserting in lieu thereof "section 1722(a)(3)"; and

(B) in subsection (j), by striking out "Section 4116" and inserting in lieu thereof "Section 7316".

(4) Section 3018A(d)(3) is amended by striking out "section 3015(e)" and inserting in lieu thereof "section 3015(f)".

(5) Section 3018B(d)(3) is amended by striking out "section 3015(e)" and inserting in lieu thereof "section 3015(f)".

(6) Section 3032(f)(3) is amended by striking out "(c), or (d)(1)" and inserting in lieu thereof "(d), or (e)(1)".

(7) Section 3035(b) is amended—

(A) in paragraph (2), by striking out "section 3015(c)" and inserting in lieu thereof "section 3015(d)"; and

(B) in paragraph (3)(C), by striking out "section 3015(e)" and inserting in lieu thereof "section 3015(f)".

(8) Section 3103(b)(3) is amended by striking out "section 3102(1)(A)" and inserting in lieu thereof "section 3102(1)(A)(i)".

(9) Section 3106(a) is amended by striking out "section 3102(1)(A) or (B)" and inserting in lieu thereof "ciause (i) or (ii) of section 3102(1)(A)".

(10) Section 3113(a) is amended by striking out "section 3102(1)(B) and (2)" and inserting in lieu thereof "subparagraphs (A)(ii) and (B) of section 3102(1)".

(11) Section 3120(b) is amended by striking out "section 3012(1)(A)" and inserting in lieu thereof "section 3102(1)(A)(i)".

(12) Section 3241(c) is amended by striking out "1663,".

(13) Section 3735(a)(1)(A) is amended by striking out "section 3402" and inserting in lieu thereof "section 5902".

(14) Section 4103(c)(2) is amended by striking out "subchapter IV of chapter 3" and inserting in lieu thereof "subchapter II of chapter 77".

(15) Section 5104(a) is amended by striking out "section 211(a)" and inserting in lieu thereof "section 511".

(16) Section 8103(d)(6)(A) is amended by striking out "section 230(c)" and inserting in lieu thereof "section 316".

(17) Section 8110(c)(3)(B) is amended by striking out "section 213 or 4117" and inserting in lieu thereof "section 513 or 7409".

(18) Section 8135(a)(3) is amended by striking out "section 8134(2)" and inserting in lieu thereof "section 8134(a)(2)".

(19) Section 8155(a) is amended by striking out "section 4112" and inserting in lieu thereof "section 7312".

(20) Section 8201(c) is amended by striking out "section 4112(a)" and inserting in lieu thereof "section 7312(a)".

(e) PUNCTUATION, CAPITALIZATION, SPELLING, ETC.—Title 38, United States Code, is amended as follows:

(1) Section 111(b)(3)(B) is amended by striking out "the Department facility" and inserting in lieu thereof "a Department facility".

(2) Sections 305(d)(2)(F) and 306(d)(2)(F) are amended by striking out "Commission" and inserting in lieu thereof "commission".

(3) Section 312(a) is amended by striking out "(5 U.S.C. App. 3)" and inserting in lieu thereof "(5 U.S.C. App.)".

(4) Section 317(b)(2) is amended by striking out "provided, by the" and inserting in lieu thereof "provided by, the".

(5) Section 711(d) is amended by striking out "Committees" and inserting in lieu thereof "committees".

(6) Section 1116(a)(1)(B) is amended by striking out "(1)" and "(2)" and inserting in lieu thereof "(i)" and "(ii)", respectively.

(7) Section 1722A(a)(1) is amended by striking out the closing parenthesis after "veteran" in the first sentence.

(8) Section 1969(e) is amended—

(A) by striking out "sections 1971 (a) and (c)" and inserting in lieu thereof "subsections (a) and (c) of section 1971"; and

(B) by striking out "sections 1971 (d) and (e)" and inserting in lieu thereof "subsections (d) and (e) of section 1971".

(9) Section 1977(f) is amended by striking out "sections 1971 (d) and (e)" and inserting in lieu thereof "subsections (d) and (e) of section 1971".

(10) Section 3011(f)(1) is amended by striking out "whose length" and inserting in lieu thereof "the length of which".

(11) Section 3018B(d) is amended—

(A) in paragraph (1), by striking out "(a)(2)(D) of this subsection" and inserting in lieu thereof "(a)(2)(D) of this section"; and

(B) in paragraph (3)—

(i) by striking out "such Account" and inserting in lieu thereof "such account"; and

(ii) by striking out "this chapter" and inserting in lieu thereof "this title".

(12) Section 3688(a)(6) is amended by inserting a comma after "3241(a)(2)".

(13) Section 3706 is amended by striking out "of this chapter" the second and third places it appears and inserting in lieu thereof "of this title".

(14) Section 3712 is amended—

(A) in subsection (c)(3)—

(i) by inserting "of" in subparagraph (D) after "subparagraph (B)"; and

(ii) by striking out "of this subsection" in subparagraph (E) and inserting in lieu thereof "of this paragraph"; and

(B) in subsection (m), by striking out "section 3704(d) and section 3721 of this chapter" and inserting in lieu thereof "sections 3704(d) and 3721 of this title".

(15) Section 3713(b) is amended in the last sentence by striking out "subsection 5302(b) of this title, if eligible thereunder" and inserting in lieu thereof "section 5302(b) of this

title, if the veteran is eligible for relief under that section".

(16) Section 5702 is amended—

(A) by inserting "(a)" before "Any person desiring";

(B) by striking out "custody of" and all that follows through "stating" and inserting in lieu thereof "custody of the Secretary that may be disclosed under section 5701 of this title must submit to the Secretary an application in writing for such copy. The application shall state"; and

(C) in subsection (c), by striking out "is authorized to fix" and inserting in lieu thereof "may establish".

(17) Section 6101(a) is amended by inserting a comma after "title 18".

(18) Section 6103(d)(1) is amended in the second sentence—

(A) by striking out "(a)" and "(b)" and inserting in lieu thereof "(A)" and "(B)", respectively; and

(B) by striking out "prior to" and inserting in lieu thereof "before".

(19) Section 6105(c) is amended—

(A) in the first sentence, by striking out "clauses (2), (3), or (4) of subsection (b) of this section" and inserting in lieu thereof "paragraph (2), (3), or (4) of subsection (b)";

(B) in the second sentence, by striking out "clause (1) of that subsection" and inserting in lieu thereof "paragraph (1) of subsection (b)"; and

(C) by transposing the two sentences of that subsection (as so amended).

(20) Section 7312(d) is amended by striking out "the advisory groups activities" and inserting in lieu thereof "the activities of the advisory group".

(21) Section 7408(a) is amended by striking out "civil-service" and inserting in lieu thereof "civil service".

(22) Sections 7433(b)(3)(A) and 7435(b)(3)(A) are amended by striking out "nation-wide" and inserting in lieu thereof "nationwide".

(23) Section 7451(d)(3)(C)(i)(I) is amended by striking out "labor market area" and inserting in lieu thereof "labor-market area".

(24) Section 7453 is amended by striking out "subsections" in subsections (f) and (g) and inserting in lieu thereof "subsection".

(25) Section 7601(a) is amended by striking out the comma at the end of paragraph (1) and inserting in lieu thereof a semicolon.

(26) Section 7604 is amended by striking out "subchapters" in paragraphs (1)(A), (2)(D), and (5) and inserting in lieu thereof "subchapter".

(27) Section 8126 is amended—

(A) in subsection (e)(1)(A), by striking out "1-year" and inserting in lieu thereof "one-year"; and

(B) in subsection (f)(2), by striking out ", and" and inserting in lieu thereof a period.

(f) DATE OF ENACTMENT REFERENCES.—Title 38, United States Code, is amended as follows:

(1) Section 1922A(b) is amended by striking out "insurance not later than" and all that follows through "that the Department" and inserting in lieu thereof "insurance. Such application must be filed not later than (1) October 31, 1993, or (2) the end of the one-year period beginning on the date on which the Secretary".

(2) Sections 3011(e) and 3012(f) are amended by striking out "the end of the 24-month period beginning on the date of the enactment of this subsection" and inserting in lieu thereof "October 28, 1994,".

(3) Section 3018B(a)(2)(A) is amended by striking out "the date of enactment of this section" and inserting in lieu thereof "October 23, 1992,".

(4) Section 3702(a)(2)(E) is amended by striking out "For the 7-year period beginning on the date of enactment of this subparagraph," and inserting in lieu thereof "For the period beginning on October 28, 1992, and ending on October 27, 1999,".

(5) Section 6103(d)(2) is amended by striking out "the date of enactment of this amendatory Act" and inserting in lieu thereof "June 30, 1972".

(6) Section 8126 is amended—

(A) in subsection (e)(1)(A), by striking out "30 days after the date of the enactment of this section" and inserting in lieu thereof "December 4, 1992"; and

(B) in subsection (g), by striking out "the date of the enactment of this section" in paragraphs (1) and (2) and inserting in lieu thereof "November 4, 1992".

(g) OBSOLETE OR EXECUTED PROVISIONS.—Title 38, United States Code, is amended as follows:

(1) Section 312(b) is amended by striking out paragraph (3).

(2) Section 1524(a)(2) is amended by striking out "Subject to paragraph (3) of this subsection, if" and inserting in lieu thereof "If".

(3) Section 4110(c)(1) is amended by striking out "shall, within 90 days after the date of the enactment of this section, appoint" and inserting in lieu thereof "shall appoint".

(4)(A) Section 5505 is repealed.

(B) The table of sections at the beginning of chapter 55 is amended by striking out the item relating to section 5505.

(5) Section 7311 is amended by striking out subsections (f) and (g).

(6) Section 7453(i)(3) is amended by striking out "of title 5".

(7) Section 8110(c) is amended by striking out paragraph (7).

(8) Section 8111(b) is amended—

(A) in paragraph (2)—

(i) by striking out "During fiscal years 1982 and 1983" in the second sentence and inserting in lieu thereof "During odd-numbered fiscal years";

(ii) by striking out "During fiscal year 1984" in the third sentence and inserting in lieu thereof "During even-numbered fiscal years"; and

(iii) by striking out the fourth sentence; and

(B) in paragraph (4), by striking out "Within nine months of the date of the enactment of this subsection and at such times thereafter as" and inserting in lieu thereof "At such times as".

(h) AMENDMENTS TO HEADINGS AND TABLES OF CONTENTS.—Title 38, United States Code, is amended as follows:

(1) The table of chapters before part I and the table of chapters at the beginning of part III are amended by striking out the item relating to chapter 42 and inserting in lieu thereof the following:

"42. Employment and Training of Veterans ..... 4211".

(2) The heading of section 2106 is amended by revising each word after the first word so that the initial letter of each such word is lower case.

(3) The item relating to subchapter III in the table of sections at the beginning of chapter 73 is amended to read as follows:

"SUBCHAPTER III—PROTECTION OF PATIENT RIGHTS".

(4) The heading of section 7458 is amended to read as follows:

"§7458. Recruitment and retention bonus pay".

(5) The heading of chapter 81 is amended by inserting "enhanced-use" before "leases of real".

(6) The item relating to section 8126 in the table of sections at the beginning of chapter 81 is amended to read as follows:

"8126. Limitation on prices of drugs procured by Department and certain other Federal agencies.".

(i) OTHER MISCELLANEOUS CORRECTIONS.—Title 38, United States Code, is amended as follows:

(1) Section 1718(c)(1) is amended by inserting "of Veterans Affairs" after "Department" in the first sentence.

(2) Section 1922(b)(4) is amended by striking out "Notwithstanding" and all that follows through "title," and inserting in lieu thereof "Notwithstanding section 1917 of this title,".

(3) Section 1969(d)(3) is amended by striking out "'General Operating Expenses, Department'" and inserting in lieu thereof "'General Operating Expenses, Department of Veterans Affairs'".

(4) Section 3018A(a)(1) is amended by striking "after December 31, 1990," and all that follows through "whichever is later," and inserting in lieu thereof "after February 2, 1991,".

(5) Section 3121(a)(3) is amended by striking out "Department of Veterans' Benefits" and inserting in lieu thereof "Veterans Benefits Administration".

(6) Section 3680(a)(C) is amended by striking out "1 full" and inserting in lieu thereof "one full".

(7) Section 4110(e)(3)(B) is amended—

(A) by striking out ", United States Code,"; and

(B) by striking out "the Board" and inserting in lieu thereof "the advisory committee".

(8) Section 5110 is amended by striking out subsection (m).

(9) Section 7315(b)(2) is amended by striking out "Department" and inserting in lieu thereof "Veterans' Administration".

(10) Section 8111(f)(6) is amended by inserting "of Defense" after "the Secretary" the second place it appears.

(11) Section 8502(d) is amended by striking out "General Post Fund, National Homes, Department," and inserting in lieu thereof "General Post Fund, National Homes, Department of Veterans Affairs,".

SEC. 1202. AMENDMENTS TO OTHER LAWS ADMINISTERED BY SECRETARY OF VETERANS AFFAIRS.

(a) PUBLIC LAW 102-54.—Effective as of June 13, 1991, and as if included in the enactment of Public Law 102-54, Public Law 102-54 is amended as follows:

(1) Section 13(e) (105 Stat. 275) is amended by striking out "subsection (b)(10)" and inserting in lieu thereof "subsection (c)(10)".

(2) Section 15(a)(1)(A) (105 Stat. 289) is amended by inserting "the first place it appears" before "in the first sentence".

(b) PUBLIC LAW 102-83.—Effective as of August 6, 1991, and as if included in the enactment of Public Law 102-83, section 4(a) of Public Law 102-83 (105 Stat. 403) is amended as follows:

(1) Paragraph (2)(E) is amended by striking out "Section 601(4)" and inserting in lieu thereof "Section 601(3)".

(2) Paragraph (4) is amended by adding at the end the following:

"(E) Sections 7314(b)(1) and 7315(b)(2).".

(c) PUBLIC LAW 102-86.—Section 403(b)(4) of the Veterans' Benefits Programs Improvement Act of 1991 (Public Law 102-86; 105 Stat. 423; 36 U.S.C. 493(b)(4)) is amended by striking out "section 235" and inserting in lieu thereof "section 707".

(d) PUBLIC LAW 102-547.—Section 10(b)(2) of the Veterans Home Loan Program Amendments of 1992 (106 Stat. 3643; 38 U.S.C. 3703 note) is amended by striking out "paragraph 4" and inserting in lieu thereof "paragraph (4)".

(e) PUBLIC LAW 102-585.—The Veterans Health Care Act of 1992 (Public Law 102-585) is amended as follows:

(1) Section 202 (38 U.S.C. 8111 note) is amended by striking out "the Chief Medical Director" and inserting in lieu thereof "the Under Secretary for Health of the Department of Veterans Affairs".

(2) Section 511(c) (38 U.S.C. 7318 note) is amended by striking out "Chief Medical Director" each place it appears and inserting in lieu thereof "Under Secretary for Health".

SEC. 1203. AMENDMENTS TO OTHER LAWS.

(a) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended as follows:

(1) Section 502(b)(2)(D) (42 U.S.C. 290aa-1(b)(2)(D)) is amended to read as follows:

"(D) the Under Secretary for Health of the Department of Veterans Affairs;".

(2) Section 542(b)(2) (42 U.S.C. 290dd-1(b)(2)) is amended by striking out "Chief Medical Director" and inserting in lieu thereof "Under Secretary for Health".

(3) Section 2604(b)(2)(A) (42 U.S.C. 300ff-14(b)(2)(A)) is amended by striking out "Veterans Administration facilities" and inserting in lieu thereof "Department of Veterans Affairs facilities".

(b) MISCELLANEOUS DEPARTMENT AND SECRETARY REFERENCES.—Section 5102(c)(3) of title 5, United States Code, is amended by striking out the comma after "Department of Veterans Affairs".

(c) MISCELLANEOUS CROSS-REFERENCE CORRECTIONS.—

(1) Section 1204(a)(1) of title 5, United States Code, is amended by striking out "section 4323" and inserting in lieu thereof "section 4303".

(2) Section 441(b)(2)(B) of the Job Training Partnership Act (29 U.S.C. 1721(b)(2)(B)) is amended—

(A) by striking out "subchapter IV of chapter 3" and inserting in lieu thereof "subchapter II of chapter 77"; and

(B) by striking out "sections 612A, 620A, 1787, and 2003A" and inserting in lieu thereof "sections 1712A, 1720A, 3687, and 4103A".

(3) Section 107 of the Local Public Works Capital Development and Investment Act of 1976 (42 U.S.C. 6706) is amended by striking out "section 4211(2)(A)" and "section 2011(1)" inserting in lieu thereof "section 4211(2)" and "section 4211(1)", respectively.

(4) Section 4(g)(2) of the Employment Act of 1946 (15 U.S.C. 1022a(g)(2)) is amended—

(A) by striking out "this subsection" and inserting in lieu thereof "this section"; and

(B) by striking out "section 2011(1) or (2)(A)" and inserting in lieu thereof "section 4211(1) or (2)".

AMENDMENT OFFERED BY MR. MONTGOMERY

Mr. MONTGOMERY. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MONTGOMERY:

Beginning on page 76, line 1, strike out all through page 81, line 11, and amend the table of contents.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Mississippi [Mr. MONTGOMERY].

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5244, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PROVIDING FOR ACCEPTANCE BY SECRETARY OF EDUCATION OF APPLICATIONS SUBMITTED BY LOCAL EDUCATION AGENCIES SERVING WINDOW ROCK UNIFIED SCHOOL DISTRICT, WINDOW ROCK, AZ

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be discharged from further consideration of the bill (H.R. 5220) to provide for the acceptance by the Secretary of Education of applications submitted by the local educational agency serving the Window Rock Unified School District, Window Rock, AZ, under section 3 of the act of September 30, 1950 (Public Law 874, 81st Congress) for fiscal years 1994 and 1995, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5220

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPLICATION BY WINDOW ROCK, ARIZONA, LOCAL EDUCATIONAL AGENCY FOR FUNDING UNDER SECTION 3 OF PUBLIC LAW 874, 81ST CONGRESS.

Notwithstanding section 5(a)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress; 20 U.S.C. 240(a)(2)) (as such section was in effect on the day before the date of the enactment of the Improving America's Schools Act of 1994), the Secretary of Education shall accept from the local educational agency serving the Window Rock Unified School District, Window Rock, Arizona, applications for funding under section 3 of the Act of September 30, 1950 (as so in effect) for fiscal years 1994 and 1995 as if such applications were timely received in accordance with section 222.10(a)(1) of title 34, Code of Federal Regulations.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KILDEE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5220, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

PROVIDING FOR PRINTING OF STATEMENTS MADE IN TRIBUTE TO REPRESENTATIVE JAMIE L. WHITTEN

Mr. MANTON. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the concurrent resolution (H. Con. Res. 314) providing for the printing of a collection of statements made in tribute to Representative JAMIE L. WHITTEN, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Ms. DUNN. Mr. Speaker, reserving the right to object, I yield to the gentleman from New York [Mr. MANTON], for an explanation of the legislation.

Mr. MANTON. Mr. Speaker, House Concurrent Resolution 314 was introduced by Mr. MONTGOMERY and would authorize the printing of a collection of statements made in tribute to Hon. JAMIE WHITTEN, the dean of the House.

JAMIE WHITTEN came to Congress in 1941, and for more than 50 years has served his constituents with honor and distinction.

Ms. DUNN. Mr. Speaker, I appreciate the gentleman explaining the bill. I think this is a very fitting tribute to Congressman WHITTEN who was elected on November 4, 1941. On January 6, 1992, he broke Carl Vinson's record for the longest continuous service in the House of Representatives, 43 years on November 4.

Congressman WHITTEN was chairman of the Appropriations Committee from 1979 to 1992. He served on that committee since 1943, and he was chairman of the Agriculture Appropriations Subcommittee from 1949 to 1992. He has been dean of the House since 1979.

I appreciate the gentleman initiating this resolution and I strongly support it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 314

Resolved by the House of Representatives (the Senate concurring), That a collection of statements made in tribute to Representative Jamie L. Whitten, prepared under the supervision of the Joint Committee on Printing, shall be printed as a House document, with illustrations and suitable binding.

SEC. 2. In addition to the usual number, there shall be printed the lesser of—

(1) 1,850 copies (including 400 casebound copies) of the document, of which 550 copies (including 100 casebound copies) shall be for the use of the House of Representatives, 110 copies (including 100 casebound copies) shall be for the use of the Senate, and 1,190 copies

(including 200 casebound copies) shall be for the use of the Joint Committee on Printing; or

(2) such number of copies of the document as does not exceed a total production and printing cost of $19,527, with such copies to be allocated in the same proportion as described in paragraph (1).

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MANTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 314, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

FEDERAL POWER ACT AMENDMENTS OF 1994

Mr. SHARP. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2384) to extend the deadlines applicable to certain hydroelectric projects under the Federal Power Act, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from Indiana?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, I shall not object, but I rise to ask the gentleman from Indiana [Mr. SHARP] to explain the bill, and I yield to the gentleman from Indiana for that purpose.

Mr. SHARP. Mr. Speaker, I thank the gentleman for yielding.

This legislation addresses problems in five areas of the Federal Energy Regulatory Commission's jurisdiction over hydropower projects and renewable resources.

First, the bill authorizes the Federal Energy Regulatory Commission, or FERC, to extend the time required for commencement of construction of several projects, for a maximum of 2 years each. This authority expires 3 years from the date of enactment. Where a construction license has already been extended more than two times, FERC is directed to report to Congress on the reasons for the delay.

This approach is consistent with prior House actions extending other hydropower construction licenses under the Federal Power Act. The affected projects are located in Arkansas, Illinois, Idaho, Kentucky, Ohio, Oregon, Pennsylvania, Washington, and West Virginia.

Second, the legislation provides for a limited exemption for a hydropower project located in Rio Arriba County, NM, insofar as FERC determines this is consistent with the public interest. This will permit the continued use of an electrical transmission line connecting the project to the main grid, consistent with the requirements of the Federal Power Act and all affected FERC licensees.

Third, the bill authorizes FERC to exempt two hydroelectric projects located in Alaska from certain licensing requirements, in order to expedite their consideration. This approach builds on a process under the Energy Policy Act of 1992 which retains all substantial wildlife protections, and permits FERC to impose conditions on any such license in order to protect these and other important values.

Fourth, the legislation directs FERC to make recommendations to the Congress in 1995 regarding legislation to transfer to the State of Hawaii all or part of its authority under the Federal Power Act for licensing new hydroelectric projects in the State. This transfer would not alter the applicability of other Federal environmental laws and regulations. During its consideration, the FERC is required to obtain the views of the State of Hawaii, as well as the other Federal environmental agencies, before forwarding any recommendations to the Congress.

Finally, the bill extends for a period of 2 years the removal of the size cap on renewable generation resources under the Public Utility Regulatory Policies Act of 1992.

Mr. MOORHEAD. Mr. Speaker, further reserving the right to object, I strongly support the passage of S. 2384. The bill addresses several important hydroelectric and renewable energy issues. First, the bill would authorize the extension of deadlines for the construction of 13 hydroelectric projects licensed under the Federal Power Act.

In addition to the license extensions, the bill has provisions authorizing the Federal Energy Regulatory Commission to exempt small hydroelectric facilities in Alaska from its jurisdiction. The bill also requires the FERC to make recommendations regarding the transfer of FERC licensing authority to the State of Hawaii.

Finally, the bill would extend for 2 years the existing exemption for renewable power generation facilities from the 80 megawatt size cap for qualifying facilities under PURPA. If the exemption is not extended, it will lapse in December, preventing the development of efficient renewable power resources under PURPA.

It is important that these issues be resolved to ensure that our Federal statutes and regulations do not get in the way of environmentally sound and efficient hydroelectric and renewable energy development.

Mr. STUDDS. Mr. Speaker, I am rising in support of the Committee Substitute Amendments to S. 2384.

In particular, I would like to clarify one of the Committee's provisions contained in title VI of the bill. These amendments would partially exempt certain hydropower projects from requirements under the Federal Power Act. The Merchant Marine and Fisheries Committee agrees with this language with the caveat that the protections for fish and wildlife presently contained in the Federal Power Act remain in place. These hydropower projects would still have to meet conditions to mitigate damage to fish and wildlife as set by the Fish and Wildlife Service and the National Marine Fisheries Service. While the Committee supports the attempt to remove some of the more bureaucratic requirements of the hydropower licensing process, we believe the protections of fish and wildlife should remain intact.

In closing, I would like to again express my support for the bill, and to commend Chairman DINGELL for his continuing attention to health of our Nations aquatic ecosystems.

Mr. MOORHEAD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2384

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Power Act Amendments of 1994".

TITLE I—PROJECTS IN THE STATE OF ALASKA

SECTION 101. STATE LICENSING JURISDICTION OVER SMALL PROJECTS.

The Federal Power Act, as amended, (16 U.S.C. 791a et seq.) is further amended by adding the following at the end of section 23:

"(c) In the case of any project works in the State of Alaska—

"(1) that are not part of a project licensed under this act prior to the date of enactment of this subsection;

"(2) for which a license application has not been accepted for filing by the Commission prior to the date of enactment of this subsection (unless such application is withdrawn at the election of the applicant);

"(3) having a power production capacity of 5,000 kilowatts or less;

"(4) located entirely within the boundaries of a single State; and

"(5) not located in whole or in part on any Indian reservation, unit of the National Park System, component of the wild and Scenic Rivers System or segment of a river designated for study for potential addition to such system, the State in which such project works are located shall have the exclusive authority to authorize such project works under State law, in lieu of licensing by the Commission under the otherwise applicable provisions of this part, effective upon the date on which the Secretary of Energy determines, after notice and an opportunity for public comment, that the State has assessed its river resources in a comprehensive way and has in place a process for regulating

such projects which gives consideration to the improvement or development of the State's waterways for the use or benefit of intrastate, interstate, or foreign commerce, for the improvement and use of waterpower development, for the protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds), and for other beneficial public uses, including irrigation, flood control, water supply, recreational and other purposes, and Indian rights, if applicable. Upon notice from the Governor of the State, the Secretary of Energy shall immediately initiate the process to make this determination, and shall complete said process and make a determination within 180 days of such notice.

"(d) In the case of a project that would be subject to authorization by a State under subsection (c) but for the fact that the project has been licensed by the Commission prior to the enactment of subsection (c), the licensee of such project may in its discretion elect to make the project subject to the authorizing authority of the State.

"(e) With respect to projects located in whole or in part on Federal lands, State authorizations for project works pursuant to subsection (c) of this section shall be subject to the approval of the Secretary having jurisdiction with respect to such lands and subject to such terms and conditions as the Secretary may prescribe.

"(f) Nothing in subsection (c) shall preempt the application of Federal environment, natural, or cultural resources protection laws according to their terms.".

SEC. 102. REMOVAL OF FEDERAL ENERGY REGULATORY COMMISSION JURISDICTION.

The following projects located entirely within the State of Alaska are removed from the jurisdiction of the Federal Energy Regulatory Commission and all applicable laws and regulations relating to such jurisdiction—

(1) a project located at Sitka, Alaska, identified in FERC Docket No. UL89–08; and

(2) a project located near Nondalton, Alaska, identified in FERC Docket No. EL88–25.

TITLE II—PROJECTS IN THE STATE OF ARKANSAS

SEC. 201. EXTENSION OF DEADLINE.

That notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC projects numbered 4204, 4660 and 4659 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of the projects for a maximum of two years. This section shall take effect for the project upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such project.

TITLE III—PROJECTS IN THE STATE OF HAWAII

SEC. 301. EXEMPTION FOR PROJECTS ON FRESH WATERS IN THE STATE OF HAWAII.

Section 4(e) of the Federal Power Act is amended by striking "several States, or upon" and inserting "several States (except fresh waters in the State of Hawaii, unless a license would be required by section 23 of the Act), or upon".

TITLE IV—PROJECTS IN THE STATE OF IDAHO

SEC. 401. EXTENSION OF DEADLINE.

Notwithstanding the time limitation of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC project numbered 4797, is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend until March 28, 2000 the time required for the licensee to commence the construction of such project.

TITLE V—PROJECTS IN THE STATE OF ILLINOIS

SEC. 501. PROJECT NUMBER 3943.

The Federal Energy Regulatory Commission is authorized and directed to reinstate effective August 16, 1994 the hydroelectric license previously issued for Project Number 3943. Within the meaning of section 13 of the Federal Power Act time required for the commencement of construction of such project shall be reinstated for not more than 3 consecutive 2-year periods.

SEC. 502. PROJECT NUMBER 3944.

The Federal Energy Regulatory Commission is authorized and directed to reinstate effective August 15, 1994 the hydroelectric license previously issued for Project Number 3944. Within the meaning of section 13 of the Federal Power Act time required for the commencement of construction of such project shall be extended for not more than 3 consecutive 2-year periods.

TITLE VI—PROJECTS IN THE STATE OF KENTUCKY

SEC. 601. EXTENSION OF DEADLINE.

That notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC project numbered 10228 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of the project for up to a maximum of three consecutive two-year periods. This section shall take effect for the project upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such project.

TITLE VII—PROJECTS IN THE STATE OF NEW MEXICO

SEC. 701. EXEMPTION OF PORTION OF EL VADO HYDROELECTRIC PROJECT FROM LICENSING REQUIREMENT OF PART I OF THE FEDERAL POWER ACT.

(a) Part I of the Federal Power Act shall not be applicable to the portion of the El Vado Hydroelectric Project, New Mexico (FERC project numbered 5226) that is described in subsection (b).

(b) The portion of the El Vado Hydroelectric Project referred to in subsection (a) consists of the 69 KV transmission line, including the right of way, which originates in the switch yard of such project and extends north to the Spills Switching Station operated by the Northern Rio Arriba Electric Cooperative, Inc., located in Rio Arriba County, New Mexico.

TITLE VIII—PROJECTS IN THE STATE OF OREGON

SEC. 801. EXTENSION OF DEADLINE.

The Federal Energy Regulatory Commission is authorized and directed to reinstate effective May 23, 1993 the hydroelectric license previously issued for project numbered 7829. Commencement of construction within the meaning of section 13 of the Federal Power Act shall commence within four years of the date of enactment of this section.

TITLE IX—PROJECTS IN THE STATE OF WASHINGTON

SEC. 901. EXTENSION OF DEADLINE.

Notwithstanding the time limitation of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC project numbered 3701, is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend until May 31, 2000, the time required for the licensee to commence the construction of such project.

TITLE X—PROJECTS IN THE STATE OF WEST VIRGINIA

SEC. 1001. EXTENSION OF DEADLINE.

Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission projects numbered 6901 and 6902, the Commission shall, upon the request of the licensee for such projects, in accordance with the good faith, due diligence and public interest requirements of such section 13 and the Commission's procedures under such section and the procedures specified in such section, extend the time period during which such licensee is required to commence of construction of such projects to terminate on October 3, 1999. This section shall take effect for the projects upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such projects. If the license issued for project numbered 6902 should expire prior to the date of enactment of this Act, the Commission is authorized and directed to reinstate effective October 15, 1994, the license previously issued for such project and to extend the time required for the commencement of construction of such project until October 3, 1999.

TITLE XI—PROJECTS IN THE STATE OF PENNSYLVANIA

SEC. 1101. EXTENSION OF DEADLINE.

Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon request of the licensee for project number 4474, is authorized, in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend until April 15, 2001, the time required for the licensee to commence construction of such project.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SHARP

Mr. SHARP. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. SHARP:

Strike all after the enacting clause and insert:

SECTION 1. EXTENSIONS OF DEADLINES FOR HYDROPOWER PROJECTS.

(a) IN GENERAL.—Notwithstanding the time limitations of section 13 of the Federal Power Act (16 U.S.C. 806), the Federal Energy Regulatory Commission, upon the request of the licensees for FERC Projects No. 3701, 3943, 3944, 4204, 4474, 4660, 4659, 4797, 6901, 6902, 9423, and 10228 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement

of construction for each such project for a maximum of 2-years. This section shall take effect for each such project upon the expiration of the extension (issued by the Commission under such section 13 or by Act of Congress) of the period required for commencement of construction of such project.

(b) TERMINATION.—The authorization for issuing extensions under this section shall terminate 3 years after the date of enactment of this section. To facilitate requests for extensions, the Commission may consolidate the requests. The Commission shall, in the case of any project referenced in subsection (a) that has had more than 2 extensions under the Federal Power Act or any other provision of law, shall examine and, at the time of granting extensions under this Act, report to the Congress the reasons for delay in construction by each licensee and the Commission's views on the ability of the licensee to comply with the construction requirements of the Federal Power Act before the end of such extension.

SEC. 2. REINSTATEMENT

(a) IN GENERAL.—The Federal Energy Regulatory Commission authorized and directed to reinstate effective May 23, 1993, in accordance with the good faith, due diligence, and public interest requirements of section 13 of the Federal Power Act (16 U.S.C. 806) and the Commission's procedures under such section, the hydroelectric license previously issued for Project No. 7829. Commencement of construction within the meaning of section 13 of the Federal Power Act shall commence within 4 years of such date.

(b) TERMINATION.—The authorization under this section shall terminate 3 years after the date of enactment of this section.

SEC. 3. EXEMPTION OF PORTION OF EL VADO HYDROELECTRIC PROJECT FROM LICENSING REQUIREMENT OF PART I OF THE FEDERAL POWER ACT.

(a) EXEMPTION.—The Federal Energy Regulatory Commission shall provide that the 69 KV transmission line, including the right-of-way, which originates in the switchyard of the El Vado Hydroelectric Project, New Mexico (FERC project numbered 5226) and extends north to the Spills Switching Station operated by the Northern Rio Arriba Electric Cooperative, Inc. ("NORA"), located in Rio Arriba County, New Mexico may be exempt for the term of the applicable license from so much of part I of the Federal Power Act as the Commission deems necessary to permit NORA to effectively and prudently utilize its system in conjunction with, and in furtherance of, the license unless the Commission finds after reasonable notice that such exemption is not in the public interest. The Commission shall initiate this action upon application of the licensee made within 120 days after the enactment of this Act, and the Commission shall provide such exemption without delay.

SEC. 4. CERTAIN PROJECTS UNDER THE FEDERAL POWER ACT IN ALASKA.

(a) AMENDMENT TO SECTION 2407(a).—Section 2407(a) of the Energy Policy Act of 1992 is amended by striking "may" and inserting "shall, in the case of the projects referenced in paragraphs (1) and (3) of this subsection and may, in the case of the project in paragraph (2) of this subsection,".

(b) AMENDMENT TO SECTION 2407(f).—Section 2407(f) of such Act is amended by adding the following new sentence at the end thereof: "The Commission shall, on its own motion, provide such exemption at any time after the enactment of this sentence, taking into consideration any application filed with the Commission prior to such enactment. The Commission shall report to the Congress the actions taken under this section and if the Commission fails to grant any such exemption in paragraphs (1) and (3) of subsection (a), shall explain the reasons for such failure.".

SEC. 5. HAWAII LEGISLATIVE REPORT.

The Federal Energy Regulatory Commission, taking into consideration the Commission's Study, April 13, 1994, of Hydroelectric Licensing in the State of Hawaii, shall initiate a proceeding for the purpose of making recommendations to the Congress in the first session of the 104th Congress for legislation to provide for the transfer to the State of Hawaii of all or part of the Commission's authority under the Federal Power Act for the licensing of new hydroelectric projects in the State of Hawaii without affecting the applicability of other Federal environmental laws and regulations to such projects, without transferring such authority to the State in the case of any such projects that could conflict with the management and operation of any National Wildlife Refuge or National Park in Hawaii, and without, to the greatest extent possible, establishing a precedent with respect to other States, Guam, the Virgin Islands, and the Commonwealth of Puerto Rico. The Commission shall obtain the views of the State of Hawaii and other Federal environmental agencies on any proposed legislative recommendation and shall include such views in the report of the Commission transferring the Commission's recommendations to the Congress. The Commission shall include its views and recommendations and those of any individual member of the Commission.

SEC. 6. SIZE LIMITATIONS OF ELIGIBLE FACILITIES UNDER PURPA.

Section 3(17)(E) of the Federal Power Act (16 U.S.C. 791a and following) is amended by striking "1994" and inserting "1996".

Mr. SHARP (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request from the gentleman from Indiana?

Mr. DINGELL. Mr. Speaker, reserving the right to object, this is a very sad occasion for me, speaking on reservation, because this is probably the last piece of legislation that will be handled by the distinguished gentleman from Indiana [Mr. SHARP]. He has served on the Committee on Energy and Commerce with extraordinary distinction and ability. He has served as chairman of our Subcommittee on Energy and Power. He has handled difficult legislation during his career and has always done so with distinction, dedication, energy and dispatch.

As chairman of the full committee I am able to say he has been one of the members that has made the subcommittee work, and he has been one of the Members that has made the Committee on Energy and Commerce work.

□ 1940

He is owed a great debt by his constituents for his extraordinary service here, but also by the House, by his colleagues, and by his chairman, and by the members of his committee. He has led and inspired an extraordinary staff and has accomplished some remarkable things during his career as chairman of that subcommittee, including writing some legislation which I never thought was going to achieve passage because of the complexity and because of the intense political feelings which surrounded that legislation. I wish to express to him my gratitude for his extraordinary service here, my good wishes to him for success in whatever undertakings he engages in after he leaves here, and to express to him and to his wife, K.K., and his colleagues on the committee, his colleagues in the House, as well as his colleagues from Indiana that he will know great happiness, that he will have great success, and that he will remember us with the same affection and respect with which we will carry him in our hearts.

I know it is not in conformity with the rules, but I am sure the House will want to applaud the distinguished gentleman from Indiana.

Mr. MOORHEAD. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. Further reserving the right to object, I am happy to yield to the gentleman from California [Mr. MOORHEAD], my dear friend, the minority member of the committee.

Mr. MOORHEAD. Mr. Speaker, I would like to join with the chairman of our committee in commending the gentleman from Indiana [Mr. SHARP], chairman of our Subcommittee on Energy, for an outstanding job that he has done over a period of years. I can assure you the National Energy Act which came out of our subcommittee during your chairmanship will last for many, many years as a monument to, I think, our full committee and certainly to our subcommittee.

I have had the honor to serve as the ranking member of your subcommittee during nearly a decade of your service. I have enjoyed working with you. I think our subcommittee has put out some very fine legislation during that time, and you deserve to be commended for the work that you have done.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. Further reserving the right to object, I am happy to yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, I thank the gentleman for yielding.

It is an extraordinary honor for me to serve in the House of Representatives, and I just want to say that I hope that more of the American people will understand how many extraordinary individuals there are in the House of Representatives as Members and as staff who worked extremely hard on behalf of the public interest, and the American people ought to be grateful.

Mr. DINGELL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. KILDEE). Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Indiana [Mr. SHARP].

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

INTERNATIONAL NARCOTICS CONTROL CORRECTIONS ACT OF 1994

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5246) to amend the Foreign Assistance Act of 1961 to make certain corrections relating to international narcotics control activities, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not intend to object, but merely wish to yield to the gentleman from Connecticut [Mr. GEJDENSON] in order to further explain the bill.

Mr. GEJDENSON. Mr. Speaker, the bill incorporates the agreement reached with the Senate on H.R. 5030, which the other body will be unable to return to us before the House adjourns.

Therefore, we have drafted this bill and will send it to the Senate awaiting their action. It is the agreement of the House and the Senate.

I thank the gentleman from New York [Mr. GILMAN] for his invaluable service on this matter.

Mr. GILMAN. Mr. Speaker, further reserving the right to object. This is a new bill, just introduced this evening, that includes the text of H.R. 5030, the International Narcotics Control Corrections Act of 1994, which passed the House several weeks ago and was sent to the other body. The other body has not yet acted on H.R. 5030 and it is our understanding that it was scheduled to be enacted this evening and when it acts it is expected to approve an amendment adding a new title incorporating H.R. 4210, the NATO Expansion Act of 1994, which I introduced on April 14th of this year.

In order to avoid the risk that the action of the other body may come too late for us to approve the measure as amended by the other body, we are requesting the passage of a new bill including what would be in the measure as amended by the other body. This way the other body can pass this bill, H.R. 5246, and send it directly to the President without the necessity of further action by the House of Representatives.

Accordingly, I urge adoption of the bill.

In order to further explain the provisions contained in this measure, I note that the annual reporting and certification program with regard to major drug producing and transit countries, reauthorized by this bill, is worthy of our strongest support. It is one of our most effective tools in the international narcotics struggle.

I am also pleased that my amendment eliminating visas and other forms of entry to immediate relatives and business partners of drug traffickers is included in this bill.

This visa denial provision will serve as a creative new tool for our drug enforcement agencies, and cut back on an insidious form of back door money laundering by these visitors, which has gone on far too long.

In addition, Mr. Speaker, I am pleased that this bill includes a title incorporating my bill, H.R. 4210, to facilitate the expansion of the North Atlantic Treaty Organization. Under the authorities of this title, the President will be able to provide excess defense articles and other assistance to support the transition to full NATO membership of Poland, Hungary, the Czech Republic, and Slovakia.

I am confident that these new authorities will contribute significantly to the adaptation of NATO to post-cold-war realities in Europe and will enhance security and stability in that part of the world.

I introduced H.R. 4210 on April 14 of this year, and it now has 66 cosponsors in the House. I am grateful for the strong support this measure received from my colleagues and from many concerned individuals and organizations around the country.

I urge adoption of the measure before us. Thank you.

Mr. HAMILTON. Mr. Speaker, I would like to address briefly the "NATO Participation Act" included as a Senate amendment to H.R. 5030, the International Narcotics Control Corrections Act of 1994.

I have worked closely with the ranking member of the Committee on Foreign Affairs, Mr. GILMAN, and with the other body on this amendment. It is now in a form that I believe is constructive, and in a form that is acceptable to the administration.

I would just like to make two points about the NATO Participation Act.

First, I believe that the Foreign Assistance, Arms Export Control Act, and Defense authorities in this legislation should be made available on a nondiscriminatory basis to countries that are (1) full and active participants in the Partnership for Peace; (2) have made significant progress toward establishing democratic institutions, a free market economy, civilian control of their armed forces, and the rule of law; (3) are likely in the near future to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area; and (4) are not selling or transferring defense articles to a state that has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j) of the Export Administration Act of 1979.

Second, I believe that countries' eligibility under other provisions of law for the programs described in the NATO Participation Act should not be limited by the enactment of this provision.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Narcotics Control Corrections Act of 1994".

TITLE I—INTERNATIONAL NARCOTICS CONTROL

SEC. 101. AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.

(a) USE OF HERBICIDES FOR AERIAL ERADICATION.—Section 481(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(d)) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3) respectively.

(b) DEFINITIONS.—Section 481(e) of that Act (22 U.S.C. 2291(e)) is amended—

(1) in the matter preceding paragraph (1), by striking "Except as provided in sections 490(h) and (i) with respect to the definition of major illicit drug producing country and major drug-transit country, for" and inserting "For";

(2) by amending paragraph (2) to read as follows:

"(2) the term major illicit drug producing country' means a country in which—

"(A) 1,000 hectares or more of illicit opium poppy is cultivated or harvested during a year;

"(B) 1,000 hectares or more of illicit coca is cultivated or harvested during a year; or

"(C) 5,000 hectares or more of illicit cannabis is cultivated or harvested during a year, unless the President determines that such illicit cannabis production does not significantly affect the United States;";

(3) by striking "; and" at the end of paragraph (5);

(4) by redesignating paragraph (6) as paragraph (8); and

(5) by inserting after paragraph (5) the following new paragraphs:

"(6) the term 'precursor chemical' has the same meaning as the term 'listed chemical' has under paragraph (33) of section 102 of the Controlled Substances Act (21 U.S.C. 802(33));

"(7) the term 'major money laundering country' means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking; and".

(c) ADVANCE NOTIFICATION OF TRANSFER OF SEIZED ASSETS.—Section 482 of that Act (22 U.S.C. 2291a) is amended by adding at the end the following new subsection:

"(e) ADVANCE NOTIFICATION OF TRANSFER OF SEIZED ASSETS.—The President shall notify the appropriate congressional committees at least 10 days prior to any transfer by the United States Government to a foreign country for narcotics control purposes of any

property or funds seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity.".

(d) REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.—Section 486 of that Act (22 U.S.C. 2291e) is amended—

(1) by striking "(a) ADDITIONAL ASSISTANCE FOR COUNTRIES TAKING SIGNIFICANT STEPS.—";

(2) by striking "security assistance" in the matter preceding paragraph (1) of subsection (a) and inserting "assistance under this Act";

(3) in paragraph (2) of subsection (a)—

(A) in the heading, by striking "Security" and inserting "Other"; and

(B) by striking "security"; and

(4) by striking subsection (b).

(e) PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS.—Section 487(a)(1) of that Act (22 U.S.C. 2291f(a)(1)) is amended by inserting "to" after "relating".

(f) REPORTIGN REQUIREMENTS.—

(1) IN GENERAL.—Section 489 of that Act (22 U.S.C. 2291h) is amended—

(A) in the section heading, by striking "**FOR FISCAL YEARS 1993 AND 1994**" and inserting "**FOR FISCAL YEAR 1995**";

(B) in subsection (a)—

(i) in the matter preceding paragraph (1), by striking "April 1" and inserting "March 1"; and

(ii) in paragraph (3)—

(I) by striking subparagraph (B); and

(II) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(C) by striking subsection (c);

(D) by redesignating subsection "(d)" as subsection "(c)"; and

(E) by amending subsection (c) (as redesignated) to read as follows:

"(c) EFFECTIVE DATE OF SECTIONS.—This section applies only during fiscal year 1995. Section 489A does not apply during that fiscal year."

(2) CONFORMING AMENDMENT.—Section 489A of that Act (22 U.S.C. 2291i) is amended in the section heading by striking "**1994**" and inserting "**1995**".

(g) ANNUAL CERTIFICATION PROCEDURES.—

(1) IN GENERAL.—Section 490 of that Act (22 U.S.C. 2291j) is amended—

(A) in the section heading, by striking "**FOR FISCAL YEARS 1993 AND 1994**" and inserting "**FOR FISCAL YEAR 1995**";

(B) in subsection (a)(1), by striking "(as determined under subsection (h))";

(C) in subsection (a)(2), by striking "April 1" and inserting "March 1";

(D) in subsection (c), by striking "that such country has taken adequate steps" and all that follows and inserting "that such country maintains licit production and stockpiles at levels no higher than those consistent with licit market demand, and has taken adequate steps to prevent significant diversion of its licit cultivation and production into the illicit markets and to prevent illicit cultivation and production.";

(E) in subsection (d), by striking "45" and inserting "30";

(F) in subsection (g)—

(i) by striking "CONGRESSIONAL" and all that follows through "(1) SENATE.—" and inserting "SENATE PROCEDURES.—"; and

(ii) by striking paragraph (2);

(G) in subsection (h)—

(i) in the heading, by striking "FOR FISCAL YEARS 1993 AND 1994"; and

(ii) by striking "January 1" and inserting "November 1"; and

(H) by amending subsection (i) to read as follows:

"(i) EFFECTIVE DATE OF SECTIONS.—This section applies only during fiscal year 1995. Section 490A does not apply during fiscal year.".

(2) CONFORMING AMENDMENT.—Section 490A of that Act (22 U.S.C. 2291k) is amended—

(A) in the section heading, by striking "**1994**" and inserting "**1995**"; and

(B) in the heading of subsection (g), by striking "1994" and inserting "1995".

SEC. 102. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) EXPORT-IMPORT BANK ACT.—Section 2(b)(6)(C)(ii)) of the Export-Import Bank Act of 1945 (22 U.S.C. 635(b)(6)(C)(ii)) is amended by striking "determined under section 490(h) or 481(e), as appropriate," and inserting "defined in section 481(e)".

(b) TITLE 18, U.S.C.—Section 981(i)(1)(C) of title 18, United States Code, is amended by striking "paragraph (1)(A) of section 481(h)" and inserting "section 490(a)(1)".

(c) TARIFF ACT OF 1930.—Section 616(c)(2)(C) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)(2)(C)) is amended by striking "481(h)" and inserting "490(b)".

(d) CONTROLLED SUBSTANCES ACT.—Section 511(e)(1)(E) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(E)) is amended by striking "481(h)" and inserting "490(b)".

SEC. 103. REPEAL OF OBSOLETE PROVISIONS.

(a) 1992 INTERNATIONAL NARCOTICS CONTROL ACT.—The International Narcotics Control Act of 1992 (Public Law 102-583) is repealed.

(b) 1998 INTERNATIONAL NARCOTICS CONTROL ACT.—The International Narcotics Control Act of 1988 (which is title IV of the Anti-Drug Abuse Act of 1988; Public Law 10-690) is repealed except for the title heading and section 4702 (a) through (f).

(c) 1986 INTERNATIONAL NARCOTICS CONTROL ACT.—The International Narcotics Control Act of 1986 (which is title II of the Anti-Drug Abuse Act of 1986; Public Law 99-570) is repealed except for the title heading and section 2018.

SEC. 104. EXEMPTION OF NARCOTICS-RELATED MILITARY ASSISTANCE FOR FISCAL YEAR 1995 FROM PROHIBITION ON ASSISTANCE FOR LAW ENFORCEMENT AGENCIES.

(a) EXEMPTION.—For fiscal year 1995, section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420) shall not apply with respect to—

(1) transfers of excess defense articles under section 517 of that Act (22 U.S.C. 2321k);

(2) funds made available for the "Foreign Military Financing Program" under section 23 of the Arms Export Control Act (22 U.S.C. 2763) that are used for assistance provided for narcotics-related purposes; or

(3) international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 and following) that is provided for narcotics-related purposes.

(b) NOTIFICATION TO CONGRESS.—At least 15 days before any transfer under subsection (a)(1) or any obligation of funds under subsection (a)(2) or (a)(3), the President shall notify the appropriate congressional committees (as defined in section 481(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(e)) in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act (22 U.S.C. 2394).

(c) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance provided pursuant to this section shall be coordinated with international narcotics control assistance under chapter 8 of part 1 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 et seq.).

SEC. 105. WAIVER OF RESTRICTIONS FOR NARCOTICS-RELATED ECONOMIC ASSISTANCE.

For fiscal year 1995, narcotics-related assistance under part I of the Foreign Assistance Act of 1961 may be provided notwithstanding any other provision of law that restricts assistance to foreign countries (other than section 490(e) of that Act (22 U.S.C. 2291j(e)) if, at least 15 days before obligating funds for such assistance, the President notifies the appropriate congressional committees (as defined in section 481(e) of that Act (22 U.S.C. 2291(e)) in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act (22 U.S.C. 2394).

SEC. 106. AUTHORITY FOR ANTICRIME ASSISTANCE.

(a) POLICY.—International criminal activities, including international narcotics trafficking, money laundering, smuggling, and corruption, endanger political and economic stability and democratic development, and assistance for the prevention and suppression of international criminal activities should be a priority for the United States.

(b) AUTHORITY.—

(1) IN GENERAL.—For fiscal year 1995, the President is authorized to furnish assistance to any country or international organization, on such terms and conditions as he may determine, for the prevention and suppression of international criminal activities.

(2) WAIVER OF PROHIBITION OF POLICE TRAINING.—Section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420) shall not apply with respect to assistance furnished under paragraph (1).

SEC. 107. ASSISTANCE TO DRUG TRAFFICKERS.

The President shall take all reasonable steps provided by law to ensure that the immediate relatives of any individual described in section 487(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291f(a)), and the business partners of any such individual or of any entity described in such section, are not permitted entry into the United States, consistent with the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

At the end of the bill, add the following:

TITLE II—NATO PARTICIPATION ACT OF 1994

SEC. 201. SHORT TITLE.

This title may be cited as the "NATO Participation Act of 1994".

SEC. 202. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

(1) the leaders of the NATO member nations are to be commended for reaffirming that NATO membership remains open to Partnership for Peace countries emerging from communist domination and for welcoming eventual expansion of NATO to include such countries;

(2) full and active participants in the Partnership for Peace in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area should be invited to become full NATO members in accordance with Article 10 of such Treaty at an early date, if such participants—

(A) maintain their progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law; and

(B) remain committed to protecting the rights of all their citizens and respecting the territorial integrity of their neighbors;

(3) the United States, other NATO member nations, and NATO itself should furnish appropriate assistance to facilitate the transition to full NATO membership at an early date of full and active participants in the Partnership for Peace; and

(4) in particular, Poland, Hungary, the Czech Republic, and Slovakia have made significant progress toward establishing democratic institutions, free market economies, civilian control of their armed forces, and the rule of law since the fall of their previous communist governments.

SEC. 203. AUTHORITY FOR PROGRAM TO FACILITATE TRANSITION TO NATO MEMBERSHIP.

(a) IN GENERAL.—The President may establish a program to assist the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to subsection (d).

(b) CONDUCT OF PROGRAM.—The program established under subsection (a) shall facilitate the transition to full NATO membership of the countries described in such subsection by supporting and encouraging, inter alia—

(1) joint planning, training, and military exercises with NATO forces;

(2) greater interoperability of military equipment, air defense systems, and command, control, and communications systems; and

(3) conformity of military doctrine.

(c) TYPE OF ASSISTANCE.—In carrying out the program established under subsection (a), the President may provide to the countries described in such subsection the following types of security assistance:

(1) The transfer of excess defense articles under section 516 of the Foreign Assistance Act of 1961, without regard to the restrictions in paragraphs (1) through (3) of subsection (a) of such section (relating to the eligibility of countries for such articles under such section).

(2) The transfer of nonlethal excess defense articles under section 519 of the Foreign Assistance Act of 1961, without regard to the restriction in subsection (a) of such section (relating to the justification of the foreign military financing program for the fiscal year in which a transfer is authorized).

(3) Assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training).

(4) Assistance under section 23 of the Arms Export Control Act (relating to the "Foreign Military Financing Program").

(d) DESIGNATION OF PARTNERSHIP FOR PEACE COUNTRIES EMERGING FROM COMMUNIST DOMINATION.—The President may designate countries emerging from communism and participating in the Partnership for Peace, especially Poland, Hungary, the Czech Republic, and Slovakia, to receive assistance under the program established under subsection (a) if the President determines and reports to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that such countries—

(1) are full and active participants in the Partnership for Peace;

(2) have made significant progress toward establishing democratic institutions, a free market economy, civilian control of their armed forces, and the rule of law;

(3) are likely (in the near future) to be in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area; and

(4) are not selling or transferring defense articles to a state that has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 6(j) of the Export Administration Act of 1979.

(e) NOTIFICATION.—At least 15 days before designating any country pursuant to subsection (d), the President shall notify the appropriate congressional committees in accordance with the procedures applicable under section 634A of the Foreign Assistance Act of 1961.

(f) DETERMINATION.—It is hereby determined that Poland, Hungary, the Czech Republic, and Slovakia meet the criteria required in paragraphs (1), (2), and (3) of subsection (d).

SEC. 204. ADDITIONAL AUTHORITIES.

(a) ARMS EXPORT CONTROL ACT.—The President is authorized to exercise the authority of sections 63 and 65 of the Arms Export Control Act with respect to any country designated under section 203(d) of this title on the same basis and with respect to NATO.

(b) OTHER NATO AUTHORITIES.—The President should designate any country designated under section 203(d) of this title as eligible under sections 2350c and 2350f of title 10, United States Code.

(c) SENSE OF CONGRESS.—It is the sense of Congress that, in the interest of maintaining stability and promoting democracy in Poland, Hungary, the Czech Republic, Slovakia, and any other Partnership for Peace country designated under section 203(d) of this title, those countries should be included in all activities under section 2457 of title 10, United States Code, related to the increased standardization and enhanced interoperability of equipment and weapons systems, through coordinated training and procurement activities, as well as other means, undertaken by the North Atlantic Treaty Organization members and other allied countries.

SEC. 205. REPORTING REQUIREMENT.

The President shall include in the report required by section 514(a) of Public Law 103-236 (22 U.S.C. 1928 note) the following:

(1) A description of all assistance provided under the program established under section 203(a), or otherwise provided by the United States Government to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to section 203(d).

(2) A description on the basis of information received from the recipients and from NATO, of all assistance provided by other NATO member nations or NATO itself to facilitate the transition to full NATO membership of Poland, Hungary, the Czech Republic, Slovakia, and other Partnership for Peace countries emerging from communist domination designated pursuant to section 203(d).

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

OCC AND OTS HEALTH BENEFITS CONTINUATION ACT

Ms. NORTON. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the bill (H.R. 5164) to provide for the enrollment of individuals enrolled in a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision in the Federal Employees Health Benefits Program, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I do not object, but would simply like to inform the House that the minority has no objection to the legislation now being considered, and I rise in strong support of H.R. 5164.

Mr. Speaker, it is important that we see that health insurance coverage for employees and retirees of the Office of Thrift Supervision and the Office of the Comptroller of the Currency, that the coverage does not lapse. This is a must-pass legislation, and I urge my colleagues in the other body to quickly consider and approve this measure.

Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, H.R. 5164, the OCC and OTS Health Benefits Continuation Act, permits employees and retirees of the Office of the Comptroller of the Currency (OCC) and the Office of Thrift Supervision (OTS) to enroll in the Federal Employees Health Benefits Program (FEHBP).

Several years ago, both the OCC and OTS elected to establish their own health care plans outside of FEHBP. Today, however, the cost of these plans has grown to where these two agencies, with their shrinking budgets can no longer afford to continue them. The plans will be terminated in January 1994. Current employees will have the opportunity to switch to FEHBP during the upcoming open season. However, employees nearing retirement and current retires will be adversely affected by the elimination of the health plan unless this legislation is enacted.

The bill permits employees to have their OCC or OTS health plan treated like FEHBP health coverage. This is necessary because unless Federal employees are covered under FEHBP for at least 5 years immediately preceding retirement, they cannot continue their FEHBP coverage into retirement. Therefore this bill eliminates the potential that employees within 5 years of retirement will be forced to work longer so as not to lose their health insurance. With respect to current retirees, if no action is taken on this bill, OCC and OTS will be forced to purchase expensive private health coverage once their current health plan expires so that the retirees will not be left without any coverage whatsoever.

The bill provides that OCC and OTS will pay the Employees Health Benefit Fund an amount determined by the Office of Personnel Management to cover

the FEHBP benefits not otherwise paid for by the enrollees. The Congressional Budget Office has estimated that as the result of this payment this bill has no cost and that Federal outlays would not change.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "OCC and OTS Health Benefits Continuation Act".

SEC. 2. ENROLLMENT OF CERTAIN INDIVIDUALS IN FEHBP.

(a) PERIODS OF ENROLLMENT UNDER OCC OR OTS HEALTH BENEFITS PLANS.—Any period of enrollment under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision prior to the termination of such plans on January 7, 1995, shall be deemed to be a period of enrollment in a health benefits plan under chapter 89 of title 5, United States Code.

(b) CONTINUATION OF COVERAGE.—(1) Any individual who, on January 7, 1995, is covered by a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision may, effective January 8, 1995, enroll in an approved health benefits plan described by section 8903 or 8903a of title 5, United States Code, either as an individual or for self and family, if such individual is an employee, annuitant, or former spouse as defined in section 8901 of such title 5.

(2) An individual who, as of January 7, 1995, is entitled to continue coverage under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision shall be deemed to be entitled to continue coverage under section 8905a of title 5, United States Code, for the same period that would have been permitted under the plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision, and such individual may, effective January 8, 1995, enroll in an approved health benefits plan described by section 8903 or 8903a of such title 5 in accordance with section 8905a of such title.

(3) An individual who, on January 7, 1995, is covered as an unmarried dependent child under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision and who is not a "member of family" as defined in section 8901(5) of title 5, United States Code, shall be deemed to be entitled to continue coverage under section 8905a of such title 5 as though the individual had, on January 7, 1995, ceased to meet the requirements for being considered an unmarried dependent child under chapter 89 of title 5, and such individual may, effective January 8, 1995, enroll in an approved health benefits plan described by section 8903 or 8903a of title 5 in accordance with section 8905a.

(c) TRANSFER TO EMPLOYEES HEALTH BENEFITS FUND.—The Office of the Comptroller of the Currency and the Office of Thrift Supervision shall transfer to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, amounts determined by the Director of the Office of Personnel Management, after consultation with the Comptroller of the Currency and the Director of the Office of Thrift Supervision, to be necessary to reimburse the fund for the cost of providing benefits under this section not otherwise paid for by the individuals covered by this section. The amounts so transferred shall be held in the fund and used by the office in addition to amounts available under section 8906(g)(1) of title 5, United States Code.

(d) REGULATIONS.—The Office of Personnel Management may prescribe regulations to implement this section.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. NORTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 5164, the bill just considered and passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the District of Columbia?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess for 10 minutes.

Accordingly (at 7 o'clock and 46 minutes p.m.) the House stood in recess for 10 minutes.

□ 2010

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 8 o'clock and 10 minutes p.m.

SETTING OPENING DATE FOR FIRST REGULAR SESSION OF 104TH CONGRESS

Mr. HOYER. Mr. Speaker, I send to the desk a joint resolution (H.J. Res. 425) providing for the time of the first regular session of the 104th Congress, and I ask unanimous consent for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 425

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the first regular session of the One Hundred Fourth Congress shall begin at noon on Wednesday, January 4, 1995.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR CONDITIONAL ADJOURNMENT AND SINE DIE ADJOURNMENT OF BOTH HOUSES OF CONGRESS

Mr. HOYER. Mr. Speaker, I send to the desk the concurrent resolution (H. Con. Res. 315) providing for conditional adjournment and sine die adjournment of the 103d Congress, and I ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON RES. 315

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Friday, October 7, 1994 pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand adjourned until noon on Tuesday, November 29, 1994, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first; and that when the Senate adjourns or recesses at the close of business on any day from Friday, October 7, 1994 through Friday, October 14, 1994, pursuant to a motion made by the Majority leader, or his designee, in accordance with this concurrent resolution, it stand recessed or adjourned until 9 a.m. on Wednesday, November 30, 1994, or such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution, whichever occurs first.

Sec. 2. When the House adjourns on the legislative day of Tuesday, November 29, 1994, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand adjourned sine die, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution; and that when the Senate adjourns at the close of business on Thursday, December 1, 1994, it stand adjourned sine die, or until noon on the second day after Members are notified to reassemble pursuant to section 3 of this concurrent resolution.

Sec. 3. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR THE ADOPTION OF HOUSE RESOLUTION 579, AMENDING THE RULES OF THE HOUSE OF REPRESENTATIVES

Mr. MOAKLEY, from the Committee on Rules, reported the following privileged resolution (H.R. 579), which was referred to the House Calendar and ordered to be printed:

H. RES. 579

Resolved, That House Resolution 578 is hereby adopted.

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 579 and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution.

Mr. SPEAKER. The question is, Will the House now consider House Resolution 579?

The question was taken; and (two-thirds having voted in favor thereof) the House agreed to consider House Resolution 579.

The text of House Resolution 578 is as follows:

H. RES. 578

Resolved,

SECTION 1. APPLICATION OF CERTAIN LAWS TO THE HOUSE OF REPRESENTATIVES.

The Rules of the House of Representatives are amended by adding at the end the following new rule:

"RULE LII.

"APPLICATION OF CERTAIN LAWS.

"1. There is established an Office of Compliance which shall have a Board of Directors consisting of 5 individuals appointed jointly by the Speaker and the minority leader. Appointments of the first 5 members of the Board of Directors shall be completed not later than 120 days after the beginning of the One Hundred Fourth Congress.

"2. (a) The Office of Compliance shall carry out the duties and functions set forth in sections 2 through 16 of House Resolution ___, One Hundred Third Congress, including the issuance of regulations, to implement the requirements of the following laws to the House of Representatives:

"(1) The Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), effective at the beginning of the second session of the One Hundred Fourth Congress.

"(2) Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), effective at the beginning of the second session of the One Hundred Fourth Congress.

"(3) The Americans With Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), effective at the beginning of the second session of the One Hundred Fourth Congress.

"(4) The Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) (including remedies available to private employees), effective at the beginning of the second session of the One Hundred Fourth Congress.

"(5) Titles I and V of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611 et seq.), effective at the beginning of the second session of the One Hundred Fourth Congress.

"(6) The Occupational Safety and Health Act of 1970 (other than section 19) (29 U.S.C. 651 et seq.) (subject to paragraph (c)), effective at the beginning of the One Hundred Fifth Congress.

"(7) Chapter 71 (relating to Federal labor management relations) of title 5, United States Code, effective at the beginning of the One Hundred Fifth Congress.

"(8) The Employee Polygraph Protection Act of 1988 (29 U.S.C. 2001 et seq.), effective at the beginning of the second session of the One Hundred Fourth Congress, except that this Act shall not apply to the United States Capitol Police.

"(9) The Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.), effective at the beginning of the second session of the One Hundred Fourth Congress.

"(10) The Rehabilitation Act of 1973 (29 U.S.C. 791), effective at the beginning of the second session of the One Hundred Fourth Congress.

"(b) Any provision of Federal law shall, to the extent that it relates to the terms and conditions of employment (including hiring, promotion or demotion, salary and wages, overtime compensation, benefits, work assignments or reassignments, termination, protection from discrimination in personnel actions, health and safety of employees, and family and medical leave) of employees apply to the House in accordance with this rule.

"(c) The House shall comply with the Occupational Safety and Health Act of 1970 as follows: If a citation of a violation of such Act is received, action to abate the violation shall take place as soon as possible, but no later than the fiscal year following the fiscal year in which the citation is issued, subject to the availability of funds appropriated for that purpose after the receipt of the citation.

"3. (a)(1) The Chairperson of the Board of Directors of the Office shall appoint, may establish the compensation of, and may terminate, subject to the approval of the Board of Directors, an Executive Director (referred to in this rule as the 'executive director'). The compensation of the executive director may not exceed the compensation for level V of the Executive Schedule under section 5316 of title 5, United States Code. The executive director shall be an individual with training or expertise in the application of the laws referred to in clause 2. The appointment of the first executive director shall be completed no later than 120 days after the initial appointment of the Board of Directors.

"(2) The executive director may not be an individual who holds or may have held the position of Member of the House of Representatives or Senator. The executive director may not be an individual who holds the position of employee of the House or the Senate but the executive director may be an individual who held such a position at least 4 years before appointment as executive director. The term of office of the executive director shall be a single term of 5 years.

"(b)(1)(A) No individual who engages in, or is otherwise employed in, lobbying of the Congress and who is required under the Federal Regulation of Lobbying Act to register with the Secretary of the Senate or the Clerk shall be considered eligible for appointment to, or service on, the Board of Directors.

"(B) No member of the Board of Directors may hold or may have held the position of Member of the House of Representatives or Senator, may hold the position of employee of the House or Senate, or may have held such a position within 4 years of the date of appointment.

"(2) If during a term of office a member of the Board of Directors engages in an activity described in subparagraph (1)(A), such position shall be declared vacant and a successor shall be selected in accordance with paragraph (a)(1).

"(3) A vacancy in the Board of Directors shall be filled in the manner in which the original appointment was made.

"(c)(1) Except as provided in subparagraph (2), membership on the Board of Directors shall be for 5 years. A member shall only be eligible for appointment for a single term of office.

"(2) Of the members first appointed to the Board of Directors—

"(A) 1 shall have a term of office of 3 years,

"(B) 2 shall have a term of office of 4 years, and

"(C) 2 shall have a term of office of 5 years, as designated at the time of appointment by the persons specified in paragraph (a)(1).

"(3) Any member of the Board of Directors may be removed from office by a majority decision of the appointing authorities described in paragraph (a)(1) and only for—

"(A) disability that substantially prevents the member from carrying out the duties of the member,

"(B) incompetence,

"(C) neglect of duty,

"(D) malfeasance, or

"(E) a felony or conduct involving moral turpitude.

"(d) The Chairperson of the Board of Directors shall be appointed from the members of the Board of Directors by the members of the Board.".

SEC. 2. DEFINITIONS.

As used in sections 2 through 16:

(1) The term "employee of the House" means any individual (other than a Member) whose pay is disbursed by the Director of Non-legislative and Financial Services or any individual to whom supervision and all other employee-related matters were transferred to the Sergeant at Arms pursuant to direction of the Committee on Appropriations in House Report 103-517 of the One Hundred Third Congress, and such term includes an applicant for the position of employee and a former employee.

(2) The term "employing authority" means, with respect to an employee, the Member of the House of Representatives or elected officer of the House of Representatives, or the Director of the Congressional Budget Office, with the power to appoint the employee.

(3) The term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

(4) The term "elected officer of the House of Representatives" means an elected officer of the House of Representatives (other than the Speaker and the Chaplain).

(5) The term "Office" refers to the Office of Compliance established by rule LII of the Rules of the House of Representatives.

SEC. 3. APPLICATION OF LAWS.

(a) The laws set forth in clause 2 of rule LII of the Rules of the House of Representatives shall apply, as prescribed by that rule, to the House of Representatives.

(b) The laws referred to in rule LI of the Rules of the House of Representatives which apply on December 31, 1994, to House employees shall continue to apply to such employees until the effective date such laws are made applicable in accordance with this resolution.

SEC. 4. ADMINISTRATIVE MATTERS RELATING TO THE OFFICE OF COMPLIANCE.

(a)(1) Each member of the Board of Directors shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5,

United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Board.

(2) Each member of the Board of Directors shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(b) The executive director may appoint and fix the compensation of such staff, including hearing officers, as are necessary to carry out this resolution.

(c) The executive director may, with the prior consent of the Government department or agency concerned, use the services of any such department or agency, including the services of members or personnel of the General Accounting Office Personnel Appeals Board.

(d) The executive director may procure the temporary (not to exceed 1 year) or intermittent services of individual consultants or organizations thereof.

SEC. 5. STUDY AND REGULATIONS.

(a) The Board of Directors shall conduct a study of the manner in which the laws referred to in clause 2(a) of rule LII of the Rules of the House of Representatives should apply to the House of Representatives. The Board of Directors shall complete such study and report the results to House of Representatives not later than 180 days after the date of the first appointment of the first executive director.

(b) On an ongoing basis the Board of Directors—

(1) shall determine which of the laws referred to in clause 2(b) of rule LII of the Rules of the House of Representatives should apply to the House of Representatives and if it should, the manner in which it should be made applicable;

(2) shall study the application to the House of provisions of Federal law referred to in paragraphs (a) and (b) of clause 2 of rule LII of the Rules of the House of Representatives that are enacted after the date of adoption of this resolution;

(3) may propose regulations with respect to such application in accordance with subsection (c); and

(4) may review the regulations in effect under subsection (e)(1) and make such amendments as may be appropriate in accordance with subsection (c).

(c)(1)(A) Not later than 180 days after the date of the completion of the study under subsection (a), the Board of Directors shall, in accordance with section 553 of title 5, United States Code, propose regulations to implement the requirements of the laws referred to in clause 2(a) of rule LII of the Rules of the House of Representatives. The Board of Directors shall provide a period of at least 30 days for comment on the proposed regulations.

(B) In addition to publishing a general notice of proposed rulemaking under section 553(b) of title 5, United States Code, the Board of Directors shall concurrently submit such notice for publication in the Congressional Record.

(C) When proposing regulations under subparagraph (A) to implement the requirements of a law referred to in clause 2(a) of rule LII of the Rules of the House of Representatives, the Board of Directors shall recommend to the House of Representatives changes in or repeals of existing law to accommodate the application of such law to the House.

(D) The Board of Directors shall, in accordance with such section 553, issue final regulations not later than 60 days after the end of the comment period on the proposed regulations.

(2)(A) Not later than 180 days after the date of the completion of the study or a determination under subsection (b), the Board of Directors shall, in accordance with section 553 of title 5, United States Code, propose regulations that specify which of the provisions of Federal law considered in such study shall apply to the House of Representatives. The Board of Directors shall provide a period of at least 30 days for comment on the proposed regulations.

(B) In addition to publishing a general notice of proposed rulemaking under section 553(b) of title 5, United States Code, the Board of Directors shall concurrently submit such notice for publication in the Congressional Record.

(C) When proposing regulations under subparagraph (A) specifying which of the provisions of Federal law referred to in clause 2(b) of rule LII of the Rules of the House of Representatives shall apply to the House of Representatives, the Board of Directors shall recommend to the House of Representatives changes in or repeals of existing law to accommodate the application of such law to the House.

(D) The Board of Directors shall, in accordance with such section 553, issue final regulations not later than 60 days after the end of the comment period on the proposed regulations.

(3) Regulations under paragraphs (1) and (2) shall be consistent with the regulations issued by an agency of the executive branch of the Federal Government under the provision of law made applicable to the House of Representatives, including portions relating to remedies.

(4) If a regulation is disapproved by a resolution considered under subsection (e), not later than 60 days after the date of the disapproval, the Board of Directors shall propose a new regulation to replace the regulation disapproved. The action of the Board of Directors under this paragraph shall be in accordance with the applicable requirements of this subsection.

(d) A final regulation issued under subsection (c) shall be transmitted to the House of Representatives for consideration under paragraph (e).

(e)(1) Subject to subsection (f), a final regulation which is issued under subsection (c) shall take effect upon the expiration of 60 days from the date the final regulation is issued unless disapproved by the House of Representatives by resolution.

(2) A resolution referred to in paragraph (1) may be introduced in the House of Representatives within 5 legislative days after the date on which the Board of Directors issues the final regulation to which the resolution applies. The matter after the resolving clause of the resolution shall be as follows: "That the House of Representatives disapproves the issuance of final regulations of the Office of Compliance as issued on _____ (the blank space being appropriately filled in).".

(3) A resolution referred to in paragraph (1) shall be referred to the appropriate committee. If no resolution is reported within 15 legislative days after the Board of Directors issues final regulations under subsection (c)(1)(D) or (c)(2)(D), the committee to which the resolution was referred shall be discharged from further consideration of the first such resolution introduced and the resolution shall be placed on the appropriate calendar. Any meeting of a committee on a resolution shall be open to the public. Within 5 legislative days after the resolution is reported or discharged, it shall be in order as a privileged matter to move to proceed to its consideration and such motion shall not be debatable. The resolution shall be debatable for not to exceed 4 hours equally divided between proponents and opponents and it shall not be subject to amendment.

(f) Any meeting of the Board of Directors held in connection with a study under subsection (a) or (b) shall be open to the public. Any meeting of the Board of Directors in connection with a regulation under subsection (c) shall be open to the public.

SEC. 6. OTHER FUNCTIONS.

(a) The executive director shall adopt rules governing the procedures of the Office, subject to the approval of the Board of Directors, including the procedures of hearing boards, which shall be submitted for publication in the Congressional Record. The rules may be amended in the same manner. The executive director may consult with the Chairman of the Administrative Conference of the United States and the General Counsel of the House of Representatives on the adoption of rules.

(b) The executive director shall have authority to conduct such investigations as the executive director requires to implement sections 7 through 10.

(c) The Office shall—

(1) carry out a program of education for Members of the House of Representatives and other employing authorities of the House of Representatives respecting the laws made applicable to them and a program to inform individuals of their rights under laws applicable to the House of Representatives and under sections 7 through 10,

(2) in carrying out the program under paragraph (1), distribute the telephone number and address of the Office, procedures for action under sections 7 through 10, and any other information the executive director deems appropriate for distribution, distribute such information to Members and other employing authorities of the House in a manner suitable for posting, provide such information to new employees of the House, distribute such information to the residences of employees of the House, and conduct seminars and other activities designed to educate employers and employees in such information,

(3) compile and publish statistics on the use of the Office by employees of the House, including the number and type of contacts made with the Office, on the reason for such contacts, on the number of employees who initiated proceedings with the Office under sections 7 through 10 and the result of such proceedings, and on the number of employees who filed a complaint under section 10, the basis for the complaint, and the action taken on the complaint, and

(4) within 180 days of the initial appointment of the executive director and in conjunction with the Clerk, develop a system for the collection of demographic data respecting the composition of employees of the House, including race, sex, and wages, and a system for the collection of information on employment practices, including family leave and flexible work hours, in House offices.

(d) Within one year of the date the system referred to in subsection (c)(4) is developed

and annually thereafter, the Board of Directors shall submit to the House of Representatives a report on the information collected under such system. Each report after the first report shall contain a comparison and evaluation of data contained in the previous report.

SEC. 7. PROCEDURE FOR CONSIDERATION OF ALLEGED VIOLATIONS.

The procedure for consideration of alleged violations of laws made applicable to the House of Representatives under this rule consists of 3 steps as follows:

(1) Step I, counseling, as set forth in section 8.

(2) Step II, mediation, as set forth in section 9.

(3) Step III, formal complaint and hearing by a hearing board, as set forth in section 10.

SEC. 8. STEP I: COUNSELING.

(a) An employee of the House alleging a violation of a law made applicable to the House of Representatives under rule LII of the Rules of the House of Representatives may request counseling through the Office. The Office shall provide the employee with all relevant information with respect to the rights of the employee. A request for counseling shall be made not later than 180 days after the alleged violation forming the basis of the request for counseling occurred.

(b) The period for counseling shall be 30 days unless the employee and the Office agree to reduce the period. The period shall begin on the date the request for counseling is received.

SEC. 9. STEP II: MEDIATION.

(a) Not later than 15 days after the end of the counseling period under section 8, the employee who alleged a violation of a law made applicable to the House of Representatives under rule LII of the Rules of the House of Representatives may file a request for mediation with the Office. Mediation—

(1) may include the Office, the employee, the employing authority, and individuals who are recommended by organizations composed primarily of individuals experienced in adjudicating or arbitrating personnel matters, and

(2) shall be a process involving meetings with the parties separately or jointly for the purpose of resolving the dispute between the employee and the employing authority.

(b) The mediation period shall be 30 days beginning on the date the request for mediation is received and may be extended for an additional 30 days at the discretion of the Office. The Office shall notify the employee and the head of the employing authority when the mediation period has ended.

SEC. 10. STEP III: FORMAL COMPLAINT AND HEARING.

(a) Not later than 30 days after receipt by the employee of the House of notice from the Office of the end of the mediation period under section 9, the employee of the House may file a formal complaint with the Office against the head of the employing authority involved. No complaint may be filed unless the employee has made a timely request for counseling and has completed the procedures set forth in sections 8 and 9.

(b) A board of 3 independent hearing officers (hereinafter in this resolution referred to as a "hearing board"), who are not Members, officers, or employees of the House, chosen by the executive director (one of whom shall be designated by the executive director as the presiding hearing officer) shall be assigned to consider each complaint filed under subsection (a). The executive director shall appoint hearing officers from candidates who are recommended by the Federal Mediation and Conciliation Service or the Administrative Conference of the United States. A hearing board shall act by majority vote.

(c) Prior to a hearing under subsection (d), a hearing board may dismiss any claim that it finds to be frivolous.

(d) A hearing shall be conducted—

(1) in closed session on the record by a hearing board; and

(2) no later than 30 days after filing of the complaint under subsection (a), except that the Office may, for good cause, extend up to an additional 60 days the time for conducting a hearing.

(e) Reasonable prehearing discovery may be permitted at the discretion of the hearing board.

(f)(1) A hearing board may authorize subpoenas, which shall be issued by the presiding hearing officer on behalf of the hearing board under the seal of the House of Representatives for the attendance of witnesses at proceedings of the hearing board and for the production of correspondence, books, papers, documents, and other records. The attendance of witnesses and the production of evidence may be required from any place within the United States.

(2) If a person refuses to obey a subpoena issued under paragraph (1), the hearing board may report the refusal to the Committee on Rules which may take any action it deems appropriate, which shall be authorized by the Chairman and ranking minority member acting jointly. Such action may include—

(A) a referral to the Committee on Standards of Official Conduct if the refusal is by a current Member of the House of Representatives or officer or employee of the House of Representatives, or

(B) a report to the House of Representatives of a resolution to certify a contempt pursuant to sections 102 and 104 of the Joint Resolution of June 22, 1938 (2 U.S.C. 192, 194) if the failure is by someone other than a current Member of the House of Representatives or officer or employee of the House of Representatives.

(3) The subpoenas of the hearing board shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) All process of any court to which application is to be made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

(5) The hearing board is an agency of the United States for the purpose of part V of title 18, United States Code (relating to immunity of witnesses).

(g) As expeditiously as possible, but in no case more than 45 days after the conclusion of the hearing, the hearing board shall make a decision in the matter for which the hearing was held. The decision of the hearing board shall be transmitted by the Office to the employee of the House and the employing authority. The decision shall state the issues raised by the complaint, describe the evidence in the record, and contain a determination as to whether a violation of a law made applicable to the House of Representatives under this rule has occurred. Any decision of the hearing board shall contain a written statement of the reasons for the hearing board's decision. A final decision of the hearing board shall be made available to the public by the Office.

(h) If the decision of the hearing board under subsection (g) is that a violation of a law made applicable to the House of Representatives under rule LII of the Rules of the House of Representatives, it shall order the remedies under such law as made applicable to the House of Representatives under that rule, except that no Member of the House of Representatives or any other head of an employing authority, or agent of such a Member shall be personally liable for the payment of compensation. The hearing board shall have no authority to award punitive damages.

(i)(1) A House employee or an employing authority may request the Board of Directors to review a decision of the hearing board under subsection (g) (including a decision after a remand under paragraph (2)(A)). Such a request shall be made within 30 days of the date of the decision of the hearing board. Review by the Board of Directors shall be based on the record of the hearing board.

(2) The Board of Directors shall issue a decision not later than 60 days after the date of the request under paragraph (1). The decision of the Board of Directors may—

(A) remand to the hearing board the matter before the Board of Directors for the purpose of supplementing the record or for further consideration;

(B) reverse the decision of the hearing board and enter a new decision and order in accordance with subsection (h); or

(C) direct that the decision and order of the hearing board be considered as the final decision.

(j) There shall be established in the House of Representatives a fund from which compensation (including attorney's fees) may be paid in accordance with an order under subsection (h) or (i). From the outset of any proceeding in which compensation may be paid from a fund of the House of Representatives, the General Counsel of the House of Representatives may provide the respondent with representation.

SEC. 11. RESOLUTION OF COMPLAINT.

If, after a formal complaint is filed under section 10, the employee and the employing authority resolve the issues involved, the employee may withdraw the complaint or the parties may enter into a written agreement, subject to the approval of the executive director.

SEC. 12. PROHIBITION OF INTIMIDATION.

Any intimidation of, or reprisal against, any employee of the House by any Member, officer, or employee of the House of Representatives because of the exercise of a right under this resolution constitutes an unlawful employment practice, which may be remedied in the same manner under this resolution as is a violation of a law made applicable to the House of Representatives under rule LII of the Rules of the House of Representatives.

SEC. 13. CONFIDENTIALITY.

(a) All counseling shall be strictly confidential except that the Office and the employee may agree to notify the head of the employing authority of the allegations.

(b) All mediation shall be strictly confidential.

(c) Except as provided in subsection (d), the hearings and deliberations of the hearing board shall be confidential.

(d) At the discretion of the executive director, the executive director may provide to the Committee on Standards of Official Conduct access to the records of the hearings and decisions of the hearing boards, including all written and oral testimony in the possession of the hearing boards, concerning a decision under section 10(g). The executive director shall not provide such access until the executive director has consulted with the

individual filing the complaint at issue in the hearing, and until the hearing board has issued the decision.

(e) The executive director shall coordinate the proceedings with the Committee on Standards of Official Conduct to ensure effectiveness, to avoid duplication, and to prevent penalizing cooperation by respondents in their respective proceedings.

SEC. 14. POLITICAL AFFILIATION AND PLACE OF RESIDENCE.

(a) It shall not be a violation of a law made applicable to the House of Representatives under rule LII of the Rules of the House of Representatives to consider the—

(1) party affiliation,

(2) domicile, or

(3) political compatibility with the employing authority,

of an employee of the House with respect to employment decisions.

(b) For purposes of subsection (a), the term "employee" means—

(1) an employee on the staff of the House of Representatives leadership,

(2) an employee on the staff of a committee or subcommittee,

(3) an employee on the staff of a Member of the House of Representatives,

(4) an officer or employee of the House of Representatives elected by the House of Representatives or appointed by a Member of the House of Representatives, other than those described in paragraphs (1) through (3), or

(5) an applicant for a position that is to be occupied by an individual described in paragraphs (1) through (4).

SEC. 15. EXCLUSIVITY OF PROCEDURES AND REMEDIES.

The procedures and remedies under rule LII of the Rules of the House of Representatives are exclusive except to the extent that the Rules of the House of Representatives and the rules of the Committee on Standards of Official Conduct provide for additional procedures and remedies.

SEC. 16. STUDY.

(a) The Office shall conduct a study—

(1) of the ways that access by the public to information held by the House of Representatives may be improved and streamlined, and of the application of section 552 of title 5, United States Code to the House of Representatives; and

(2) of the application of the requirement of section 552a of title 5, United States Code, to the House of Representatives.

(b) The study conducted under subsection (a) shall examine—

(1) information that is currently made available under such section 552 by Federal agencies and not by the House of Representatives;

(2) information held by the nonlegislative offices of the House of Representatives, including—

(A) the Director of Non-legislative and Financial Services,

(B) the Clerk,

(C) the Inspector General,

(D) the Sergeant at Arms,

(E) the Doorkeeper,

(F) the United States Capitol Police, and

(G) the House Commission on Congressional Mailing Standards;

(3) financial expenditure information of the House of Representatives; and

(4) provisions for judicial review of denial of access to information held by the House of Representatives.

(c) The Office shall conduct the study prescribed by subsection (a) and report the results of the study to the House of Representatives not later than one year after the date of the initial appointment of the Board of Directors.

SEC. 17. EFFECTIVE DATE AND TRANSITION RULES.

(a) The amendments made by section 1 shall take effect on November 1, 1994.

(b) Effective at the beginning of the second session of the One Hundred Fourth Congress, rule LI of the Rules of the House of Representatives is repealed and rule LII of such Rules is redesignated as rule LI and all references to rule LII in sections 2 through 16 of this resolution are deemed to be references to rule LI of such Rules.

(c) Notwithstanding subsection (b), until the beginning of the second session of the One Hundred Fourth Congress, the functions under rule LI of the Rules of the House of Representatives that are the responsibility of the Office of Fair Employment Practices shall continue to be the responsibility of that Office.

(d) Any formal complaint filed under rule LI of the Rules of the House of Representatives before the close of the first session of the One Hundred Fourth Congress which has not been finally disposed of shall be transferred to the Office of Compliance for completion of all pending proceedings relating to that complaint. The Office of Compliance may make regulations to provide for the orderly transfer and disposition of such complaints.

(e) In appointing staff under section 4(b), the executive director should give full consideration to employees of the Office of Fair Employment Practices.

(f) Sections 1 through 16 and subsections (a) through (e) of this section shall have no force or effect upon the enactment by the One Hundred Third Congress of the Congressional Accountability Act, whether by enactment of the bill H.R. 4822, by incorporation of the text of that bill in another measure, or otherwise.

SEC. 18. The Chairman and ranking minority member of the Committee on House Administration, acting jointly, shall study and report recommendations to the Speaker and minority leader, no later than January 3, 1995, for changes in House Rule LII to be adopted by the House to reconcile such rule with the existing jurisdiction of the Committee on House Administration.

SEC. 19. The General Counsel of the House shall conduct a study to be submitted to the Speaker, Minority Leader, and the chairmen and ranking minority members of the Committees on House Administration and Rules no later than January 3, 1995 on further changes in House rules to provide to employees of the House (as defined in section 2) the ability to bring a civil action in Federal district court against an employing authority (as defined in section 2) for an alleged violation under Federal law to the extent that such violation relates to the terms and conditions of employment, until the statutory provisions contained in H.R. 4822, as passed by the House, are enacted.

The SPEAKER. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, it is time for Congress to dispel the image that it is above the laws it makes for others. Members of Congress should be as accountable for their actions in the workplace as private citizens and other public officials are in their workplaces, and congressional employees should be assured fair, efficient review of their complaints.

On August 2, 1994, the Rules Committee reported H.R. 4822, the Congressional Accountability Act, which would assure legislative branch employees the same employment protections currently enjoyed by private sector and executive branch employees. On August 10, the House passed the measure by a vote of 427 to 4, and since then has been awaiting Senate action on the bill.

With adjournment impending, it is unlikely the Senate will take action on the measure. The House must therefore take alternative action to ensure, at the very least, that House employees will receive the broad protections under the laws designated in H.R. 4822.

House Resolution 578 accomplishes by House Rule what H.R. 4822 would do by public law. While narrower in scope—applicable only to the House—the provisions in this resolution are nonetheless similar to those in H.R. 4822, as passed by the House: The constitution of the Office of Compliance and the policies and procedures that this Office would follow are largely the same.

The resolution extends to House employees the same 10 employee protection and antidiscrimination laws outlined in H.R. 4822, and provides for the continual review of other laws that should apply. A new House Office of Compliance would study and propose regulations prescribing how these laws should apply. The procedure for review and adoption of the regulations are similar to those in H.R. 4822. With the exception of judicial review, the consideration of employee complaints would be the same.

Since access to Federal courts requires statutory authorization, House Resolution 578 does not provide House employees with the opportunity to seek judicial review of their complaints. Instead, the resolution allows dissatisfied parties to request review of a hearing board decision by the Board of Directors.

Statutory authorization is also required for judicial enforcement of subpoenas affecting employees, officers or Members of the House. The resolution therefore confers such enforcement authority upon the chairman and ranking member of the House Rules Committee.

Mr. Speaker, it is indefensible that congressional employees currently do not receive the same protections under the law as private sector or executive branch employees. House Resolution 578 will rectify this inequity, at least in the House.

Given the late hour, and the dim hope that the Senate will complete action on H.R. 4822 before we adjourn, I urge my colleagues to support House Resolution 579. The Senate's failure to act on H.R. 4822 should not deprive House employees of the protections they deserve.

□ 2020

Mr. DREIER. Essentially, Mr. Speaker, this resolution is little more than the culmination of a year-long effort by the Democrat leadership to kill any meaningful congressional reform. Although the joint committee failed to address the fundamental problems that undermine deliberation and accountability, such as proxy voting, an archaic committee system, closed rules, erratic scheduling and over-dependence on staff, even the very modest reforms proposed by our committee were seen as too much of a threat to the status quo.

Mr. Speaker, in testimony before the Committee on House Administration and in a June 30 letter to the gentleman from Massachusetts, [Mr. MOAKLEY], my colleague, the former chairman of the joint committee, the gentleman from Indiana [Mr. HAMILTON] opposed separating off the application of laws section from the larger reform bill and predicted that it would kill the rest of the package. Despite assurances from the Speaker that the reform package would receive floor consideration in September, the predictions of the gentleman from Indiana [Mr. HAMILTON] were right on target. In fact, the Speaker's divide and conquer strategy for congressional reform succeeded in killing both comprehensive reform and the statutory compliance bill itself.

What we are left with is a resolution to essentially recreate, for all practical purposes, the Office of Fair Employment Practices, an experiment that virtually everyone agrees has come to a complete and utter failure.

By continuing to allow the employing authority to control which laws shall apply and how they will be enforced, the rights provided to employees cannot be guaranteed, and those same employees will not be able to file complaints with any confidence of impartiality.

Mr. Speaker, I suspect we will take up the full hour of debate on this. If we cannot enact a statutory compliance bill before we adjourn, I believe that we should stop this charade and admit to ourselves what the American people have come to realize, that the so-called reform Congress has been a complete failure. I believe that we should go home, face the consequences with the voters, and come back next year to do the job right.

Mr. Speaker, I include for the RECORD the following correspondence:

HOUSE OF REPRESENTATIVES,
Washington, DC, October 5, 1994.

Hon. THOMAS FOLEY,
Speaker's Office, The Capitol, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: We would like to thank you again for your invaluable role in securing passage of H.R. 4822, the Congressional Accountability Act, which the House approved by a vote of 427–4 on August 10th.

Today, we are writing to express our strong concern at the prospect that a weakened version of the Congressional Accountability Act may be brought to the floor for consideration as a privileged resolution later this week.

We understand this step is being contemplated because of a judgement that Senate action on H.R. 4822 is increasingly unlikely. We appreciate that some members believe the House should do what it can to move ahead on its own if, in fact, the Senate does not take action. Nonetheless, we have come to the firm conclusion that this course of action would be a mistake and detrimental to the cause of genuine Congressional accountability.

As you know, access to court cannot be implemented through a House resolution. After considerable thought and discussion, we have concluded that a measure which fails to secure this basic right for House employees is not worth pushing through the House in the waning hours of the 103rd Congress. In fact, we fear such a half-way measure would actually undermine efforts to do the job right in the 104th Congress next January.

Should the Senate fail to act, we are both committed to taking up this fight again in January should we be returned to office. We believe our job will be harder, not easier, if the contemplated resolution is brought before the House this week. It would be our strong preference and recommendation that the energies that are going into that effort be redirected, instead, toward convincing the Senate to act on H.R. 4822 in the little time remaining to the 103rd Congress.

Thank you for your consideration of our views on this matter.

Sincerely,

DICK SWETT.
CHRISTOPHER SHAYS.

HOUSE OF REPRESENTATIVES,
Washington, DC, July 20, 1994.

Hon. THOMAS S. FOLEY,
H204 Capitol, Washington, DC.

DEAR TOM: Thank you for meeting on Wednesday afternoon with Dick Gephardt, Joe Moakley, and me to discuss the process of Congressional reform. I appreciated receiving your strong assurance that a comprehensive congressional reform package will be considered on the House floor in September.

I recognize that many Members want to vote on the proposal to apply laws to Congress before the August recess and that scheduling such a vote might require that the congressional compliance proposal be separated from the rest of the package and moved first. As you know, I have been concerned that separating off the application of laws section of the reform bill might kill the rest of the package, including the important procedural and structural recommendations that constitute most of the Joint Committee's mandate.

However, your assurance that the rest of the reform package will receive floor consideration in September goes a long way toward addressing my concerns. I also appreciate your suggestion that even if the compliance proposal is considered separately, it might eventually be merged back into the larger reform package, perhaps in the form of House rules changes.

Clearly, for a comprehensive reform package to be considered by the full House in September, steps need to be taken to prepare for a markup in the Rules Committee. I would appreciate hearing from you or Joe Moakley about how the reform effort will proceed over the next few weeks. I am willing to do whatever I can to be helpful.

Again, thank you for meeting with me about the important issue of congressional reform. I have appreciated your advice and leadership throughout the reform process and look forward to working with you further.

Sincerely,

LEE H. HAMILTON.

ROLLCALL VOTES IN THE RULES COMMITTEE ON THE MARKUP OF H. RES. 571, CONGRESSIONAL ACCOUNTABILITY, WEDNESDAY, OCTOBER 5, 1994

1. Dreier Amendment on Congressional Reform—Amendment to add new section to bill providing for the consideration on the next legislative day of a resolution containing the House-related provisions from Title I of H.R. 3801, the Legislative Reorganization Act of 1994 under an open amendment process. Rejected: 3–6. Yeas: Solomon, Dreier, Goss. Nays: Moakley, Beilenson, Frost, Bonior, Gordon, Slaughter. Not Voting: Derrick, Hall, Wheat, Quillen.

2. Solomon Amendment on Proxy Voting—Amendment to add new section to bill amending clause 2 of House rule XI ban proxy voting in all House committees. Rejected: 3–6. Yeas: Solomon, Dreier, Goss. Nays: Moakley, Beilenson, Frost, Bonior, Gordon, Slaughter. Not Voting: Derrick, Hall, Wheat, Quillen.

3. Beilenson Motion to Report Resolution, as Amended—Motion to report resolution to House on congressional compliance with the laws together with an amendment adopted limiting the use of travel awards in the House. Adopted: 6–3. Yeas: Moakley, Beilenson, Frost, Bonior, Gordon, Slaughter. Nays: Solomon, Dreier, Goss. Not Voting: Derrick, Hall, Wheat, Quillen.

Mr. Speaker, I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I, too, served on the joint committee and while I also regret that more of its work did not come to the floor, I am particularly pleased that this measure has come to the floor because it is the most important of the measures voted by the committee in my view.

The reason that this measure is so important, I believe, is because it will restore greater confidence in this body because this body will live by its own words, by its own laws.

The Senate has not acted, but I think this House should be proud that it has not used that as an excuse for ourselves not acting. The 10 laws, including the one I administered at the Equal Employment Opportunity Commission, should indeed apply to this body but, in fact, they already apply to this body.

What is most important about the improvement embodied in this resolution is that it goes not to application

but to enforcement by an independent body, not House employees as today.

Indeed, this resolution would bring to Members and staff tougher enforcement than is afforded to private sector employees because they have no independent hearing. They had only conciliation and must then go to court.

The feature of this resolution that is worth noting is that there are hearings by a three-person hearing board entirely independent of this body, appointed by a list recommended by the Federal Mediation and Conciliation Service or the Administrative Conference of the United States.

The application of our own laws to ourselves is the hallmark of our credibility. I am proud that we have not been deterred by the Senate not having acted and that we are moving forward on what I regard as the most important provision of the work of the joint committee.

Mr. DREIER. Mr. Speaker, I yield 4 minutes to the gentleman from Glens Falls, NY, Mr. SOLOMON, the distinguished ranking member of the Committee on Rules and a member of the now defunct Joint Committee on the Organization of Congress.

Mr. SOLOMON. Mr. Speaker, I thank the former vice-chairman of the Joint Committee on the Organization of Congress for yielding me this time.

I want to commend him on his dedication, his diligence, and his tireless efforts over the last 2 years to bring a truly bold and sweeping set of reform proposals to the floor of this House.

Mr. Speaker, as a former member of that committee myself, it is more in sadness, then in anger, that I rise on this resolution that writes the epitaph for any meaningful congressional reform in this Congress.

When we were considering this resolution on Wednesday, we asked the chairman of the Rules Committee why we had not been allowed to complete action on that comprehensive congressional reform bill reported from our joint committee last November.

The Rules Committee held just two brief markup sessions on that bill, one in August, and one in September, during which we were able to dispose of just 1 of 29 pending amendments.

That markup was abruptly suspended several weeks ago—without explanation—during the consideration of my amendment to ban proxy voting in committees.

The Rules Committee chairman responded to our question by saying that, while the leadership talked about bringing the comprehensive reform package to the floor, in his words, "This is what we came up with"—referring to the resolution before us, which is only a tiny and diluted piece, taken from that omnibus reform package.

This little rule on House compliance with the laws, is the democrat leadership's idea of all that needs to be done to reform this institution. Never mind that we already have a very similar House rule and that it is not working. "This is what we came up with" in the way of reform, says the Democrat leadership.

Mr. Speaker, forget about the hundreds of hours of hearings and deliberations of the bipartisan joint committee.

Forget about its volumes of studies and findings and recommendations.

Forget about the Speaker's commitment to the House co-chairman of the joint committee, to give the House a chance to debate and vote on that comprehensive reform package in September under a generous amendment process.

Instead, the joint reform committee that was conceived in 1992 to great fanfare under the proud parentage of a bipartisan leadership has now been abandoned by the Democrat-half of that family, like an unwanted child.

Mr. Speaker, I don't want to take the time of Members to discuss just why we have been led down this trail of broken promises, commitments, hopes and dreams for meaningful reform.

Suffice it to say, it was through no fault of the joint committee—nor of its House chairman, Mr. HAMILTON—who, if anything, erred on the side of caution in his final recommendations after extensive consultations with his leadership.

No, the joint committee did not skewer itself on the sword of bold and radical reform proposals. What it reported was actually very modest and minimal. But the chairman of the joint committee, to his credit did promise to fight for our right, to offer strengthening amendments on the floor, and even said he would probably vote for some.

Nevertheless, even the modest bill we reported ran into difficulty with certain interest groups in the House, that wanted to really gut it further, or, better yet, make sure it never came to a vote. Well, apparently once again the narrow turf interests have prevailed over the broader interests of this institution.

Mr. Speaker, as we indicated in our additional views in the report on this resolution, we had intended to urge defeat of the previous question to make in order a separate resolution containing the joint committee's title I House reform proposals under an open amendment process.

We wanted to at least give the House a chance to overhaul the broken down legislative process in this body by cutting committees, subcommittees, Member assignments, staff, and the joint referral of the same bills to two or more committees.

We wanted to give Members a chance to vote on a three-term limit for committee chairmen and ranking members; to restore majority quorums, and open hearings and meetings to the public.

However, despite our noble intentions for a full-fledged reform debate, the scheduling of this resolution on the final day of this session prevents us from pursuing that ambitious amendment process. That is too bad, but in about 90 days we will convene the new 104th Congress with a lot of new faces and we can start all over again.

□ 2030

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I find the previous remarks hard to reconcile with a meeting I was at in the Speaker's office just a little while ago. The gentleman said all we are doing is a rule and we already have a bill on the subject.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I spoke of what the bill contained. It was explained by our good friend, the gentleman from Massachusetts [Mr. MOAKLEY]. I am sorry that we could not have the meaningful reforms we had reported in H.R. 3801 by the gentleman from Indiana [Mr. HAMILTON], the respected chairman.

Mr. FRANK of Massachusetts. Mr. Speaker, apparently I did not misquote the gentleman. I heard him say, "Gee, what are we doing with this? We already have a bill." We have a bill which the Senate would not pass. My understanding was that there were many on the Republican side who said that compliance with the law is very important, and since the Senate has not passed the bill, we should try very hard to do the best we can.

Mr. Speaker, the rule is second best, but it is a second best which I had understood to be a bipartisan request. I was, frankly, surprised to hear so partisan a speech about what I thought was a bipartisan effort.

I was just at a meeting when the Minority Whip said, "Let us have a closed rule. Let us bring this out and do the most we can to get compliance." That is what we are doing.

Mr. Speaker, I do not understand why that became the occasion for this particular partisan speech. We are in a situation with regard to compliance, and when people said, "This is not the most important part of it," in my view, Mr. Speaker, the noncompliance of Congress with the laws that apply to others was the single most glaring problem we had.

If we were going to take one piece of the reform package, that seems to me to be by far the most important. Mr. Speaker, to denigrate this and say that the other parts were more important I think is quite reversed. The number of committees we have and the number of subcommittees we can be on seems to

me to be trivial compared to whether or not we get compliance, and that is what we are doing.

Mr. Speaker, I gather there is just this insistence on denigrating anything that we try to do to improve the situation. We passed the bill to require compliance. The Senate would not act on it. We then worked out in a bipartisan way a rule which was agreed on by both sides and changed by both sides to do it. That seems to me to be an occasion on which we ought to be feeling good about what we are doing. The Minority Whip and others on both sides worked this out.

Mr. Speaker, I have to say that the previous speech talking about somebody not having the opportunity to do something seems to me completely at variance with what is happening here. This is a further effort to deal with the important compliance issue, taken because the Senate frustrated our effort to do more. It was done in a completely bipartisan way, and it is, to me, the single most important aspect of reform. I regret very much what I think was an unduly partisan distortion of this operation.

Mr. SOLOMON. If the gentleman will yield further, I would say to him that I am going to vote for this bill. It is only one-tenth of what we wanted, and I was pointing out what is missing from the bill. Banning proxy voting and cutting the committees in this Congress to a third is very important. It is not in the bill.

Mr. FRANK of Massachusetts. Mr. Speaker, it is not in the bill because there are other problems, but it was an unfortunately typical response to spend all of the gentleman's time denigrating what had not happened, rather than referring to the positive parts of it.

Mr. Speaker, I would say to the gentleman, in terms of the quantification, I think having Congress comply with the law that it passes is more than one-tenth of this package. I think that that is a lot more important than the number of committees we have, and I think what we have here is just one more effort to denigrate the institution, to try and deny credit when a responsible bipartisan effort goes forward.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say to the gentleman that we spent nearly 2 years when we formed this committee, going through 37 hearings, 243 witnesses. That has led to a very high level of frustration for those of us who have been trying to bring about congressional reform.

Mr. Speaker, I yield 4 minutes to my friend, the gentleman from Bakersfield, CA [Mr. THOMAS], the ranking Republican on the Committee on House Administration.

Mr. THOMAS of California. Mr. Speaker, I come to the floor not as a member of the joint committee. I come as a member of one of our policy committees, the Committee on House Administration. Mr. Speaker, I do not come here talking about H.R. 3801. I come talking about H.R. 4822.

Mr. Speaker, frankly, I want to take a moment to congratulate the gentleman from Connecticut, CHRIS SHAYS, and the gentleman from New Hampshire, DICK SWETT, two of our colleagues who, despite all of the roadblocks that had been placed in front of them, both partisan and substantive, were able to actually move through committee and off this floor an excellent piece of legislation.

Mr. Speaker, H.R. 4822 was the Congressional Accountability Act. I said "was", because it is almost dead. It was not dead when it was in the Committee on House Administration, and on a very positive, bipartisan, 19–0 vote we amended and passed out the Congressional Accountability Act. It was not moribund on the floor of the House when we discussed and then voted 427 to 4 to pass the Congressional Accountability Act, but somewhere between this Chamber and that Chamber, congressional accountability died.

Mr. Speaker, the House of Representatives did its job. We wanted to pass, by statute, and provide court remedies, to conform us to the laws that everybody else has to follow. The Senate has decided not to act. Maybe they will act tomorrow, maybe they will act on Sunday. Frankly, we have given them all the time that we can to act. Changing the Rules is decidedly secondary to changing statute.

However, Mr. Speaker, when all we have left is changing the Rules, then at least we have decided to change the Rules, not in a partisan manner to snipe, but frankly, in the best way that we could.

Mr. Speaker, is this really the work product that anybody in this House wants? No. Is this the work product that the Senate has forced us to? Yes.

Mr. Speaker, I would like to leave tonight knowing that what we have done on a bipartisan basis is to agree to change the rules, which does not trample on any committee's jurisdiction, does not provide the kind of court remedy that statute reform would make, but does what we can at least do to show the commitment to require Congress to conform to the laws that everybody else does.

Mr. Speaker, we already said we wanted to do it by statute, by a vote of 427 to 4. We would even be willing to accept the slightly inferior product that the Senate proposes, but they will not send it over to us. Therefore, as we leave tonight, with probably what is going to be the last recorded vote, I think everybody has to understand that what we have in front of us, Mr. Speaker, is, frankly, probably the best we can do, because when we try to write laws or make changes and only one house of a bicameral legislature is willing to move, all we can do is what we have in front of us.

Mr. Speaker, I think there is a high degree of frustration here right now, because we put on the line fundamental reform and we were honest about it in a bipartisan way. We may have taken a sidetrack here and there to reach this point tonight, but despite the failure to do broad reform that my friends are so concerned and upset about, and I agree with them, but in this one limited, narrow area, let us leave with our heads up, and understand that this time it was not our fault. We have done a good job.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would ask if the distinguished gentleman from Massachusetts [Mr. MOAKLEY] would engage in a brief colloquy with me regarding the educational duties of the Office of Compliance as spelled out by this resolution. I would greatly appreciate it.

Mr. MOAKLEY. Mr. Speaker, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, I would be happy to engage in a colloquy with the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Speaker, it is my understanding that under this resolution, the Office of Compliance is required to implement a program to educate Members and other House employees of their rights and duties under applicable laws extended to them. Am I correct in my understanding?

Mr. MOAKLEY. The gentlewoman from Illinois is correct.

Mrs. COLLINS of Illinois. Mr. Speaker, am I correct in my understanding that, the charging the Office of Compliance with the aforementioned duties, it is the clear intent of the House that the Office provide individual Members of this body and other House employees with essential information regarding their rights and responsibilities under the laws extended to them in the most timely manner possible, on an orderly and regular basis, and through those means that ensure the widest possible dissemination of such information?

Mr. MOAKLEY. The gentlewoman from Illinois is again correct.

Mrs. COLLINS of Illinois. Finally, am I also correct in my understanding that it is the view of the House that the educational duties placed upon the Office of Compliance are of paramount importance in assisting Members of Congress and other House employees in their efforts to understand and conform with the terms of this resolution and the laws contained within it?

Mr. MOAKLEY. The gentlewoman from Illinois is correct.

Mrs. COLLINS of Illinois. I thank the gentleman.

□ 2040

Mr. DREIER. Mr. Speaker, I yield 4 minutes to the gentleman from East Petersburg, Pennsylvania [Mr. WALKER], another member of the Joint Committee on the Organization of Congress and our chief deputy whip.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I was fascinated a few moments ago to listen to the gentleman from Massachusetts describe this as the most important thing we would do as part of the congressional reform effort. It is indeed an important aspect of what we attempted to do and it is very important that Congress does come up with rules that would assure that we comply with all the laws of the land. It is a little sad that Congress has to pass rules that says that we are going to comply with the laws that we pass for everybody else, but since we do not, it is an important reform to suggest that that is possible. However, to suggest that somehow this is the be-all and end-all of Congressional reform I think is a little much.

This bill is a little like hiring a quarterback for a football team who completes one pass in the year. It is a beautiful pass. It goes 60 yards and the guy goes for a touchdown and everybody praises him and so on and it is the one magnificent thing, except he completes no other passes in the entire year. My guess is that that is a football team that would not be very successful.

Here we are completing one very beautiful pass. We are in fact getting compliance and that is a good thing. However, we did nothing else. I do not think that most people will think that this is a very successful record. We could have done a number of things that would have been very important. It would have been very successful to pass proxy reform and make certain that people are in the committee casting their votes instead of sending someone else with a sheaf of papers in to cast their votes. That would have been an important reform. It could have been done. It did not need to be approved by the Senate. It is something we can do to modify our own rules and make the change here. We did not do it because we could not do it.

We could also modify the committee structure. Nearly everybody who testified before the Joint Committee admits that the committee structure is broke. Members are spending too much time on too many subcommittees and as a result cannot get any of the work done. The legislative schedule is fractured because of the kind of committee structures that we have in the Congress. We could have fixed that. That is something we could have done. It does not involve the Senate responding. We could have done it ourselves, modified our rules. We could be here tonight doing it. We did not do it because we could not and we would not.

In my view, that failure is a deep, dark failure, because we had plenty of testimony about what this House could accomplish if only we would. We in fact met, we had a number of votes on major reform measures. In fact, many of the amendments that failed before the committee failed on a 6-6 tie. We were hoping to bring those matters before the House of Representatives because we felt that the House of Representatives ought to reflect on the matters that we tried to complete as a part of the committee. We have lost that opportunity. Tonight what we will do is we will take up one measure, a good measure, most of us will vote for it, and I would urge everyone to vote for it, because it takes us one step. But it is one very small step toward congressional reform. We need to do the bigger things to make this into a more workable body.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I just would like to make it clear that the notion that this should come out under a closed rule to my recollection was first suggested by the gentleman from Georgia [Mr. GINGRICH], the minority whip. So the fact that this is before us now under a closed rule, it was the suggestion of the gentleman from Georgia [Mr. GINGRICH], agreed on by everybody in that office, that that is the way we should do it. It was agreed that this would come up under a closed rule as the gentleman from Georgia [Mr. GINGRICH] had suggested.

Mr. WALKER. I thank the gentleman for that explanation. I do not think it has anything to do with what I just said. The point is that what we could have had is a deliberation about congressional reform, not tonight, not last week. We should have had this months ago. The Committee on Reform did in fact report its product a year ago. We should have been debating this in the spring. We did not and it is a doggone shame.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. FINGERHUT].

Mr. FINGERHUT. Mr. Speaker, I thank the gentleman, the distinguished chairman of the Committee on Rules, for yielding me the time.

Mr. Speaker, I rise in somewhat sad support of this rule tonight. I recall that early in my term of office, the distinguished Speaker of the House told me that in another context on another issue that when an overwhelming majority of the Members of Congress want to do something, then it will happen because the process will not stop an overwhelming majority from accomplishing their will.

Well, on the question of passing a law that makes all of the laws that this body has passed apply to Congress, an overwhelming majority of this body, led by Members such as the gentleman from Connecticut [Mr. SHAYS] and the gentleman from New Hampshire [Mr. SWEET] and others did speak their mind and did act their will, but unfortunately an overwhelming majority of both Houses did not. That is regrettable, Mr. Speaker, because an overwhelming majority of the public does want this to be a law. There is no higher priority in their mind, there is no greater symbol of what has come to be wrong with this institution than this issue.

Nevertheless, we will come back to this issue again in the next Congress. I suggest to the voters as they approach the polling booths this year, do not just ask whether a candidate or a Member of Congress supports this law. Ask them whether, they will work for it, ask them whether they will agitate for it, ask them whether they will take risks for it, because that is what we need in order to pass this law in the 104th Congress.

One final point. This is a good rule. Thanks to the committee, I have been able to read it through, and the provisions on enforcement are strong. But because it is a rule of this House, ultimately it is up to us to make it work. If we treat our employees right under this, them it will be to our credit. But if we fail to live up to it, it will be to our shame.

Let us pledge on a bipartisan basis to make every provision of this rule work on behalf of the employees of this body.

Mr. DREIER. Mr. Speaker, I yield 4 minutes to the the gentleman from Stamford, Connecticut [Mr. SHAYS], author of the congressional compliance legislation; I guess it is called congressional accountability.

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I do not usually make it a practice to speak on the last day of a session because there is not a person in this Chamber who is not angry about some bill that was killed during some time of our labor over 2 years and there is no a person in this Chamber who does not want to get home and get to interact with his constituents. But I wanted to take this time to personally thank the gentleman from Washington [Mr. FOLEY], the Speaker of the House, for what he has done to bring congressional accountability before this Chamber. I want to thank the gentleman from Missouri [Mr. GEPHARDT]. I particularly want to thank the gentleman from Massachusetts [Mr. FRANK] on that side of the aisle for what he did to bring this forward to the

79-059 O—97 Vol. 140 (Pt. 21) 19

chamber and others on that side of the aisle.

This is totally and completely bipartisan. No one party can claim congressional accountability. It was the interaction between leaders on both sides of the aisle, our minority leader, our whip, the ranking members of the Committee on House Administration and the Committee on Rules, what they have done to move this process forward, however they are disappointed that it did not go far enough. What the gentleman from Massachusetts [Mr. MOAKLEY] and the gentleman from North Carolina [Mr. ROSE] did. It is sad that we cannot unite on the last day and feel like we have joined together to save this institution.

The American people look at this American flag and revere it. I want them to look at Congress and have the same appreciation. It is what our founding fathers established, this Congress of the United States, and we should be under the laws.

When we passed this bill and sent it to the Senate, we did our job in a way I was so proud. It was not partisan, it was substantive law, and we gave the Senate time to act.

□ 2050

And everything we have done has failed to move the Senate. Whether it was with the majority party in the Senate or the minority party, both fingers were connected in killing this bill.

We did our job. It is sad that we have to do it by rule. But to my colleagues on this side of the aisle I say that is part of our contract with the American people. We said if it was not done by law we were going to step forward and do it by rule.

When we do it by rule it does not include the courts. When we do it by rule it does not include the instrumentalities. When we do it by rule it ends at the end of this year. But this rule will start tonight, it will start November 1. It locks us in for 2 months. It starts an Office of Compliance. It gets us to move forward in this process, and it puts tremendous shame where shame belongs, in the Senate of this institution of Congress.

I know we want to get home, but for anyone to think that one party can claim this or another, they are wrong. We are in this together. We worked together. It was bipartisan. We can be tremendously disappointed that there were other parts of it that were not done.

I look to the gentleman from California [Mr. DREIER], and I know that he spent his blood, sweat and tears to get this done, and it was not then brought up for a vote. He has every right to complain about that, and I totally understand it. But this is congressional compliance. It gets us in the right direction, and I just hope and pray when we come back, if we are fortunate enough to come back in January, that we work on this legislation, we try to get it into the statute, and we have the American people someday look at the flag, and look at Congress and say they are one and the same.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. BEILENSON], a member of the Committee on Rules.

Mr. BEILENSON. Mr. Speaker, I rise in support of House Resolution 578 which would apply 10 employment-related laws to the House of Representatives and establish an Office of Compliance to administer those laws.

I want to take a moment to commend the remarks of my colleague, the gentleman from California [Mr. THOMAS], in recent remarks, and especially the remarks of our friend, the gentleman from Connecticut, [Mr. SHAYS], who along with our friend, the gentleman from New Hampshire, [Mr. SWETT], is very, very much responsible for bringing us as far as we have been able to get this year.

Mr. Speaker, the charge that Congress exempts itself from laws it passes for everyone else is one of the most frequently heard criticisms of Congress, and understandably so. It is simply wrong to deny to congressional employees the same kinds of employment protections we grant to other employees, and it is wrong to insulate ourselves from the effects of these laws.

As Members are aware, the House of Representatives is in overwhelming agreement that we should apply these laws to Congress, which was demonstrated by our vote of 427 to 4 on favor of passing H.R. 4822, the Congressional Accountability Act, 2 months ago. Those of us who are strong supporters of this legislation were hopeful—right up until the last moment—that the momentum generated by our strong showing on the vote would galvanize the other body to follow suit.

Unfortunately, that did not happen, leaving us with no choice but either to implement as much of the Congressional Accountability Act as possible by a Rule of the House, or to maintain the status quo, which would mean continuing to be exempt from many of the laws other Americans are subject to.

Despite the shortcomings of applying these laws by House Rule rather than by statute, taking this approach is better than doing nothing at all at this point. By adopting this resolution, we will improve the application of laws to the House in two ways:

First, we will be covered by all the work place laws that the private sector is covered by—not just some of them, as we are now—and

Second, those laws will be administered by a more independent authority than the one that currently administers anti-discrimination laws in the House.

Mr. Speaker, to briefly review the background on this legislation: As Members are aware, in recent years, both the House of Representatives and the Senate have attempted to apply employment-related laws to Congress. It has been a difficult endeavor because we have had to construct a way to do so without breaching the separation of powers doctrine under the U.S. Constitution, which could occur if the executive branch enforced these laws.

For the last 6 years, the House has applied the Fair Labor Standards Act and other antidiscrimination measures to House employees through the Rules of the House, enforced by an internal system. As Congress has passed new laws, such as the Family and Medical Leave Act, we have enforced those new measures to the House under the same system.

However, neither the range of laws we have applied to the House, or the manner in which they are applied, is comparable to the private sector. Not all the laws that apply to the private sector apply to Congress, and our internal enforcement process does not provide adequate recourse for aggrieved employees. In addition, there are wide variations in the coverage of laws among different groups of legislative branch employees.

Establishing a new system for applying and enforcing these laws, and expanding and making uniform the range of laws covering the legislative branch, was one of the key recommendations of the Joint Committee on the Organization of Congress, which reported those recommendations last November. The joint committee, drawing from the original bill authored by the gentleman from Connecticut [Mr. SHAYS], and the gentleman from New Hampshire [Mr. SWETT] recommended applying five laws to Congress, with the possibility of applying more, and establishing a new, more politically insulated entity, the Office of Compliance, which would be responsible for applying laws to the House, the Senate, and other legislative branch entities. It also recommended new procedures, rights, and remedies for aggrieved employees.

Following hearings on this legislation by the Subcommittee on the Rules of the House in the spring, and with further efforts by Representatives SHAYS and SWETT, and others, the joint committee's recommended legislation was revised in several respects. The result is that H.R. 4288 as considered—and further amended—by the House on August 10 was a much stronger, much improved version of the compliance legislation included the joint committee's bill. It applied twice as many laws; ensured full coverage of all employees of the legislative branch; made the Office of Compliance a more independent entity and gave it more authority in the promulgation of regulations; and ensured that employees would continue to be covered under the various laws we already apply here in

the House until the new regulations developed by the Office of Compliance took effect.

As a result, the resolution before us, which reflects many of those improvements, provides for the following:

First, there are 10 employment-related laws that will be applied to the House of Representatives. They are:

The Fair Labor Standards Act;

Title VI of the Civil Rights Act of 1964;

The Americans with Disabilities Act;

The Age Discrimination in Employment Act;

The Family and Medical Leave Act;

The Occupational Safety and Health Act;

The Federal Labor Management Relations Act;

The Employee Polygraph Protection Act;

The Worker Adjustment and Retraining Act; and

The Rehabilitation Act of 1973.

Only four of these laws specifically apply to the House at this time; applying these six additional laws will more than double the number of laws under which the House is covered. And I would like to point out that one of those additional laws is OSHA, which is probably the most visible example of laws which private-sector employers must comply with, but from which Congress has exempted itself.

These laws will be administered by a new Office of Compliance, which would replace the Office of Fair Employment Practices. The Office of Compliance would be governed by a five-member Board of Directors, all of whom would be appointed jointly by the Speaker and the minority leader. The office would consist of an Executive Director who is appointed by the board, and other staff. To help ensure the independence of this new office, the rule prohibits appointing to the Board of Directors current and former members, current and former House employees—unless their employment in the House was more than four years previous to their appointment—and lobbyists; the same restrictions, except for lobbyists, will also apply to the Executive Director.

The board will conduct a study of the way in which the laws should be applied to the legislative branch, and then follow that study with proposed regulations prescribing the application of the laws to the House of Representatives. Unless the House rejects the regulations by resolution of disapproval, those regulations will take effect. If they are rejected, the board would reissue new regulations. However, regardless of the status of regulations, eight of these laws will be applied at the beginning of 1996, and the remaining two—OSHA and the Federal Labor Relations Act—will be applied at the beginning of 1997.

The rule also establishes a process for resolving alleged violations of the law: first, counseling; then, mediation; and, then, formal complaint and hearing. An independent hearing board will review employee complaints, and upon a finding of liability, prescribe remedies consistent with those that are available to private-sector employees under the relevant law. Parties dissatisfied with the outcome of the hearing would have the opportunity to have a decision reviewed by the Board of Directors.

Laws which currently apply to House employees shall continue to apply until the laws made applicable under this resolution are in effect.

This resolution also requires the Office of Compliance to study and recommend additional laws to be applied on a continuing basis, and specifically to review the availability of information in the House and study the possible application of the Freedom of Information Act and the Privacy Act. The office would also be responsible for educating members, officers, and employees about their rights and responsibilities under the applicable laws. And, the office would be required to compile and publish statistics on the use of the office by House employees, and to develop a system for collecting information on demographic data of employees, and on employment in House offices.

Mr. Speaker, although Members should be proud of moving ahead with this long-overdue effort to apply to ourselves the laws that apply to other Americans, there are flaws and disadvantages to adopting this legislation by House rule—an approach we are taking, as I mentioned earlier, only because of the failure of the other body to act on the legislation the House approved two months ago.

The most obvious deficiency in applying laws by House rule is that it covers only House employees, not the thousands of other legislative branch employees. Many of these other employees have some coverage and some system of enforcement, but one of the most important objectives of the Congressional Accountability Act was to ensure that all legislative employees were covered under all applicable laws, and that the laws were applied to everyone in a credible and effective manner. Clearly, this rule will not meet that objective.

Furthermore, by failing to cover all employees, inequities are certain to become apparent. We know, for example, that because half of the Capitol Police officers are paid by the House and half by the Senate, half will be covered under this rule and half will not be. That is not fair.

We also know that, although we are applying OSHA to the House, the workers for whom OSHA is most relevant—the employees of the Architect's office—will not be covered. Safety codes for our buildings will have to conform to OSHA standards, but workers who make the buildings safe will continue to be exempt from the law. That makes no sense.

Another weakness in this approach is that aggrieved employees will not have recourse to the courts if they are dissatisfied with a hearing board decision and the board's review of that decision, as private-sector employees have. That is because access to the Federal courts can only be conferred by statute.

Mr. Speaker, I share the disappointment of so many of our colleagues who have worked tirelessly on compliance legislation that we are here today considering this rule. We had hoped, right until now, that our last action on the Congressional Accountability Act during this Congress would be the final approval of a conference report.

However, adopting this rule will in no way preclude or hinder action in the next Congress on a statutory approach to compliance. It is my hope that as we adopt this resolution, we will do so resolving to redouble our efforts on this issue in the next Congress, so that we can achieve full application of the laws, in a credible and effective manner, for the entire legislative branch of government.

In the meantime, however, adoption of House Resolution 578 will make Members of the House significantly more accountable for our actions as employers. Perhaps just as importantly, it will give us a better understanding of the effects of laws every private-sector employer must live under and, hopefully, lead to more diligence and care and accountability for the laws we pass.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. DREIER. Mr. Speaker, I am happy to yield 4 minutes to the gentleman from Naperville, IL [Mr. FAWELL], one of our porkbusters.

Mr. FAWELL. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I think what we first ought to ask ourselves as we look at this legislation is whether we can say that this hasty redraft of the Shays-Swett Congressional Accountability Act, this time via rules of the House, requires Congress to be bound by the 10 laws listed in the bill as our constituents are bound. Are we actually in compliance as a practical matter with how our constituents must comply?

I think when we ask that question we have to come back and say no, we are not. Granted, we have to go by rules at least until such time as in the next session we can move to a statutory scheme, and that is what real compliance is all about.

But I note that even here, even here when we are forced to use rules in order to have congressional coverage, we come through with a real flunking score on the test.

Basically what we have here is a private, in-house kind of a hearing. It is a private hearing before hearing officers. Apparently we have reached the conclusion that we cannot allow for judicial remedies of a trial de novo, bench or a jury trial and judicial appeal, though I notice that the Senate does allow a judicial appeal. But again, we say no punitive damages, for instance, are allowed, even in a civil rights case where sexual discrimination may be alleged of a willful type. Still we will not allow that.

Then we should ask ourselves would we ever suggest that this type of compliance should be followed, for instance, by any of our Fortune 500 companies or anybody out there in the private sector. I do not think we would ever. In fact, I would say it is unthinkable that we would suggest that let us say AT&T could have a kind of a cozy arrangement for handling a tough, let us say sex discrimination or race discrimination case. It would be unthinkable. Yet we here, when we could make those changes, and at least make sure we have compliance there, we fail to do that when we are dealing with ourselves.

And then what do we do? We say the taxpayers will hold us harmless in regard to all of the damages which we may sustain. Yet if some of our employees should sue us for violations, let us say, of the Civil Rights Act, we get free legal fees, and the taxpayers will subsidize us there, and the court costs and these sorts of things, expert witnesses, we are all covered, and we cannot possibly lose. Of course, as I said, even in the most vicious case of discrimination, in no way are we going to suffer punitive damages.

So I would ask the question: Would we grant these kinds of compliance to private employers? Of course we would not. This is not the way these laws are enforced in the private sector when employers are sued in civil rights cases, nor do we treat private sector employees like we treat congressional employees.

Well, I guess it is some kind of an improvement, but boy, it ain't much.

□ 2100

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, I rise in strong support of the adoption of this rule. The previous speaker lamented the shortcomings of this rule. He was correct.

This House passed a statute which could have effected the same kind of coverage of which the gentleman speaks. Unfortunately, however, that statute, like campaign finance reform and lobbying disclosure, has been stopped in the United States Senate. It would be, I think, not honest of us to say that having stopped in the United States Senate beyond the control of anybody in this House that we, therefore, said it could not be done. In point of fact, as I stated in the Committee on House Administration with the gentleman from Connecticut [Mr. SHAYS] and the gentleman from New Hampshire [Mr. SWETT] present, the fact of the matter is what this legislation is all about is not politics, it is not about the private sector, it is very much about protecting our employees, protecting people who deserve protection similar to that which they would have if they worked in the private sector. That is what this is all about, and that is why it is so right to do.

This rule will, in fact, have an effect.

Now, Mr. Speaker, before I sit down, this will probably be the last rule that the distinguished gentleman from Massachusetts will handle during this Congress. All of us on this floor owe him a great debt of gratitude for the wisdom and the patience that he brings to the consideration of the rules of this House. They are obviously one of the most contentious acts that occur. We have very heated debates sometimes about the substance and provisions in those rules, and I want to, on behalf of all of us, thank the very distinguished gentleman from Massachusetts for the gentle, yet firm, way that he leads the Committee on Rules and leads this House.

Thank you very much.

Mr. DREIER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, congressional compliance is something that is obviously very important to what I believe is a strong majority of this House. Since 1993, when I had the privilege of being asked to joint as co-vice chairman of the Joint Committee on the Organization of Congress, I have been very optimistic about the chance for us to bring about meaningful reform of this institution. A very important part of that has been congressional compliance.

I would like to share with my colleagues a letter that was sent to Speaker FOLEY just about 3 months ago by my counterpart, the gentleman from Indiana [Mr. HAMILTON], and I would just like to read a few sentences from it. He said,

> As you know, I have been concerned that separating off the application-of-laws section of the reform bill might kill the rest of the package including the important procedural and structural recommendations that constitute most of the joint committee's mandate. However, your assurance that the rest of the reform package will receive floor consideration in September goes a long way toward addressing my concerns. I also appreciate your suggestion that even if the compliance proposal is considered separately, it might eventually be merged back into the larger reform package, perhaps in the form of House rules changes.

Unfortunately, that has not happened, Mr. Speaker, and I am very concerned with that.

Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Marietta, GA [Mr. GINGRICH], the very distinguished minority whip.

Mr. GINGRICH. Mr. Speaker, let me say, first of all, I appreciate my friend, the gentleman from California, yielding to me.

I realize that in some ways there is disappointment that the other body tied up the legislation we would like to have passed. I realize and sympathize with my good friend from California who put so much time and effort into a dramatically more complete overhaul of the House which was bottled up in the Committee on Rules and never had a chance to come to the floor, and yet here on the last night of this particular session I think it is important for all of our colleagues to realize just how far the gentleman from Connecticut [Mr. SHAYS] and the gentleman from New Hampshire [Mr. SWETT] have carried us, that this is a genuinely bipartisan effort, that a great deal of integrity has gone into the effort to get us to this point, that with the amendments made during the evening that make this rule applicable virtually immediately as soon as the rules can be developed with the effort made to ensure that we will have lawyers reporting back by the beginning of the next Congress to ensure that we can, in fact, make it possible for constitutional cases to go straight to court, with the kind of changes that are involved and with the guarantee of bipartisanship by reshaping the rule from the way it came out last night so that one member of each party is involved in overseeing the application, I think this is a serious and a sincere first step.

I feel very, very comfortable in asking for a yes vote, and while it is not all we wanted, I would say to my many friends who would like more reform faster, it is a first step, it is significant, it does move us in the right direction. And I think it is worthy of a yes vote.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Speaker, I want to thank the distinguished chairman of the Committee on Rules for yielding me this time.

I want to just take a moment to say what a fabulous institution I think this is. I think the overwhelming majority of our colleagues here are decent, honest, hard-working, dedicated people providing a fabulous service to the American people.

And, you know, this institution works essentially as our Founding Fathers meant it to work. This bill is a good example.

We see a problem. We cannot solve the problem immediately, overnight, but in due course the problem gets solved, and because of this system and

because it really does work, this country has produced a level of freedom and prosperity that is the envy of the world.

This is the most fabulous system of government in the world, and those people who, for their own purposes, for power or money or whatever, who smear the Congress, people like the radio talk-show hosts or Common Cause or Ross Perot or others who smear this institution insult our Constitution.

So I really want to thank all of you for the outstanding service you provide to your country. It has been a great honor and privilege to serve with you, and I thank you for your outstanding service.

Thank you.

Mr. DREIER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from New Hampshire [Mr. SWETT].

Mr. SWETT. Mr. Speaker, it is with a heavy heart that I come before you tonight to close out the debate on this important piece of legislation. The gentleman from Connecticut [Mr. SHAYS] and I have worked for 2 years with many people, and we are greatly indebted to many more for helping to move this forward, from the freshman class who have been a constant source of support and energy to the original cosponsors to the Speaker of the House; I want to thank the minority leadership for the kind words that they have had this evening; the gentleman from Massachusetts [Mr. FRANK] has played a very important role in this; and I am very grateful for that as well.

On August 10 there was a vote of 427 to 4 supporting this legislation in statute, and it was passed on, as we waited anxiously for the Senate to pass the same legislation so that we could bring this body, the U.S. Congress, under the laws of the land.

□ 2110

That is an arrogance that we cannot continue.

Everyone that has spoken to that effect I think has spoken to the heart of mainstream America, and that is what this country asks for.

Mr. Speaker, I sat in the front row just 3 hours ago wondering if this legislation would make it to the floor or not, and I came to the realization that this legislation was only meaningful if we would act in unison as we had on August 10 to either pass this bill or kill it. And I think that is important because if we divide on this where we once had been unified, we would show to the American people that our commitment was shallow and that we were easily done in by the deeds of the other body.

Mr. Speaker, I went to the leadership on both sides with CHRIS SHAYS, and we worked out a compromise that although it was detrimental to one or two Members—about whom I feel very badly—it allowed for us to protect the integrity to the best of our ability under the rule, the integrity of the Congressional Accountability Act. That is the best we can do. That is the only thing that we are allowed to do because of what the other body had done or, more importantly, because of what the other body has not done.

There is no mistake, this is not the endgame; we have not finished reform. We do not go into the fall claiming that we have done everything that there can be to be done, but this is, I hope, a new beginning for this Congress, that it can demonstrate to the American people that it has the ability to negotiate within its body, to eke out and bring out those changes that will increase American's faith in their Congress and in their Government, and I pray that we move into the 104th session a new and invigorated body ready to accomplish the problems that face Americans and not continue the bickering and the partisanship that has only perpetuated the ill feelings on both sides of the aisle and between the American people and this Government.

I ask you to support this rule. I ask you to do it with a heavy heart but with a strong and firm commitment that we come back in 1995 and commit this to statute and get the Senate to do the same.

Mr. GOODLING. Mr. Speaker, I have a hard time dignifying the proposal before us by calling it a congressional coverage proposal. What it largely is, is a trip down memory lane that I don't like—a trip back to the past when this institution still thought it was above the laws it passed and expected others to comply with although it contains some small improvements. Unfortunately, the failure of the Senate to act on strong congressional coverage has forced the House to consider a rule approach.

Back in 1988, the House adopted House Rule 51 applying certain prohibitions to House employers and creating an internal office for hearing complaints, the Office of Fair Employment Practices. No one any longer defends that rule with a straight face, yet the proposal before us today is simply more of the same. Why? Because it still keeps the entire enforcement process locked into an internal process within the House itself—there is no access to the courts at all. An employee cannot take his or her case to court and can't even appeal a decision by the proposed Office of Compliance. The few improvements over the existing Office of Fair Employment Practices, does not alter or ameliorate this fundamental defect.

Even the Senate, as part of the Civil Rights Act of 1991, allowed its employees to appeal decisions by its Office of Compliance to the Court of Appeals for review. And on August 4, just 2 months ago, this body overwhelmingly passed the Congressional Accountability Act which allowed both court trials and court review, depending on the underlying law. The Senate, however, has failed to take this act up and the 103d Congress is now coming to a close.

And why is access to the courts so important? Well, for one reason, employees are not going to view an internal process as one being fair and objective—it will simply be distrusted. Second, almost all the laws which will supposedly be applied to the House under this new rule allow employees to go to court for full trials of their cases on the merits. Examples? Well, how about Title VII of the 1964 Civil Rights Act, the Americans with Disabilities Act, the Fair Labor Standards Act, the Polygraph Protection Act, the Family and Medical Leave Act, the Rehabilitation Act, and the Age Discrimination in Employment Act. Again, this proposed rule allows no court actions whatsoever.

Oh yes, let me also note that this rule has no statutory basis. It can therefore be changed by the House, the very employer it purports to regulate, in any manner and at any time. This convenient arrangement truly gives new meaning to the phrase "fox guarding the chicken coop."

I am, of course, disappointed that the Senate did not take up the Congressional Accountability Act, so we could get a bill to the President this year, but this rule simply does get us to real congressional coverage; at best it is a very small improvement over the status quo. Let's come back next year, do it right, and pass a strong congressional compliance bill as H.R. 1 in the earliest days of the 104th Congress.

Ms. HARMAN. Mr. Speaker, I rise in support of House Resolution 578, a resolution to change House internal rules to apply employee protection laws to the House of Representatives. Unfortunately, this resolution is before us today because the Senate has not followed the House lead in passing comprehensive legislation to apply all current employment protection and civil rights laws to the Congress.

It is also unfortunate, Mr. Speaker, that campaign finance reform, lobby reform, and institutional reform all died in the closing days of this session. I certainly hope that the 104th Congress will move expeditiously to pass all of these needed reform bills.

In the conduct of my office, I have adhered to these employment laws. I have also rejected the perks of office and returned funds to the U.S. Treasury from my office accounts. Next year, I would like to see the House pass legislation to further reduce perks and economize our operations.

The resolution we ar considering is a significant step to reform our operations. I urge an overwhelming vore in favor of this rules change.

Ms. ENGLISH of Arizona. Mr. Speaker, the protectors of perks and the guardians of privilege have won another battle. As the result of yet another back-room deal, the House will allow its Members to continue enriching themselves at the expense of the taxpayers of this Nation.

Until just a very few minutes ago, legislation I authored to end the practice of making personal use of frequent-flier travel awards earned through taxpayer-funded travel was contained in the legislation now before this House.

As I argued when the House overwhelmingly endorsed my frequent-flier bill, airline tickets cost money. Taxpayers pay for our tickets. The frequent-flier miles and the free airline tickets these miles earn belong to the taxpayers. It's that simple.

But by the time H. Res. 571 arrived here on the floor for our consideration, somehow, mysteriously, the frequent-flier language was gone. It's been stripped out of the resolution. The protectors of perks strike again.

Mr. Speaker, when the taxpayers of my district pay to fly me back and forth between Arizona and Washington so that I can do my job, I just don't think they expect me to get a bunch of free plane tickets as a result. And your constituents don't want that either. Maybe it's because we all know that's the view of the people we represent that this deal was made behind closed doors.

It's little wonder that Congress is held in such ill repute. I ask my colleagues, is there anything that could be more clear than the desire of the American people for the elimination of special perks and privileges for their elected representatives in this body?

Is there anyone here who questions the fact that the American people simply don't want their member of Congress to capitalize on their position to enrich themselves? But the opposite is happening here tonight, and its happening because there are those among us who want to shun perks in public but will do anything to cling to those same perks behind closed doors.

We could have easily reversed the 1991 rule change that gave members and staff the discretion to personally profit from frequent-flier travel awards earned from official, taxpayer-funded travel. We could have ended the practice by which members of this body take advantage of their position to enrich themselves.

Instead, out of the public's view, the protectors of perks quietly stripped the frequent-flier provisions from the bill. And so this perk will live on a little while longer.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SHARP). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MOAKLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 348, nays 3, not voting 84 as follows:

[Roll No. 505]

YEAS—348

Abercrombie	Eshoo	Lancaster
Allard	Evans	Lantos
Andrews (ME)	Everett	LaRocco
Andrews (NJ)	Ewing	Lazio
Andrews (TX)	Farr	Leach
Bachus (AL)	Fawell	Levin
Baesler	Fazio	Lewis (CA)
Baker (CA)	Fields (LA)	Lewis (GA)
Ballenger	Fields (TX)	Lewis (KY)
Barca	Filner	Lightfoot
Barcia	Fingerhut	Linder
Barlow	Foley	Livingston
Barrett (NE)	Ford (MI)	Long
Barrett (WI)	Fowler	Lowey
Bartlett	Frank (MA)	Lucas
Becerra	Franks (CT)	Machtley
Beilenson	Franks (NJ)	Maloney
Bentley	Frost	Mann
Bereuter	Furse	Manton
Berman	Gallegly	Manzullo
Bevill	Gejdenson	Margolies-Mezvinsky
Bilbray	Gekas	Markey
Bishop	Gephardt	Martinez
Bliley	Geren	Matsui
Blute	Gilchrest	Mazzoli
Boehner	Gillmor	McCandless
Bonilla	Gilman	McCloskey
Bonior	Gingrich	McDermott
Borski	Glickman	McHale
Boucher	Gonzalez	McHugh
Brewster	Goodlatte	McInnis
Brooks	Gordon	McKeon
Browder	Grams	McKinney
Brown (FL)	Greenwood	McNulty
Brown (OH)	Gunderson	Meek
Bryant	Hall (OH)	Menendez
Burton	Hamburg	Meyers
Buyer	Hamilton	Mfume
Byrne	Hancock	Mica
Calvert	Hansen	Michel
Camp	Harman	Miller (CA)
Canady	Hastert	Miller (FL)
Cantwell	Hastings	Mineta
Cardin	Hayes	Minge
Carr	Hefley	Mink
Castle	Hefner	Moakley
Clayton	Herger	Mollohan
Clement	Hilliard	Montgomery
Clinger	Hinchey	Moorhead
Clyburn	Hoagland	Moran
Coble	Hobson	Morella
Coleman	Hochbrueckner	Myers
Collins (GA)	Hoekstra	Nadler
Collins (IL)	Hoke	Neal (NC)
Combest	Holden	Nussle
Condit	Horn	Oberstar
Conyers	Hoyer	Obey
Cooper	Huffington	Olver
Coppersmith	Hughes	Ortiz
Costello	Hunter	Orton
Cox	Hyde	Owens
Coyne	Inglis	Oxley
Cramer	Inslee	Pallone
Crapo	Jacobs	Pastor
Danner	Jefferson	Paxon
Darden	Johnson (CT)	Pelosi
de la Garza	Johnson (GA)	Peterson (FL)
Deal	Johnson (SD)	Peterson (MN)
DeLauro	Johnson, E. B.	Petri
Dellums	Johnson, Sam	Pickle
Derrick	Kanjorski	Pombo
Deutsch	Kaptur	Pomeroy
Diaz-Balart	Kasich	Portman
Dickey	Kennedy	Poshard
Dicks	Kennelly	Price (NC)
Dingell	Kildee	Quinn
Dixon	Kim	Rahall
Dooley	King	Ramstad
Doolittle	Kingston	Reed
Dornan	Kleczka	Regula
Duncan	Klein	Reynolds
Dunn	Klink	Richardson
Durbin	Klug	Ridge
Edwards (TX)	Knollenberg	Roberts
Ehlers	Kolbe	Roemer
Emerson	Kopetski	Rogers
Engel	Kreidler	Rohrabacher
English	Lambert	Ros-Lehtinen
Rostenkowski	Slaughter	Towns
Roth	Smith (IA)	Traficant
Rowland	Smith (MI)	Unsoeld
Roybal-Allard	Smith (NJ)	Upton
Royce	Smith (TX)	Valentine
Rush	Snowe	Velazquez
Sabo	Solomon	Vento
Sanders	Spence	Visclosky
Sangmeister	Stark	Volkmer
Santorum	Stearns	Vucanovich
Sarpalius	Stokes	Walker
Sawyer	Strickland	Waters
Saxton	Stump	Watt
Schaefer	Stupak	Weldon
Schenk	Swett	Wheat
Schiff	Swift	Williams
Schroeder	Synar	Wilson
Schumer	Talent	Wise
Scott	Tanner	Wolf
Sensenbrenner	Tauzin	Woolsey
Serrano	Taylor (MS)	Wyden
Sharp	Tejeda	Wynn
Shaw	Thomas (CA)	Yates
Shays	Thomas (WY)	Young (AK)
Shepherd	Thompson	Young (FL)
Shuster	Thornton	Zeliff
Skaggs	Thurman	Zimmer
Skeen	Torkildsen	
	Torres	

NAYS—3

Crane	Dreier	Goss

NOT VOTING—84

Ackerman	Grandy	Packard
Applegate	Green	Parker
Archer	Gutierrez	Payne (NJ)
Armey	Hall (TX)	Payne (VA)
Bacchus (FL)	Houghton	Penny
Baker (LA)	Hutchinson	Pickett
Barton	Hutto	Porter
Bateman	Inhofe	Pryce (OH)
Bilirakis	Istook	Quillen
Blackwell	Johnston	Rangel
Boehlert	Kyl	Ravenel
Brown (CA)	LaFalce	Rose
Bunning	Laughlin	Roukema
Callahan	Lehman	Sisisky
Chapman	Levy	Skelton
Clay	Lewis (FL)	Slattery
Collins (MI)	Lipinski	Smith (OR)
Cunningham	Lloyd	Spratt
DeFazio	McCollum	Stenholm
DeLay	McCrery	Studds
Edwards (CA)	McCurdy	Sundquist
Fish	McDade	Taylor (NC)
Flake	McMillan	Torricelli
Foglietta	Meehan	Tucker
Ford (TN)	Molinari	Walsh
Gallo	Murphy	Washington
Gibbons	Murtha	Waxman
Goodling	Neal (MA)	Whitten

□ 2132

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. PORTER. Mr. Speaker, I was unable to be present on the House floor for the vote on H. Res. 571 regarding the application of employee protection laws to the House of Representatives. I requested to be paired for this resolution, and had I been present, I would have voted "Yea."

PERSONAL EXPLANATION

Mr. LEHMAN. Mr. Speaker, due to a scheduling conflict I missed today's floor vote on House Resolution 571 to apply employee protection laws to the House of Representatives. My voting record on this issue clearly indicates my strong support for these measures. Had I

been present, I would have voted in the affirmative on House Resolution 571.

PERSONAL EXPLANATION

Ms. MOLINARI. Mr. Speaker, had I been present for the vote on House Resolution 571, a resolution to apply employee protection laws to the House of Representatives, I would have voted in the affirmative.

In addition to supporting House Resolution 571, I am a cosponsor of H.R. 4822, the Congressional Employee Fairness Act and H.R. 349, the Congressional Accountability Act, two bills that are more extensive than the resolution voted on this evening. Throughout my tenure in Congress I have been a strong advocate of requiring Congress to live by the laws they impose on others. I look forward to working with my colleagues to pass more comprehensive legislation with regard to congressional compliance in the 104th Congress.

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, because I was attending an event in Pennsylvania's 19th Congressional District, I regret that I was not present to vote on rollcall vote 505. Had I been present I would have voted "yea."

AWARDING CONGRESSIONAL GOLD MEDAL TO RABBI MENACHEM MENDEL SCHNEERSON

Mr. KENNEDY. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance, and Urban Affairs, be discharged from further consideration of the bill (H.R. 4497) to award a congressional gold medal to Rabbi Menachem Mendel Schneerson, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4497

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress hereby finds the following:

(1) Rabbi Menachem Mendel Schneerson, the leader of the Lubavitch movement for 40 years, has made outstanding and lasting contributions toward improvements in world education, morality, and acts of charity.

(2) Rabbi Menachem Mendel Schneerson, as a refugee first from Stalinist Russia and then from Nazi Germany, has made the headquarters of the Chabad-Lubavitch movement in New York City a center of over 2,000 educational, social, and rehabilitative institutions touching millions of people from all walks of life in every corner of the globe.

(3) Rabbi Menachem Mendel Schneerson, throughout his 92 years of life, has exemplified the highest ideals of scholarship, teaching, ethics, and charity.

(4) Rabbi Menachem Mendel Schneerson has interpreted with keen insight the miraculous events of our time and has inspired people to a renewal of individual values of spirituality, cooperation, and love of learning.

(5) Rabbi Menachem Mendel Schneerson's extraordinary life and work have long been recognized by the Congress through the enactment of joint resolutions designating his birthday in each of the last 16 years as "Education and Sharing Day, U.S.A.".

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, to the Lubavitcher rebbe, Rabbi Menachem Mendel Schneerson, a gold medal of appropriate design, in recognition of his outstanding and enduring contributions toward world education, morality, and acts of charity.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions reflecting the theme of education to be determined by the Secretary.

(c) GIFTS OR DONATIONS.—

(1) IN GENERAL.—The Secretary of the Treasury shall accept, use, and disburse gifts or donations of property or money to carry out this section.

(2) NO APPROPRIATION AUTHORIZED.—No amount is authorized to be appropriated to carry out this section.

SEC. 3. DUPLICATE MEDALS.

The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medal struck pursuant to section 1 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 4. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PRINTING REVISED EDITION OF RULES AND MANUAL OF THE HOUSE OF REPRESENTATIVES

Mr. GEPHARDT. Mr. Speaker, I send to the desk a resolution (H. Res. 580) authorizing printing of a revised edition of the Rules and Manual of the House of Representatives for the 104th Congress, and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 580

Resolved, That a revised edition of the Rules and Manual of the House of Representatives for the One Hundred Fourth Congress be printed as a House document, and that two thousand additional copies shall be printed and bound for the use of the House of Representatives, of which seven hundred copies shall be bound in leather with thumb index and delivered as may be directed by the Parliamentarian of the House for distribution to officers and Members of Congress.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SETTING DATES FOR ORGANIZATIONAL CAUCUS OR CONFERENCE FOR 104TH CONGRESS

Mr. GEPHARDT. Mr. Speaker, I send to the desk a resolution (H. Res. 581) setting dates for organizational caucus or conference in the House of Representatives for the 104th Congress and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 581

Resolved, That any organizational caucus or conference in the House of Representatives for the One Hundred Fourth Congress may begin on or after November 27, 1994.

Sec. 2. As used in this resolution, the term "organizational caucus or conference" means a party caucus or conference authorized to be called under section 202(a) of House Resolution 988, Ninety-third Congress, agreed to on October 8, 1974, and enacted into permanent law by chapter III of title I of the Supplemental Appropriations Act, 1975 (2 U.S.C. 29a(a)).

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING SPEAKER AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS NOTWITHSTANDING ADJOURNMENT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the 2d session of the 103d Congress, the Speaker and the minority leader be authorized to accept resignations, to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMITTING CHAIRMEN AND RANKING MINORITY MEMBERS OF EACH STANDING COMMITTEE TO EXTEND REMARKS IN THE RECORD

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the chairman and ranking minority member of each standing committee and each subcommittee be permitted to extend their remarks in the RECORD, up to and including the RECORD's last publication, and to include a summary of the

work of that committee or subcommittee.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

PERMITTING MEMBERS TO EXTEND AND REVISE THEIR OWN REMARKS IN CONGRESSIONAL RECORD UNTIL LAST EDITION IS PUBLISHED

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that all Members of the House shall have the privilege, until the last edition authorized by the Joint Committee on Printing is published, to extend and revise their own remarks in the CONGRESSIONAL RECORD on more than one subject, if they so desire, and may also include therein such short quotations as may be necessary to explain or complete such extensions of remarks. But this order shall not apply to any subject matter which may have occurred, or to any speech delivered subsequent to the adjournment of Congress.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

□ 2140

AUTHORIZING PRINTING OF REPORTS FILED WITH CLERK FOLLOWING ADJOURNMENT SINE DIE

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that following adjournment sine die, committees authorized to conduct investigations may be permitted to file reports with the clerk; and that such reports, and reports on the activities of committees pursuant to clause 1(d), rule XI, may be printed by the Clerk as reports of the 103d Congress.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

(Mr. GEPHARDT asked and was given permission to proceed out of order for 1 minute.)

LEGISLATIVE PROGRAM

Mr. GEPHARDT. Mr. Speaker, I simply want to announce to the Members that there will be no more votes in this session of Congress. We will be having and entertaining a number of unanimous consent requests later this evening, a little bit into the evening. all of them have been cleared with the minority and so we are in agreement on those unanimous consent requests. So there will be no further votes this evening.

I want to thank the Minority Leader, who I am not sure is here, but we intend to properly honor and recognize the Minority Leader at a later date when we come back here on November 29. We want to give him our honor and our appreciation at that time.

(Mr. MICHEL asked and was given permission to proceed out of order for 1 minute.)

A FAREWELL FROM THE HON. ROBERT H. MICHEL

Mr. MICHEL. Mr. Speaker, it is against the rules to be singing in the House. I remember when I got called on that once, when I thought our friend, Tip O'Neill had recessed the House and we had Bob Hope in here for his 75th birthday. We were doing a little parody on "Thanks for the Memories," and I, instead of saying it, I began singing it. Got through about two paragraphs of it before I realized we were out of order. So we will not want to do that.

I tell you, folks, this has been for me a very emotional day. It began in our Republican caucus with their wonderful resolution in which they defied all tradition, I guess, and just made me an honorary leader, I guess, for life, with all the privileges wherein I can come back and visit with the leadership any time. And, yes, even sit in on the caucus, if I want, from time to time, which is just, well, wonderful.

From the very beginning, when I made the announcement, which of course was way back in October, I know it was an emotional kind of time for me. Those of you who come to a particular point in life when you make a real decision of that kind, it has to be that emotional. But I am glad it was as early as that, because it has given me all this time to adjust.

I tell you, if it would have been making an announcement only 60 days ago and then here we were, I think I just could not manage it.

I have said to the press, when they asked, you know, what are the high notes, what are the low notes, all that sort of thing, or what will you miss most? And I have to tell you all that, of course, being a perpetual member of the Minority, the MICHEL name is not on but very few pieces of legislation over that period of 38 years. You folks have had that kind of advantage. So it is not the legislative things so much as it is what I will be missing will be each and every one of you. That is the important thing.

I guess I would want to convey to the outside world out there that I would like to have felt that I served as a pretty good member over the period of years and projected the kind of image that would bring credit to this institution, that certainly the strong thing for me are those wonderful relationships and friendships that I have acquired over my tenure.

For those who would malign the institution and say all the things that they can possibly conjure up, I will always snap back real quick, My friend, whomever you are, I want you to know that there are no better group of friends that I have in my life or that I could have acquired but that in the arena of politics and more particularly, in the U.S. House of Representatives, more fine people serving here in this institution.

I guess I would never want any of you to shortchange yourselves, because when you do that, you shortchange the institution. And it is a tremendous honor to have been elected to this institution in the first place.

I did come at a time when it was, I think, publicly revered more than it is today. I regret that. But we all have our role to play, those of you now in-house and those of us who will be out in the outside world, to try and bring back that respect and admiration for the institution. It just has to be that way.

When we go to a high school and a college and talk about those three equal coordinate branches of government that everybody throughout the globe wants to emulate now, as emerging democracies, well, we just want to be out there making the most of ours and never apologize for the system we have and serving this institution.

You all have been just so wonderful. I am glad that I have composed myself enough all during the course of this day that I did not have to give you any weeping swan song this evening, but just one wail of a big thank you, thank you, thank you for your friendship all.

[Applause, the Members rising.]

The SPEAKER. The time of the Republican leader has not yet expired.

INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE ACT OF 1994

Mr. SWIFT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2345) to amend the Solid Waste Disposal Act to provide authority for States to limit the interstate transportation of municipal solid waste, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. DINGELL. Reserving the right to object, Mr. Speaker, I will not object.

□ 2150

Mr. Speaker, I reserve the right to object for the purpose of paying tribute to the distinguished gentleman from Washington [Mr. SWIFT], and to express my personal gratitude, and I am sure the gratitude of all of the members of the Committee on Energy and Commerce, and also the Members of the House.

The distinguished gentleman from Washington State has served his State, this Nation, and this institution with great dignity, great responsibility, and

great merit, and for that we are grateful to him and to the people who have sent him to us. He has led the distinguished subcommittee which he has managed on the Committee on Energy and Commerce with great distinction, and has been responsible for a number of significant legislative accomplishments.

His two great failures were the resolution of railroad strikes. He solved them so quickly that no one knew that the strike was going on. For that reason, no Member of this body got credit for what it was we did in those matters.

Mr. Speaker, the gentleman from Washington has been a leader in dealing with problems involving Superfund, TOSCA, and all of the environmental legislation under the jurisdiction of his committee. Tonight he brings us, after a difficult period of negotiation involving all members on the committee, Members off the committee, and involving a number of Members in the House generally, two pieces of important legislation which are of great significance, not only to the Governors of the several States, to ordinary citizens, and I believe that we owe the distinguished gentleman from Washington our appreciation, our gratitude, and our respect.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, I rise to ask the chairman of the subcommittee, the gentleman from Washington [Mr. SWIFT], for one last time, please explain the legislation to the House.

Mr. SWIFT. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Speaker, both of these bills, which incidentally had bipartisan support, are not now before us. This legislation represents a compromise agreed to by a number of Members.

The amendments include language on both the interstate transportation of waste and flow control. The House passed its interstate waste bill on September 28 by an overwhelming vote. The other body passed S. 2345 on September 30 by unanimous consent. The House passed flow control on a voice vote on September 29.

This legislation represents an agreement on both interstate and flow control among a board range of parties. We in the House have been actively consulting with Members of the other body in this agreement, and believe it represents a consensus among all interested parties. I am not aware that anyone objects to this legislation.

Mr. MOORHEAD. Mr. Speaker, further reserving the right to object, this is a fine piece of legislation. I believe it has been worked out so that there is satisfaction from everyone on our side of the House.

I do wish to join the gentleman from Michigan [Mr. DINGELL], our chairman, in congratulating you on a fine career here in the House. I would say to the gentleman that he has been one of the truly bright stars of the House of Representatives. He has done a beautiful job in our committee.

I hope you will have the greatest life in the world back in the State of Washington, in that beautiful State. I know you will do a lot of important things in the life that is ahead of you. This goes for Paula, too. I know you will have a very fruitful group of years ahead of you.

Mr. SWIFT. Mr. Speaker, if the gentleman will continue to yield, I would just like to thank the gentleman from Michigan [Mr. DINGELL], the chairman of the full committee, and you, the ranking Republican on the Committee on Energy and Commerce, and to tell both of you and the House what a privilege it has been to serve on this committee for the past 16 years.

Mr. RICHARDSON. Mr. Speaker, I am pleased to rise today in strong support of the final flow control compromise we have achieved in this legislation. As many Members now know, flow control authority became a complex, controversial issue which required much deliberation and, in the end, compromise. I would like to acknowledge the hard work of all of those involved in crafting this compromise: the committee and subcommittee staff from both sides of the aisle, the personal office staff and the business, industry, public interest group, and environmental group representatives who played an important role in brokering a compromise.

Flow control is not as important an issue as many of the other topics that have consumed our time this year. However, it is one issue where Congress has exhibited its willingness and ability to identify a problem, propose a solution, and enact a reasonable compromise designed to address that situation. I wish we had been as successful in other similar issues this year.

The flow control provisions we will pass today finally represents a true compromise on this most troublesome issue. We have crafted a bill which grandfathers all existing, and most planned, flow control contracts for a limited time with a provision allowing for redesignations and extensions of that authority. That issue was never in doubt, all sides have always agreed that some sort of a "grandfather" was necessary to ensure that current, or imminent planned flow control authorities were still valid. Where we did not agree until today, was on the issue of prospective, or future flow control authority. With this package we have agreed that future flow control authority is not appropriate in the absence of a comprehensive debate on the Resource Conservation and Recovery Act.

Mr. Speaker, we could debate the finer points of this grandfather. We could all suggest changes to specific provisions of this compromise that we may not be comfortable with. Although this compromise represents several significant concessions toward the language contained in the Richardson-Fields amendment which was previously considered on the House floor, I could suggest several areas where a tightening of the grandfather provisions would benefit taxpayer protection and environmental protections.

But, we do not have the luxury of time. And our constituents, the taxpayers, local governments, small businesses, industries, and others who are dependent on our extension of this authority do not have the luxury of time. If we are serious about wanting to address these concerns in a responsible way then we must move forward with this bill now. This bill is a significant improvement on the one passed by the House earlier this year, and in fact, contains several provisions from the Richardson-Fields amendment which ensures that this new package is more sensitive to environmental, economic, and free market concerns.

Mr. Speaker, my colleagues are familiar with my record in opposition to the spread of garbage incinerators. In conjunction with Mr. TOWNS of New York, I introduced an incinerator moratorium bill this year which garnered nearly 100 bipartisan cosponsors. Although we were unable to act on that legislation, I believe this package is a significant step forward in the fight against incineration because by not allowing future flow control authority we are not allowing new garbage incinerators to be built. This is a small victory, but an important one, and I would like to say to my colleagues that we will revisit this issue in the next Congress, hopefully in the context of a comprehensive examination of the Resource Conservation Recovery Act.

In conclusion, I would like to recognize the fine leadership of my colleagues Chairman SWIFT, Mr. FIELDS, Mr. PALLONE, Ms. LAMBERT, Mr. MCMILLAN, Mr. UPTON, Mr. BLILEY, and the many others who have been instrumental in crafting this package and moving it through to passage tonight. I urge my colleagues to support this reasonable compromise and I look forward to its enactment into law.

Mr. MOORHEAD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interstate Transportation of Municipal Solid Waste Act of 1994".

SEC. 2. INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE.

Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"INTERSTATE TRANSPORTATION OF MUNICIPAL SOLID WASTE

"SEC. 4011. (a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) Except as provided in paragraph (4), immediately upon the date of enactment of this

section if requested in writing by an affected local government, a Governor may prohibit the disposal of out-of-State municipal solid waste in any landfill or incinerator that is not covered by the exceptions provided in subsection (b) and that is subject to the jurisdiction of the Governor and the affected local government.

"(2) Except as provided in paragraph (4), immediately upon the date of publication of the list required in paragraph (6)(D) and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (5), may limit the quantity of out-of-State municipal solid waste received for disposal at each landfill or incinerator covered by the exceptions provided in subsection (b) that is subject to the jurisdiction of the Governor, to an annual amount equal to the quantity of out-of-State municipal solid waste received for disposal at such landfill or incinerator during calendar year 1993.

"(3)(A) Except as provided in paragraph (4), immediately upon the date of publication of the list required in paragraph (6)(E), and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (5), may prohibit the disposal of out-of-State municipal solid waste, at any landfill or incinerator covered by the exceptions in subsection (b) that is subject to the jurisdiction of the Governor, generated in any State that is determined by the Administrator under paragraph (6)(E) as having exported, to landfills or incinerators not covered by host community agreements, more than—

"(i) 3.5 million tons of municipal solid waste in calendar year 1995;

"(ii) 3.0 million tons of municipal solid waste in each of calendar years 1996 and 1997;

"(iii) 2.5 million tons of municipal solid waste in each of calendar years 1998 and 1999;

"(iv) 1.5 million tons of municipal solid waste in each of calendar years 2000 and 2001; and

"(v) 1.0 million tons of municipal solid waste in calendar year 2002 and each year thereafter.

"(B) No State may export more than 1.4 million tons of municipal solid waste to any one State in calendar year 1995 or 90 percent of the 1993 levels exported to a State, whichever is greater, 1.3 million tons in 1996 or 90 percent of the 1995 levels exported to a State, whichever is greater, 1.2 million tons in 1997 or 90 percent of the 1996 levels exported to a State, whichever is greater, 1.1 million tons in 1998 or 90 percent of the 1997 levels exported to a State, whichever is greater, 1 million tons in 1999, 800,000 tons in 2000, and 600,000 tons in 2001 and each year thereafter, to landfills or incinerators not covered by host community agreements. Governors of importing States may restrict levels of imports to reflect the appropriate level of out-of-State municipal solid waste imports if—

"(i) the Governor of the importing State has notified the Governor of the exporting State and the Administrator 12 months prior to enforcement of the importing State's intention to impose the requirements of this section;

"(ii) the Governor of the importing State has notified the Governor of the exporting State and the Administrator of the violation by the exporting State of this section at least 90 days prior to the enforcement of this section; and

"(iii) the restrictions imposed by the Governor of the importing State must be uniform at all facilities.

"(C) The authority provided by subparagraphs (A) and (B) shall apply for as long as a State exceeds the permissible levels as determined by the Administrator under paragraph (6)(E).

"(4)(A) A Governor may not exercise the authority granted under this section if such action would result in the violation of, or would otherwise be inconsistent with, the terms of a host community agreement or a permit issued from the State to receive out-of-State municipal solid waste.

"(B) Except as provided in paragraph (3), a Governor may not exercise the authority granted under this section in a manner that would require any owner or operator of a landfill or incinerator covered by the exceptions provided in subsection (b) to reduce the amount of out-of-State municipal solid waste received from any State for disposal at such landfill or incinerator to an annual quantity less than the amount received from such State for disposal at such landfill or incinerator during calendar year 1993.

"(5) Any limitation imposed by a Governor under paragraph (2) or (3)—

"(A) shall be applicable throughout the State;

"(B) shall not directly or indirectly discriminate against any particular landfill or incinerator within the State; and

"(C) shall not directly or indirectly discriminate against any shipments of out-of-State municipal solid waste on the basis of State of origin and all such limitations shall be applied to all States in violation of paragraph (3).

"(6)(A)(i) Any Governor who intends to exercise the authority provided in paragraph (2) or (3) shall, within 120 days after the date of enactment of this section, and on the same day of each year thereafter, submit to the Administrator information documenting the State of origin and the quantity of out-of-State municipal solid waste received for disposal at landfills and incinerators covered by the exceptions provided in subsection (b) in the State of such Governor during calendar year 1993.

"(ii) The Administrator is authorized and directed to collect such additional information in addition to what is submitted under clause (i) as may be necessary to determine if the level of exports of municipal solid waste by any State exceeds the level established in subparagraph (A) or (B) of paragraph (3).

"(B) On receipt of the information submitted or collected pursuant to subparagraph (A), the Administrator shall notify the Governor of each such State and the Governors of States with exports that exceed the level of exports of municipal solid waste established in subparagraph (A) or (B) of paragraph (3) and shall publish notice and shall provide a comment period of not less than 30 days.

"(C) Not later than 60 days after receipt of information from a Governor, and any additional information obtained by the Administrator, under subparagraph (A), the Administrator shall determine the quantity of out-of-State municipal solid waste that was received for disposal in the State during calendar year 1993, the State of origin and the total amount of municipal solid waste exports from each State that exceeds the level established in subparagraph (A) or (B) of paragraph (3), and the quantity of out-of-State municipal solid waste received for disposal at landfills and incinerators covered by the exceptions provided in subsection (b) in the State of such Governor during calendar year 1993. The Administrator shall publish a public notice and shall provide direct notification to each of the Governors of all States affected by this determination, for each such State for which the determination is made. A determination by the Administrator under this subparagraph shall be final and not subject to judicial review.

"(D) Not later than 180 days after the date of enactment of this section, the Administrator shall publish a list of the quantity of out-of-State municipal solid waste that was received during calendar year 1993 at each landfill and incinerator covered by the exceptions provided in subsection (b) for disposal in each State in which the Governor intends to exercise the authority provided in paragraph (2) or (3), as determined in accordance with subparagraph (C).

"(E) Not later than March 1, 1996, and on March 1 of each year thereafter, the Administrator shall publish a list of States that the Administrator has determined have exported out of State an amount of municipal solid waste in excess of 3.5 million tons in calendar year 1995, 3.0 million tons in each of calendar years 1996 and 1997, 2.5 million tons in each of calendar years 1998 and 1999, 1.5 million tons in each of calendar years 2000 and 2001, and 1.0 million tons in calendar year 2002 and each year thereafter, as determined in accordance with subparagraph (C).

"(F) Not later than March 1 of each year after the date of enactment of this section, or as required by State law, the owner or operator of each landfill or incinerator receiving out-of-State municipal solid waste shall submit to the Governor of the State in which the landfill or incinerator is located information specifying, by State of origin, the amount of out-of-State municipal solid waste received for disposal during the preceding year. Each year the Governor of a State who intends to exercise the authority provided in paragraph (2) or (3) shall publish and make available to the public a report containing information on the amount of out-of-State municipal solid waste received for disposal in the State during the preceding year.

"(7) Any affected local government that intends to submit a request under paragraph (1) or take formal action on a host community agreement shall, prior to taking such action—

"(A) notify the Governor, contiguous local governments, and any contiguous Indian tribes;

"(B) publish notice of the action in a newspaper of general circulation at least 30 days before taking such action;

"(C) provide an opportunity for public comment; and

"(D) following notice and comment, take formal action on any proposed request or action at a public meeting.

"(8) Any owner or operator seeking a host community agreement shall provide to the affected local government the following information, which shall be made available to the public from the affected local government:

"(A) A brief description of the planned facility, including a description of the facility size, ultimate waste capacity, and anticipated monthly and yearly waste quantities to be handled.

"(B) A map of the facility site that indicates the location of the facility in relation to the local road system and topographical and hydrological features and any buffer zones and facility units to be acquired by the owner or operator of the facility.

"(C) A description of the existing environmental conditions at the site, and any violations of applicable laws or regulations.

"(D) A description of environmental controls to be utilized at the facility.

"(E) A description of the site access controls to be employed, and roadway improvements to be made, by the owner or operator, and an estimate of the timing and extent of increased local truck traffic.

"(b) EXCEPTIONS TO AUTHORITY TO PROHIBIT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) The authority to prohibit the disposal of out-of-State municipal solid waste provided under subsection (a)(1) shall not apply to landfills and incinerators in operation on the date of enactment of this section that—

"(A) received during calendar year 1993 documented shipments of out-of-State municipal solid waste; and

"(B)(i) in the case of landfills, are in compliance with all applicable Federal and State laws and regulations relating to operation, design and location standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure and corrective action; or

"(ii) in the case of incinerators, are in compliance with the applicable requirements of section 129 of the Clean Air Act (42 U.S.C. 7429) and applicable State laws and regulations relating to facility design and operations.

"(2) A Governor may not prohibit the disposal of out-of-State municipal solid waste pursuant to subsection (a)(1) at facilities described in this subsection that are not in compliance with applicable Federal and State laws and regulations unless disposal of municipal solid waste generated within the State at such facilities is also prohibited.

"(c) ADDITIONAL AUTHORITY TO LIMIT OUT-OF-STATE MUNICIPAL SOLID WASTE.—(1) In any case in which an affected local government is considering entering into, or has entered into, a host community agreement and the disposal or incineration of out-of-State municipal solid waste under such agreement would preclude the use of municipal solid waste management capacity described in paragraph (2), the Governor of the State in which the affected local government is located may prohibit the execution of such host community agreement with respect to that capacity.

"(2) The municipal solid waste management capacity referred to in paragraph (1) is that capacity—

"(A) that is permitted under Federal or State law;

"(B) that is identified under the State plan; and

"(C) for which a legally binding commitment between the owner or operator and another party has been made for its use for disposal or incineration of municipal solid waste generated within the region (identified under section 4006(a)) in which the local government is located.

"(d) SAVINGS CLAUSE.—Nothing in this section shall be interpreted or construed—

"(1) to have any effect on State law relating to contracts; or

"(2) to affect the authority of any State or local government to protect public health and the environment through laws, regulations, and permits, including the authority to limit the total amount of municipal solid waste that landfill or incinerator owners or operators within the jurisdiction of a State may accept during a prescribed period, provided that such limitations do not discriminate between in-State and out-of-State municipal solid waste, except to the extent authorized by this section.

"(e) DEFINITIONS.—As used in this section:

"(1)(A) The term 'affected local government', used with respect to a landfill or incinerator, means—

"(i) the public body created by State law with responsibility to plan for municipal solid waste management, a majority of the members of which are elected officials, for the area in which the facility is located or proposed to be located; or

"(ii) the elected officials of the city, town, township, borough, county, or parish exercising primary responsibility over municipal solid waste management or the use of land in the jurisdiction in which the facility is located or is proposed to be located.

"(B)(i) Within 90 days after the date of enactment of this section, a Governor may designate and publish notice of which entity listed in clause (i) or (ii) of subparagraph (A) shall serve as the affected local government for actions taken under this section and after publication of such notice.

"(ii) If a Governor fails to make such a designation, the affected local government shall be the elected officials of the city, town, township, borough, county, parish, or other public body created pursuant to State law with primary jurisdiction over the land or the use of land on which the facility is located or is proposed to be located.

"(C) For purposes of host community agreements entered into before the date of publication of the notice, the term means either a public body described in subparagraph (A)(i) or the elected officials of any of the public bodies described in subparagraph (A)(ii).

"(2)(A) The term 'host community agreement' means, with respect to any agreement entered into on or after June 23, 1994, a written, legally binding document or documents executed by duly authorized officials of the affected local government that expressly authorizes a landfill or incinerator to receive specified amounts of municipal solid waste generated out of State.

"(B) The term 'host community agreement' means, with respect to any agreement entered into before June 23, 1994, a written, legally binding document or documents executed by duly authorized officials of the affected local government expressly authorizing a landfill or incinerator to receive municipal solid waste generated out of State, but does not include any agreement to pay host community fees for receipt of waste unless additional express authorization to receive out-of-State municipal solid waste is also included. For purposes of a host community agreement entered into before June 23, 1994, such agreement may use a term other than 'out-of-State', provided that any alternative term or terms evidence the approval or consent of the affected local government for receipt of municipal solid waste from sources or locations outside the State in which the landfill or incinerator is located or is proposed to be located.

"(3) The term 'out-of-State municipal solid waste' means, with respect to any State, municipal solid waste generated outside of the State. To the extent that the President determines it is consistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal solid waste generated outside of the United States.

"(4) The term 'municipal solid waste' means refuse (and refuse-derived fuel) generated by the general public or from a residential, commercial, institutional, or industrial source (or any combination thereof), consisting of paper, wood, yard wastes, plastics, leather, rubber, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal solid waste' does not include—

"(A) any solid waste identified or listed as a hazardous waste under section 3001, or any solid waste containing polychlorinated biphenyls regulated under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

"(B) any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

"(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal solid waste (as otherwise defined in this paragraph) and has been transported into a State for the purpose of recycling or reclamation;

"(D) any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator of the waste, or is located on property owned by a company with which the generator is affiliated;

"(E) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

"(F) any industrial waste that is not identical to municipal solid waste (as otherwise defined in this paragraph) with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

"(G) any medical waste that is segregated from or not mixed with municipal solid waste (as otherwise defined in this paragraph); or

"(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

"(5) The term 'compliance' means a pattern or practice of adhering to and satisfying standards and requirements promulgated by the Federal or a State government for the purpose of preventing significant harm to human health and the environment. Actions undertaken in accordance with compliance schedules for remediation established by Federal or State enforcement authorities shall be considered compliance for purposes of this section.".

SEC. 3. TABLE OF CONTENTS AMENDMENT.

The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding at the end of the items relating to subtitle D the following new item:

"Sec. 4011. Interstate transportation of municipal solid waste.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE

Mr. SWIFT. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. SWIFT: Strike all after the enacting clause and insert in lieu thereof the following:

TITLE I—INTERSTATE WASTE

SEC. 101. SHORT TITLE.

This Act may be cited as the "State and Local Government Interstate Waste Control Act of 1994".

SEC. 102. INTERSTATE TRANSPORTATION AND DISPOSAL OF MUNICIPAL SOLID WASTE.

Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding after section 4010 the following new section:

"SEC. 4011. INTERSTATE TRANSPORTATION AND DISPOSAL OF MUNICIPAL SOLID WASTE.

"(a) RESTRICTION ON RECEIPT OF OUT-OF-STATE WASTE.—

"(1) IN GENERAL.—(A) Effective January 1, 1995, a landfill or incinerator in a State may not receive for disposal or incineration any out-of-State municipal solid waste unless the owner or operator of such landfill or incinerator obtains explicit authorization (as part of a host community agreement) from the affected local government to receive the waste.

"(B) An authorization granted pursuant to subparagraph (A) shall—

"(i) be granted by formal action at a meeting;

"(ii) be recorded in writing in the official record of the meeting; and

"(iii) remain in effect according to its terms.

"(C) An authorization granted pursuant to subparagraph (A) may specify terms and conditions, including an amount of out-of-State waste that an owner or operator may receive and the duration of the authorization.

"(D) Promptly, but not later than 90 days after such an authorization is granted, the affected local government shall notify the Governor, contiguous local governments, and any contiguous Indian tribes of an authorization granted under this subsection.

"(2) INFORMATION.—Prior to seeking an authorization to receive out-of-State municipal solid waste pursuant to this subsection, the owner or operator of the facility seeking such authorization shall provide (and make readily available to the Governor, each contiguous local government and Indian tribe, and any other interested person for inspection and copying) the following information:

"(A) A brief description of the facility, including, with respect to both the facility and any planned expansion of the facility, the size, ultimate waste capacity, and the anticipated monthly and yearly quantities (expressed in terms of volume) of waste to be handled.

"(B) A map of the facility site indicating location in relation to the local road system and topography and hydrogeological features. The map shall indicate any buffer zones to be acquired by the owner or operator as well as all facility units.

"(C) A description of the then current environmental characteristics of the site, a description of ground water use in the area (including identification of private wells and public drinking water sources), and a discussion of alterations that may be necessitated by, or occur as a result of, the facility.

"(D) A description of environmental controls typically required to be used on the site (pursuant to permit requirements), including run on or run off management (or both), air pollution control devices, source separation procedures (if any), methane monitoring and control, landfill covers, liners or leachate collection systems, and monitoring programs. In addition, the description shall include a description of any waste residuals generated by the facility, including leachate or ash, and the planned management of the residuals.

"(E) A description of site access controls to be employed, and roadway improvements to be made, by the owner or operator, and an estimate of the timing and extent of increased local truck traffic.

"(F) A list of all required Federal, State, and local permits.

"(G) Estimates of the personnel requirements of the facility, including information regarding the probable skill and education levels required for jobs at the facility. To the extent practicable, the information shall distinguish between employment statistics for preoperational and postoperational levels.

"(H) Any information that is required by State or Federal law to be provided with respect to any violations of environmental laws (including regulations) by the owner, the operator, and any subsidiary of the owner or operator, the disposition of enforcement proceedings taken with respect to the violations, and corrective action and rehabilitation measures taken as a result of the proceedings.

"(I) Any information that is required by State or Federal law to be provided with respect to gifts and contributions made by the owner or operator.

"(J) Any information that is required by State or Federal law to be provided with respect to compliance by the owner or operator with the State solid waste management plan.

"(3) NOTIFICATION.—Prior to taking formal action with respect to granting authorization to receive out-of-State municipal solid waste pursuant to this subsection, an affected local government shall—

"(A) notify the Governor, contiguous local governments, and any contiguous Indian tribes;

"(B) publish notice of the action in a newspaper of general circulation at least 30 days before holding a hearing and again at least 15 days before holding the hearing, except where State law provides for an alternate form of public notification; and

"(C) provide an opportunity for public comment in accordance with State law, including at least 1 public hearing.

"(b) ANNUAL STATE REPORT.—

"(1) IN GENERAL.—Each year the owner or operator of each landfill or incinerator receiving out-of-State municipal solid waste shall submit to the affected local government and to the Governor of the State in which the landfill or incinerator is located information specifying the amount of out-of-State municipal solid waste received for disposal during the preceding year. Each year each such State shall publish and make available to the public a report containing information on the amount of out-of-State municipal solid waste received for disposal in the State during the preceding year. Each year the owner or operator of each landfill or incinerator receiving out-of-State municipal solid waste shall also submit to the Governor of the State of origin of such waste, and to the Administrator, information specifying the amount of out-of-State municipal solid waste received for disposal by the owner or operator during the preceding year from such State of origin. The submissions under this paragraph by any owner or operator shall all be made at the same time.

"(2) CONTENTS.—Each submission referred to in this subsection shall be such as would result in criminal penalties in case of false or misleading information. Such submission shall include the amount of waste received, place of origin, including the identity of the generator, date of shipment, and type of waste.

"(3) LIST.—The Administrator shall publish a list of States that the Administrator has determined have exported out of State an amount of municipal solid waste in excess of 3.5 million tons in calendar year 1995, 3.0 million tons in each of calendar years 1996 and 1997, 2.5 million tons in each of calendar years 1998 and 1999, 1.5 million tons in each of calendar years 2000 and 2001, and 1.0 million tons in calendar year 2002 and each year thereafter. The list for any calendar year shall be published by March 1 of the following calendar year.

"(4) SAVINGS PROVISION.—Nothing in this subsection shall be construed to preempt any State requirement that requires more frequent reporting of information.

"(c) FREEZE.—

"(1) ANNUAL AMOUNT.—(A) Except as provided in paragraph (2) and unless it would result in a violation of, or be inconsistent with, a host community agreement or permit specifically authorizing the owner or operator of a landfill or incinerator to accept out-of-State muncipal solid waste at such landfill or incinerator, and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (3), may limit the quantity of out-of-State municipal solid waste received for disposal at each landfill or incinerator covered by the exceptions provided in subsection (e) that is subject to the jurisdiction of the Governor, to an annual amount equal to the quantity of out-of-State municipal solid waste received for disposal at such landfill or incinerator during calendar year 1993.

"(B) At the request of an affected local government that has not executed a host community agreement, the Governor may limit the amount of out-of-State municipal solid waste received annually for disposal at the landfill or incinerator concerned to the amount described in subparagraph (A). No such limit may conflict with provisions of a permit specifically authorizing the owner or operator to accept, at the facility, out-of-State municipal solid waste.

"(2) LIMITATION ON GOVERNOR'S AUTHORITY.—A Governor may not exercise the authority granted under this subsection in a manner that would require any owner or operator of a landfill or incinerator covered by the exceptions provided in subsection (e) to reduce the amount of out-of-State municipal solid waste received from any State for disposal at such landfill or incinerator to an annual quantity less than the amount received from such State for disposal at such landfill or incinerator during calendar year 1993.

"(3) UNIFORMITY.—Any limitation imposed by a Governor under paragraph (1)(A)—

"(A) shall be applicable throughout the State;

"(B) shall not directly or indirectly discriminate against any particular landfill or incinerator within the State; and

"(C) shall not directly or indirectly discriminate against any shipments of out-of-State municipal solid waste on the basis of State of origin.

"(d) RATCHET.—

"(1) IN GENERAL.—Unless it would result in a violation of, or be inconsistent with, a host community agreement or permit specifically authorizing the owner or operator of a landfill or incinerator to accept out-of-State municipal solid waste at such landfill or incinerator, immediately upon the date of publication of the list required under subsection (b)(3), and notwithstanding the absence of a request in writing by the affected local government, a Governor, in accordance with paragraph (4), may prohibit the disposal of out-of-State municipal solid waste, at any landfill or incinerator covered by the exceptions in subsection (e) that is subject to the jurisdiction of the Governor, generated in any State that is determined by the Administrator under subsection (b)(3) as having exported, to landfills or incinerators not covered by host community agreements, more than any of the following:

"(A) 3.5 million tons of municipal solid waste in calendar year 1995.

"(B) 3.0 million tons of municipal solid waste in calendar year 1996.

"(C) 3.0 million tons of municipal solid waste in calendar year 1997.

"(D) 2.5 million tons of municipal solid waste in calendar year 1998.

"(E) 2.5 million tons of municipal solid waste in calendar year 1999.

"(F) 1.5 million tons of municipal solid waste in calendar year 2000.

"(G) 1.5 million tons of municipal solid waste in calendar year 2001.

"(H) 1.0 million tons of municipal solid waste in calendar year 2002.

"(I) 1.0 million tons of municipal solid waste in each calendar year after 2002.

"(2) ADDITIONAL EXPORT LIMITS.—No State may export to any one State more than 1.4 million tons of municipal solid waste in calendar year 1995 or 90 percent of the 1993 levels exported to a State, whichever is greater, 1.3 million tons in 1996 or 90 percent of the 1995 levels exported to a State, whichever is greater, 1.2 million tons in 1997 or 90 percent of the 1996 levels exported to a State, whichever is greater, 1.1 million tons in 1998 or 90 percent of the 1997 levels exported to a State, whichever is greater, 1 million tons in 1999, 800,000 tons in 2000, and 600,000 tons in 2001 and each year thereafter, to landfills or incinerators not covered by host community agreements. Governors of importing States may restrict levels of imports to reflect the level of out-of-State municipal solid waste imports referred to in the preceding sentence if—

"(A) the Governor of the importing State has notified the Governor of the exporting State and the Administrator 12 months prior to enforcement of the importing State's intention to impose the requirements of this section;

"(B) the Governor of the importing State has notified the Governor of the exporting State and the Administrator of the violation by the exporting State of this section at least 90 days prior to the enforcement of this section; and

"(C) the restrictions imposed by the Governor of the importing State are uniform at all facilities within the State receiving municipal solid waste from the exporting State.

"(3) DURATION.—The authority provided by paragraph (1) or (2) or both shall apply for as long as a State exceeds the levels allowable under paragraph (1) or (2), as the case may be.

"(4) UNIFORMITY.—Any restriction imposed by a State under paragraph (1) or (2)—

"(A) shall be applicable throughout the State;

"(B) shall not directly or indirectly discriminate against any particular landfill or incinerator within the State; and

"(C) shall not directly or indirectly discriminate against any shipments of out-of-State municipal solid waste on the basis of State of origin, in the case of States in violation of paragraph (1) or (2).

"(e) AUTHORIZATION NOT REQUIRED FOR CERTAIN FACILITIES.—

"(1) IN GENERAL.—The prohibition on the disposal of out-of-State municipal solid waste under subsection (a)(1) shall not apply to landfills and incinerators in operation on the date of enactment of this section that received during calendar year 1993 documented shipments of out-of-State municipal solid waste.

"(2) AVAILABILITY OF DOCUMENTATION.—The owner or operator of a landfill or incinerator that is exempt under paragraph (1) of this subsection from the requirements of subsection (a) shall provide to the State and affected local government, and make available for inspection by the public in the affected local community, a copy of the host community agreement or other documentation required under paragraph (1). The owner or operator may omit from such copy or other documentation any proprietary information, but shall ensure that at least the following information is apparent: the volume of out-of-State municipal solid waste received, the place of origin of the waste, and the duration of any relevant contract.

"(3) DENIED OR REVOKED PERMITS.—A landfill or incinerator may not receive for disposal or incineration out-of-State municipal solid waste in the absence of a host community agreement if the operating permit or license for the landfill or incinerator (or renewal thereof) was denied or revoked by the appropriate State agency before the date of enactment of this section unless such permit or license (or renewal) has been reinstated as of such date of enactment.

"(4) WASTE WITHIN BI-STATE METROPOLITAN STATISTICAL AREAS.—The owner or operator of a landfill or incinerator in a State may receive out-of-State municipal solid waste without obtaining authorization under subsection (a) from the affected local government if the out-of-State waste is generated within, and the landfill or incinerator is located within, the same bi-State level A metropolitan statistical area (as defined by the Office of Management and Budget and as listed by the Office of Management and Budget as of the date of enactment of this section) that contains two contiguous major cities each of which is in a different State.

"(f) NEEDS DETERMINATION.—Any comprehensive solid waste management plan adopted by an affected local government pursuant to Federal or State law may take into account local and regional needs for solid waste disposal capacity. Any implementation of such plan through the State permitting process may take into account local and regional needs for solid waste disposal capacity only in a manner that is not inconsistent with the provisions of this section. Nothing in this subsection shall be construed to prohibit or preclude any State government or solid waste management district, as defined under State law from requiring any affected local government to site, construct, or modify any solid waste facility.

"(g) COST RECOVERY SURCHARGE.—

"(1) AUTHORITY.—Both of the States directly affected by the decision of the Supreme Court in the case of *Oregon Waste Systems, Inc.* v. *Department of Environmental Quality*, 114 S. Ct. 1345 (1994) may impose and collect a cost recovery surcharge on the combustion or disposal in a landfill or incinerator of out-of-State municipal solid waste in such State.

"(2) LIMITATION.—During the period beginning on the date of enactment of this section and ending on December 31, 1996, no such State may impose or collect a cost recovery surcharge from a facility on any out-of-State municipal solid waste that meets both of the following conditions:

"(A) The waste is being received at the facility under one or more contracts entered into before the date of enactment of this section.

"(B) The amount of waste being received in a calendar year under the contract or contracts does not exceed the amount of waste received at the facility during calendar year 1993.

"(3) AMOUNT OF SURCHARGE.—The amount of the cost recovery surcharge may be no greater than the amount necessary to recover those costs determined in conformance with paragraph (5) and in no event may exceed $2 per ton of waste.

"(4) USE OF SURCHARGE COLLECTED.—All cost recovery surcharges collected by a State covered by this subsection shall be used to fund those solid waste management programs administered by the State or its political subdivisions that incur costs for which the surcharge is collected.

"(5) CONDITIONS.—(A) Subject to subparagraphs (B) and (C), a State covered by this subsection may impose and collect a cost recovery surcharge on the combustion or disposal within the State of out-of-State municipal solid waste if—

"(i) the State demonstrates a cost to the State arising from the combustion or disposal within the State of a volume of municipal solid waste from a source outside the State;

"(ii) the surcharge is based on those costs to the State demonstrated under subparagraph (A) that, if not paid for through the surcharge, would otherwise have to be paid or subsidized by the State; and

"(iii) the surcharge is compensatory and is not discriminatory.

"(B) In no event shall a cost recovery surcharge be imposed by a State to the extent that the cost for which recovery is sought is otherwise recovered by any other fee or tax assessed against the generation, transportation, treatment, combustion, or disposal of solid waste.

"(C) The grant of a subsidy by a State with respect to entities disposing of waste generated within the State does not constitute discrimination for purposes of subparagraph (A)(iii).

"(6) BURDEN OF PROOF.—In any proceeding in which a State invokes this subsection to justify a cost recovery surcharge on the combustion or disposal within the State of out-of-State municipal solid waste, the State shall bear the burden of establishing that the cost recovery surcharge satisfies the conditions set forth in paragraph (5).

"(h) IMPLEMENTATION AND ENFORCEMENT.—Any State may adopt such laws and regulations, not inconsistent with this section, as are necessary to implement and enforce this section, including provisions for penalties.

"(i) CONSTRUCTION AND DEMOLITION WASTE.—

"(1) LIMIT.—Any State may establish, pursuant to this paragraph, a limit on the amount of out-of-State construction and demolition waste for disposal at landfills in the State. A limit under this paragraph may be imposed consistent with each of the following:

"(A) By January 1, 1996, each State seeking to limit under this paragraph the receipt of out-of-State construction and demolition waste shall establish and implement a mechanism for measuring the amount of construction and demolition waste generated within the State, disposed of within the State, imported into the State and exported for disposal.

"(B) By March 1, 1998, each State seeking to limit under this paragraph the receipt of construction and demolition waste shall establish the amount of out-of-State construction and demolition waste received during calendar year 1996 and 1997 and report the tonnage received to the Governor of each exporting State.

"(2) AMOUNT.—For each calendar year beginning after January 1, 1998, the amount of out-of-State construction and demolition waste received at any facility within an importing State may be limited to the average

of the amounts received in calendar years 1996 and 1997.

"(3) DEFINITION.—For purposes of this subsection, the term 'construction and demolition waste' means debris resulting from construction, remodeling, repair, or demolition of structures other than debris that is not otherwise commingled with other municipal solid waste and has been determined by the generator, to be contaminated. For purposes of determining whether any such debris is contaminated, the generator shall conduct representative sampling and analysis of such debris, the results of which shall be submitted to the affected local government for recordkeeping purposes only, unless not required by the affected local government. Any such debris that has been determined to be contaminated shall be disposed of in a landfill that meets, at a minimum, the requirements of this subtitle.

"(j) SAVINGS CLAUSE.—Nothing in this section shall be interpreted or construed to have any effect on State law relating to contracts.

"(k) DEFINITIONS.—As used in this section:

"(1) AFFECTED LOCAL GOVERNMENT.—(A) For any landfill or incinerator, the term 'affected local government' means—

"(i) the public body authorized by State law to plan for the management of municipal solid waste, a majority of the members of which are elected officials, for the area in which the landfill or incinerator is located or proposed to be located; or

"(ii) if there is no such body created by State law—

"(I) the elected officials of the city, town, township, borough, county, or parish selected by the Governor and exercising primary responsibility over municipal solid waste management or the use of land in the jurisdiction in which the facility is located or is proposed to be located; or

"(II) if a Governor fails to make a selection under subclause (I), and publish a notice regarding the selection, within 90 days after the date of enactment of this section, the elected officials of the city, town, township, borough, county, parish, or other public body created pursuant to State law with primary jurisdiction over the land or the use of land on which the facility is located or is proposed to be located.

The Governor shall publish a notice regarding the selection described in clause (ii).

"(B) Notwithstanding subparagraph (A), for purposes of host community agreements entered into before the date of enactment of this section (or before the date of publication of notice, in the case of subparagraph (A)(ii)), the term shall mean either the public body described in clause (i) or the elected officials of the city, town, township, borough, county, or parish exercising primary responsibility for the use of land on which the facility is located or proposed to be located.

"(C) Two or more Governors of adjoining States may use the authority provided in section 1005(b) to enter into an agreement under which contiguous units of local government located in each of the adjoining States may act jointly as the affected local government for purposes of providing authorization under subsection (a) for municipal solid waste generated in one of such counties and received for disposal or incineration in another.

"(2) HOST COMMUNITY AGREEMENT.—The term 'host community agreement' means a written, legally binding document or documents executed by duly authorized officials of the affected local government that specifically authorizes a landfill or incinerator to receive municipal solid waste generated out-of-State, but does not include any agreement to pay host community fees for receipt of waste unless additional express authorization to receive out-of-State municipal solid waste is also included.

"(3) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' means refuse (and refuse-derived fuel) generated by the general public, from a residential source, or from a commercial, institutional, or industrial source (or any combination thereof) to the extent such waste is essentially the same as waste normally generated by households or was collected and disposed of with other municipal solid waste as part of normal municipal solid waste collection services, and regardless of when generated, would be considered conditionally exempt small quantity generator waste under section 3001(d), such as paper, food, wood, yard wastes, plastics, leather, rubber, appliances, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal solid waste' does not include any of the following:

"(A) Any solid waste identified or listed as a hazardous waste under section 3001.

"(B) Any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act.

"(C) Recyclable materials that have been separated, at the source of the waste, from waste otherwise destined for disposal or that have been managed separately from waste destined for disposal.

"(D) Any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator of the waste, or is located on property owned by a company with which the generator is affiliated.

"(E) Any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation.

"(F) Sewage sludge and residuals from any sewage treatment plant, including any sewage treatment plant required to be constructed in the State of Massachusetts pursuant to any court order issued against the Massachusetts Water Resources Authority.

"(G) Combustion ash generated by resource recovery facilities or municipal incinerators, or waste from manufacturing or processing (including pollution control) operations not essentially the same as waste normally generated by households.

"(H) Any medical waste that is segregated from or not mixed with municipal solid waste (as otherwise defined in this paragraph).

"(I) Any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

"(4) OUT-OF-STATE MUNICIPAL SOLID WASTE.—The term 'out-of-State municipal solid waste' means, with respect to any State, municipal solid waste generated outside of the State. Unless the President determines it is not consistent with the North American Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal solid waste generated outside of the United States.

"(5) SPECIFICALLY AUTHORIZED.—The term 'specifically authorizes' refers to an explicit authorization, contained in a host community agreement or permit, to import waste from outside the State. Such authorization may include a reference to a fixed radius surrounding the landfill or incinerator that includes an area outside the State or a reference to 'any place of origin', reference to specific places outside the State, or use of such phrases as 'regardless of origin' or 'outside the State'. The language for such authorization may vary as long as it clearly and affirmatively states the approval or consent of the affected local government or State for receipt of municipal solid waste from sources or locations outside the State from which the owner or operator of a landfill or incinerator proposes to import it.".

SEC. 103. TABLE OF CONTENTS AMENDMENT.

The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 4010 the following new item:

"Sec. 4011. Interstate transportation and disposal of municipal solid waste.".

TITLE II—FLOW CONTROL

SEC. 201. SHORT TITLE.

This title may be cited as the "Flow Control Act of 1994".

SEC. 202. CONGRESSIONAL AUTHORIZATION OF STATE CONTROL OVER TRANSPORTATION, MANAGEMENT, AND DISPOSAL OF MUNICIPAL SOLID WASTE.

Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) (as amended by section 102) is further amended by adding after section 4011 the following new section:

"SEC. 4012. CONGRESSIONAL AUTHORIZATION OF STATE CONTROL OVER TRANSPORTATION, MANAGEMENT, AND DISPOSAL OF MUNICIPAL SOLID WASTE.

"(a) AUTHORITY.—

"(1) IN GENERAL.—Each State and each qualified political subdivision may, in accordance with this section—

"(A)(i) exercise flow control authority for municipal solid waste, incinerator ash from a solid waste incineration unit, construction debris, or demolition debris generated within the boundaries of the State or qualified political subdivision if, before May 15, 1994, the State or qualified political subdivision—

"(I) adopted a law, ordinance, regulation, solid waste management plan, or legally binding provision that contains flow control authority and, pursuant to such authority, directs such solid waste, ash, or debris to a proposed or existing waste management facility designated before May 15, 1994; or

"(II) adopted a law, ordinance, regulation, solid waste management plan, or legally binding provision that identifies the use of one or more waste management methods that will be necessary for the transportation, management, or disposal of municipal solid waste generated within such boundaries, and committed to the designation of one or more waste management facilities for such method or methods;

"(ii) after the effective date of this section, in the case of a State or qualified political subdivision that adopted such a law, ordinance, regulation, plan, or legally binding provision that meets the requirements of subclause (I) or (II) of clause (i), exercise flow control authority over such solid waste from any existing or future waste management facility to any other existing or future waste management facility; and

"(iii) after the effective date of this section, in the case of a State or qualified political subdivision that adopted such a law, ordinance, regulation, plan, or legally binding provision that meets the requirements of

subclause (I) of clause (i), exercise flow control authority over such solid waste, ash, or debris from any existing waste management facility to any other existing or proposed waste management facility, and may do so without regard to subsection (b)(2); and

"(B) exercise flow control authority for voluntarily relinquished recyclable materials generated within the boundaries of the State or qualified political subdivision.

"(2) REASONABLE REGULATION OF COMMERCE.—

"(A) A law, ordinance, regulation, solid waste management plan, or legally binding provision of a State or qualified political subdivision, described in paragraph (1), that implements or exercises flow control authority in compliance with this section shall be considered to be a reasonable regulation of commerce and shall not be considered to be an undue burden on or otherwise as impairing, restraining, or discriminating against interstate commerce.

"(B) A contract or franchise agreement entered into by a State or political subdivision to provide the exclusive or nonexclusive authority for the collection, transportation, or disposal of municipal solid waste, and not otherwise involving the exercise of flow control authority described in paragraph (1), shall be considered to be a reasonable regulation of commerce and shall not be considered to be an undue burden on or otherwise as impairing, restraining, or discriminating against interstate commerce.

"(b) LIMITATIONS.—

"(1) LIMITATION OF AUTHORITY REGARDING RECYCLABLE MATERIALS.—A State or qualified political subdivision may exercise the authority described in subsection (a)(1)(B) with respect to recyclable materials only if—

"(A) the generator or owner of the materials voluntarily made the materials available to the State or qualified political subdivision, or the designee of the State or qualified political subdivision, and relinquished any rights to, or ownership of, such materials; and

"(B) the State or qualified political subdivision, or the designee of the State or qualified political subdivision, assumes such rights to, or ownership of, such materials.

"(2) LIMITATION OF AUTHORITY REGARDING SOLID WASTE OR RECYCLABLE MATERIALS.—

"(A) A State or qualified political subdivision may exercise the authority described in subparagraph (A) or (B) of subsection (a)(1) only if the State or qualified political subdivision establishes a program to separate, or divert at the point of generation, recyclable materials from municipal solid waste, for purposes of recycling, reclamation, or reuse, in accordance with any Federal or State law or municipal solid waste planning requirements in effect.

"(B) A State or qualified political subdivision may exercise the authority described in clause (i) or (ii) of subsection (a)(1)(A) only if, after conducting one or more public hearings, the State or qualified political subdivision—

"(i) finds, on the basis of the record developed at the hearing or hearings, that it is necessary to exercise the authority described in subparagraph (A) or (B) of subsection (a)(1) to meet the current solid waste management needs (as of the date of the record) or the anticipated solid waste management needs of the State or qualified political subdivision for the management of municipal solid waste or recyclable materials;

"(ii) finds, on the basis of the record developed at the hearing or hearings, including an analysis of the ability of the private sector and public bodies to provide short and long term integrated solid waste management services with and without flow control authority, that the exercise of flow control authority is necessary to provide such services in an economically efficient and environmentally sound manner; and

"(iii) provides a written explanation of the reasons for the findings described clauses (i) and (ii), which may include a finding of a preferred waste management methodology or methodologies for providing such integrated solid waste management services.

"(C) With respect to each designated waste management facility, the authority of subsection (a) shall be effective until completion of the schedule for payment of the capital costs of the waste management facility concerned (as in effect on May 15, 1994), or for the remaining useful life of the original waste management facility, whichever is longer. At the end of such period, the authority of subsection (a) shall be effective for any waste management facility for which subparagraph (B) and subsection (c) have been complied with by the State or qualified political subdivision, except that no facility, and no State or qualified political subdivision, subject to subsection (a)(1)(A)(i)(I) or subsection (a)(1)(A)(ii) shall be required to comply with subparagraph (B) for a period of 10 years after the date of enactment of this section. Notwithstanding the provisions of this paragraph, compliance with subparagraph (B) shall not be required where—

"(i) a designated waste management facility is required to retrofit or otherwise make significant modifications to meet applicable environmental requirements or safety requirements;

"(ii) routine repair or scheduled replacements of existing equipment or components of a designated waste management facility is undertaken that does not add to the capacity of the waste management facility; or

"(iii) a designated waste management facility expands on land legally or equitably owned, or under option to purchase or lease, by the owner or operator of such facility and the applicable permit includes such land.

"(D) Notwithstanding anything to the contrary in this section, paragraphs (2)(B) and (2)(C) shall not apply to any State (or any of its political subdivisions) that, on or before January 1, 1984, enacted regulations pursuant to a State law that required or directed the transportation, management, or disposal of solid waste from residential, commercial, institutional and industrial sources as defined by State law to specific waste management facilities and applied those regulations to every political subdivision in the State.

"(3) LIMITATION TO APPLIED AUTHORITIES.—The authority described in subsection (a)(1)(A) shall apply only to the specific classes or categories of solid waste to which the authority described in subsection (a)(1)(A)(i)(I) was applied by the State or qualified political subdivision before May 15, 1994, and to the specific classes or categories of solid waste for which the State or qualified political subdivision committed to the designation of one or more waste management facilities as described in subsection (a)(1)(A)(i)(II).

"(4) EXPIRATION OF AUTHORITY.—The authority granted under subsection (a)(1)(A)(i)(II) shall expire if a State or qualified political subdivision has not designated, by law, ordinance, regulation, solid waste management plan, or other legally binding provision, one or more proposed or existing waste management facilities within 3 years after the date of enactment of this section.

"(5) LIMITATION ON REVENUE.—A State or qualified political subdivision may exercise the authority described in subsection (a) only if the State or qualified political subdivision limits the use of any of its revenues derived from the exercise of such authority primarily to solid waste management services.

"(c) COMPETITIVE DESIGNATION PROCESS.—

"(1) IN GENERAL.—A State or qualified political subdivision may exercise the authority described in subsection (a) only if the State or qualified political subdivision develops and implements a competitive designation process, with respect to each waste management facility or each facility for recyclable materials. The process shall—

"(A) ensure that the designation process is based on, or is part of, a municipal solid waste management plan that is adopted by the State or qualified political subdivision and that is designed to ensure long-term management capacity for municipal solid waste or recyclable materials generated within the boundaries of the State or qualified political subdivision;

"(B) set forth the goals of the designation process, including at a minimum—

"(i) capacity assurance;

"(ii) the establishment of provisions to provide that protection of human health and the environment will be achieved; and

"(iii) any other goals determined to be relevant by the State or qualified political subdivision;

"(C) identify and compare reasonable and available alternatives, options, and costs for designation of the facilities;

"(D) provide for public participation and comment;

"(E) ensure that the designation of each facility is accomplished through an open competitive process during which the State or qualified political subdivision—

"(i) identifies in writing criteria to be utilized for selection of the facilities, which shall not discriminate unfairly against any particular waste management facility or any method of management, transportation or disposal, and shall not establish qualifications for selection that can only be met by public bodies;

"(ii) provides a fair and equal opportunity for interested public persons and private persons to offer their existing (as of the date of the process) or proposed facilities for designation; and

"(iii) evaluates and selects the facilities for designation based on the merits of the facilities in meeting the criteria identified; and

"(F) base the designation of each such facility on reasons that shall be stated in a public record.

"(2) CERTIFICATION.—

"(A) IN GENERAL.—A Governor of any State may certify that the laws and regulations of the State in effect on May 15, 1994, satisfy the requirements for a competitive designation process under paragraph (1).

"(B) PROCESS.—In making a certification under subparagraph (A), a Governor shall—

"(i) publish notice of the proposed certification in a newspaper of general circulation and provide such additional notice of the proposed certification as may be required by State law;

"(ii) include in the notice of the proposed certification or otherwise make readily available a statement of the laws and regulations subject to the certification and an explanation of the basis for a conclusion that the laws and regulations satisfy the requirements of paragraph (1);

"(iii) provide interested persons an opportunity to comment on the proposed certification, for a period of time not less than 60 days, after publication of the notice; and

"(iv) publish notice of the final certification, together with an explanation of the basis for the final certification, in a newspaper of general circulation and provide such additional notice of the final certification as may be required by State law.

"(C) APPEAL.—Within 120 days after publication of the final certification under subparagraph (B), any interested person may file an appeal of the final certification in the United States Circuit Court of Appeals for the Federal judicial district of the State, for a judicial determination that the certified laws and regulations do not satisfy the requirements of paragraph (1) or that the certification process did not satisfy the procedural requirements of subparagraph (B). The appeal shall set forth the specific reasons for the appeal of the final certification.

"(D) LIMITATION TO RECORD.—Any judicial proceeding brought under subparagraph (C) shall be limited to the administrative record developed in connection with the procedures described in subparagraph (B).

"(E) COSTS OF LITIGATION.—In any judicial proceeding brought under subparagraph (C), the court shall award costs of litigation (including reasonable attorney fees) to any prevailing party whenever the court determines that such award is appropriate.

"(F) LIMITATION ON REVIEW OF CERTIFICATIONS.—If no appeal is taken within 120 days after the publication of the final certification, or if the final certification by the Governor of any State is upheld by the United States Circuit Court of Appeals and no party seeks review by the Supreme Court (within applicable time requirements), the final certification shall not be subject to judicial review.

"(G) LIMITATION ON REVIEW OF DESIGNATIONS.—Designations made after the final certification and pursuant to the certified laws and regulations shall not be subject to judicial review for failure to satisfy the requirements of paragraph (1).

"(d) OWNERSHIP OF RECYCLABLE MATERIALS.—

"(1) PROHIBITION ON REQUIRED TRANSFERS.—Nothing in this section shall authorize any State or qualified political subdivision, or any designee of the State or qualified political subdivision, to require any generator or owner of recyclable materials to transfer any recyclable materials to such State or qualified political subdivision unless the generator or owner of the recyclable materials voluntarily made the materials available to the State or qualified political subdivision and relinquished any rights to, or ownership of, such materials.

"(2) OTHER TRANSACTIONS.—Nothing in this section shall prohibit any person from selling, purchasing, accepting, conveying, or transporting any recyclable materials for purposes of transformation or remanufacture into usable or marketable materials, unless a generator or owner voluntarily made the materials available to the State or qualified political subdivision and relinquished any rights to, or ownership of, such materials.

"(e) RETAINED AUTHORITY.—Upon the request of any generator of municipal solid waste affected by this section, the State or political subdivision may authorize the diversion of all or a portion of the solid wastes generated by the generator making such request to a solid waste facility, other than the facility or facilities originally designated by the political subdivision, where the purpose of such request is to provide a higher level of protection for human health and the environment and reduce potential future liability under Federal or State law of such generator for the management of such wastes. Requests shall include information on the environmental suitability of the proposed alternative treatment or disposal facility and method, compared to that of the designated facility and method. In making such a determination the State or political subdivision may consider the ability and willingness of both the designated and alternative disposal facility or facilities to indemnify the generator against any cause of action under State or Federal environmental statutes and against any cause of action for nuisance, personal injury, or property loss under any State law.

"(f) EXISTING LAWS AND CONTRACTS.—

"(1) IN GENERAL.—To the extent consistent with subsection (a), this section shall not supersede, abrogate, or otherwise modify any of the following:

"(A) Any contract or other agreement (including any contract containing an obligation to repay the outstanding indebtedness on any proposed or existing waste management facility or facility for recyclable materials) entered into before May 15, 1994, by a State or qualified political subdivision in which such State or qualified political subdivision has designated a proposed or existing waste management facility, or facility for recyclable materials, for the transportation, management or disposal of municipal solid waste, incinerator ash from a solid waste incineration unit, construction debris or demolition debris, or recyclable materials, pursuant to a law, ordinance, regulation, solid waste management plan, or legally binding provision adopted by such State or qualified political subdivision before May 15, 1994, if, in the case of a contract or agreement relating to recyclable materials, the generator or owner of the materials, and the State or qualified political subdivision, have met the appropriate conditions in subsection (b)(1) with respect to the materials.

"(B) Any other contract or agreement entered into before May 15, 1994, for the transportation, management or disposal of municipal solid waste, incinerator ash from a solid waste incineration unit, or construction debris or demolition debris.

"(C)(i) Any law, ordinance, regulation, solid waste management plan, or legally binding provision—

"(I) that is adopted before May 15, 1994;

"(II) that pertains to the transportation, management, or disposal of solid waste generated within the boundaries of a State or qualified political subdivision; and

"(III) under which a State or qualified political subdivision, prior to May 15, 1994, directed, limited, regulated, or prohibited the transportation, management, or disposal of municipal solid waste, or incinerator ash from, a solid waste incineration unit, or construction debris or demolition debris, generated within the boundaries;

if the law, ordinance, regulation, solid waste management plan, or legally binding provision is applied to the transportation of solid waste described in subclause (III), to a proposed or existing waste management facility designated before May 15, 1994, or to the management or disposal of such solid waste at such a facility, under such law, ordinance, regulation, solid waste management plan, or legally binding provision.

"(ii) Any law, ordinance, regulation, solid waste management plan, or legally binding provision—

"(I) that is adopted before May 15, 1994; and

"(II) that pertains to the transportation or management of recyclable materials generated within the boundaries of a State or qualified political subdivision;

if the law, ordinance, regulation, solid waste management plan, or legally binding provision is applied to the transportation of recyclable materials that are generated within the boundaries, and with respect to which the generator or owner of the materials, and the State or qualified political subdivision, have met the appropriate conditions described in subsection (b)(1), to a proposed or existing facility for recyclable materials designated before May 15, 1994, or to the management of such materials, under such law, ordinance, regulation, solid waste management plan, or legally binding provision.

"(2) CONTRACT INFORMATION.—A party to a contract or other agreement that is described in subparagraph (A) or (B) of paragraph (1) shall provide a copy of the contract or agreement to the State or qualified political subdivision on request. Any proprietary information contained in the contract or agreement may be omitted in the copy, but the information that appears in the copy shall include at least the date that the contract or agreement was signed, the volume of municipal solid waste or recyclable materials covered by the contract or agreement with respect to which the State or qualified political subdivision could otherwise exercise authority under subsection (a) or paragraph (1)(C), the source of the waste or materials, the destination of the waste or materials, the duration of the contract or agreement, and the parties to the contract or agreement.

"(3) EFFECT ON INTERSTATE COMMERCE.—Any contract or agreement described in subparagraph (A) or (B) of paragraph (1), and any law, ordinance, regulation, solid waste management plan, or legally binding provision described in subparagraph (C) of paragraph (1), shall be considered to be a reasonable regulation of commerce by a State or qualified political subdivision, retroactive to the effective date of the contract or agreement, or to the date of adoption of any such law, ordinance, regulation, solid waste management plan, or legally binding provision, and shall not be considered to be an undue burden on or otherwise as impairing, restraining, or discriminating against interstate commerce.

"(4) LIMITATION.—Any designation by a State or qualified political subdivision of any waste management facility or facility for recyclable materials after the date of enactment of this section shall be made in compliance with subsection (c). Nothing in this paragraph shall affect any designation made before the date of enactment of this section, and any such designation shall be deemed to satisfy the requirements of subsection (c).

"(g) SAVINGS CLAUSE.—

"(1) FEDERAL OR STATE ENVIRONMENTAL LAWS.—Nothing in this section is intended to supersede, amend, or otherwise modify Federal or State environmental laws (including regulations) that apply to the disposal or management of solid waste or recyclable materials at waste management facilities or facilities for recyclable materials.

"(2) STATE LAW.—Nothing in this section shall be interpreted to authorize a qualified political subdivision to exercise the authority granted by this section in a manner inconsistent with State law.

"(h) PROHIBITION.—No political subdivision may exercise flow control authority to direct

the movement of municipal solid waste to any waste management facility for which a Federal permit was denied twice before the enactment of this section.

"(h) DEFINITIONS.—For purposes of this section only, the following definitions apply:

"(1) COMMITTED TO THE DESIGNATION OF ONE OR MORE WASTE MANAGEMENT FACILITIES.—The term 'committed to the designation of one or more waste management facilities' means that a State or qualified political subdivision was legally bound to designate one or more existing or future waste management facilities or performed or caused to be performed one or more of the following actions for the purpose of designating one or more such facilities:

"(A) Obtained all required permits for the construction of such waste management facility prior to May 15, 1994.

"(B) Executed contracts for the construction of such waste management facility prior to May 15, 1994.

"(C) Presented revenue bonds for sale to specifically provide revenue for the construction of such waste management facility prior to May 15, 1994.

"(D) Submitted to the appropriate regulatory agency or agencies, on or before May 15, 1994, administratively complete permit applications for the construction and operation of a waste management facility.

"(E) Formed a public authority or a joint agreement among qualified political subdivisions, pursuant to a law authorizing such formation for the purposes of designating facilities.

"(F) Executed a contract or agreement that obligates or otherwise requires a State or qualified political subdivision to deliver a minimum quantity of solid waste to a waste management facility and that obligates or otherwise requires the State or qualified political subdivision to pay for that minimum quantity of solid waste even if the stated minimum quantity of solid waste is not delivered within a required timeframe, otherwise commonly known as a "put or pay agreement".

"(G) Adopted, pursuant to a State statute that specifically described the method for designating by solid waste management districts, a resolution of preliminary designation that specifies criteria and procedures for soliciting proposals to designate facilities after having completed a public notice and comment period.

"(H) Adopted, pursuant to a State statute that specifically described the method for designating by solid waste management districts, a resolution of intent to establish designation with a list of facilities for which designation is intended.

"(2) DESIGNATION; DESIGNATE.—The terms 'designate', 'designated', 'designation' or 'designating' mean a requirement of a State or qualified political subdivision, and the act of a State or qualified political subdivision, to require that all or any portion of the municipal solid waste that is generated within the boundaries of the State or qualified political subdivision be delivered to a waste management facility identified by a State or qualified political subdivision, and specifically includes put or pay agreements of the type described in paragraph (1)(F).

"(3) FLOW CONTROL AUTHORITY.—The term 'flow control authority' means the authority to control the movement of solid waste or recyclable materials and direct such waste or recyclable materials to one or more designated waste management facilities or facilities for recyclable materials.

"(4) INDUSTRIAL SOLID WASTE.—The term 'industrial solid waste' means solid waste generated by manufacturing or industrial processes, including waste generated during scrap processing and scrap recycling, that is not hazardous waste regulated under subtitle C. 'Industrial solid waste' does not include municipal solid waste specified in paragraph (5)(A)(iii).

"(5) MUNICIPAL SOLID WASTE.—

"(A) IN GENERAL.—Subject to the limitations of subsection (b)(3), the term 'municipal solid waste' means—

"(i) any solid waste discarded by a household, including a single or multifamily residence;

"(ii) any solid waste that is discarded by a commercial, institutional, or industrial source;

"(iii) residue remaining after recyclable materials have been separated or diverted from municipal solid waste described in clause (i) or (ii);

"(iv) any waste material or waste substance removed from a septic tank, septage pit, or cesspool, other than from portable toilets; and

"(v) conditionally exempt small quantity generator waste under section 3001(d), if it is collected, processed or disposed with other municipal solid waste as part of municipal solid waste services.

"(B) EXCLUSIONS.—The term 'municipal solid waste' shall not include any of the following:

"(i) Hazardous waste required to be managed in accordance with subtitle C (other than waste described in subparagraph (A)(v)), solid waste containing a polychlorinated biphenyl regulated under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), or medical waste listed in section 11002.

"(ii)(I) A recyclable material.

"(II) A material or a product returned from a dispenser or distributor to the manufacturer or the agent of the manufacturer for credit, evaluation, or reuse unless such material or product is discarded or abandoned for collection, disposal or combustion.

"(III) A material or product that is an out-of-date or unmarketable material or product, or is a material or product that does not conform to specifications, and that is returned to the manufacturer or the agent of the manufacturer for credit, evaluation, or reuse unless such material or product is discarded or abandoned for collection, disposal or combustion.

"(iii) Any solid waste (including contaminated soil and debris) resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act.

"(iv) (I) Industrial solid waste.

"(II) Any solid waste that is generated by an industrial facility and transported for the purpose of containment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or a facility that is located on property owned by the generator.

"(6) QUALIFIED POLITICAL SUBDIVISION.—The term 'qualified political subdivision' means a governmental entity or political subdivision of a State, as authorized by the State, to plan for, or determine the methods to be utilized for, the collection, transportation, disposal or other management of municipal solid waste generated within the boundaries of the area served by the governmental entity or political subdivision.

"(7) RECYCLABLE MATERIAL.—The term 'recyclable material' means any material (including any metal, glass, plastic, textile, wood, paper, rubber, or other material) that has been separated, or diverted at the point of generation, from solid waste for the purpose of recycling, reclamation, or reuse.

"(8) SOLID WASTE MANAGEMENT PLAN.—The term 'solid waste management plan' means a plan for the transportation, treatment, processing, composting, combustion, disposal or other management of municipal solid waste, adopted by a State or qualified political subdivision pursuant to and conforming with State law.

"(9) WASTE MANAGEMENT FACILITY.—The term 'waste management facility' means any facility or facilities in which municipal solid waste, incinerator ash from a solid waste incineration unit, or construction debris or demolition debris is separated, stored, transferred, treated, processed, combusted, deposited or disposed.

"(10) EXISTING WASTE MANAGEMENT FACILITY.—The term 'existing waste management facility' means a facility under construction or in operation as of May 15, 1994.

"(11) PROPOSED WASTE MANAGEMENT FACILITY.—The term 'proposed waste management facility' means a facility that has been specifically identified and designated, but that was not under construction, as of May 15, 1994.

"(12) FUTURE WASTE MANAGEMENT FACILITY.—The term 'future waste management facility' means any other waste management facility.".

SEC. 203. TABLE OF CONTENTS AMENDMENT.

The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) (as amended by section 103) is further amended by adding after the item relating to section 4011 the following new item:

"Sec. 4012. Congressional authorization of State control over transportation, management and disposal of municipal solid waste.".

Mr. SWIFT (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER. The question is on the amendment in the nature of a substitute offered by the gentleman from Washington [Mr. SWIFT].

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

AMENDMENT TO THE TITLE OFFERED BY MR. SWIFT

Mr. SWIFT. Mr. Speaker. I offer an amendment to the title.

The Clerk read as follows:

Amendment to the title offered by Mr. SWIFT: Amend the title so as to read: "A bill to amend the Solid Waste Disposal Act to provide congressional authorization for restrictions on receipt of out-of-State municipal solid waste and for State control over transportation of municipal solid waste, and for other purposes.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may

have 5 legislative days in which to revise and extend their remarks on the legislation just considered and passed.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

COMPREHENSIVE ONE-CALL NOTIFICATION ACT OF 1994 AND ADDRESSING PROGRAMS RELATING TO HIGH-RISK DRIVERS

Mr. SHARP. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation and the Committee on Energy and Commerce be discharged from further consideration of the bill (H.R. 5248) to require States to consider adopting mandatory, comprehensive, statewide one-call notification systems to protect natural gas and hazardous liquid pipelines and all other underground facilities from being damaged by any excavations, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from Indiana?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, and I will not object; I take this reservation for the purpose of asking the gentleman from Indiana [Mr. SHARP] to explain what is in this bill.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, I rise in support of H.R. 5248, the Comprehensive One-Call Notification Act of 1994. This bill is designed to encourage and promote the use of one-call systems by all States and further encourage the adoption of minimum standards. It is the goal of this legislation to improve and enhance each State's ability to provide the greatest amount of protection to the public health and safety as well as preserve the integrity of underground facilities.

One-call legislation was first introduced by Mr. PALLONE and Senator BRADLEY after the fiery explosion that occurred as a result of excavation damage to a natural gas transmission pipeline in Edison, NJ last March. The bill has enjoyed widespread support from its inception, and we have worked closely with both the majority and the minority Members of the House Public Works Committee and the Senate Commerce Committee in order to ensure consensus.

There are those who have expressed a concern over some of the specific exemption language that was put into the bill during Committee markup sessions. For clarification purposes, I would like to suggest that as always when drafting legislation, the word "includes" is not necessarily comprehensive. I would also like to emphasize that H.R. 5248 allows a great deal of flexibility for States as they consider the Federal program.

There is nothing in the act that mandates that a State adopt a one-call system as outlined in the bill, and there are no penalties for a State's decision not to adopt the Federal program. The ultimate decision for adoption of any or all of the bill is left up to each State on an individual basis.

Mr. Speaker, adoption of H.R. 5248 will help us to further protect the public and property from damage due to excavation. I urge my colleagues to support passage of the Comprehensive One-Call Notification Act of 1994.

Mr. MOORHEAD. Mr. Speaker, further reserving the right to object, I rise again in support of this legislation.

This bill minimizes the risk of third-party dig-ups of natural gas pipelines and other underground facilities by requiring States to consider creating one-call notification systems. Since most damage to pipelines and other types of underground facilities are caused by third parties, this bill will greatly enhance the safety of such facilities.

One-call notification systems are mechanisms by which a person planning to excavate can notify a buried facility owner or operator of planned excavation. The owner or operator of the buried facility then marks his facilities so the excavator can avoid it in his excavation. Establishing these systems makes good sense. They reduce the hazard posed by underground facilities to workers and the general public when excavation is done. They also save the cost of repairing underground facilities damaged by excavation.

The one-call initiative contained in this bill will help reduce the risk to human health and the environment and will save all underground facility owners millions of dollars in costly repairs from third-party damage. Thus, I support this legislation and encourage my fellow Members to support it.

Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I thank my friend and colleague for yielding to me under his reservation of objection.

Mr. Speaker, I rise in strong support of H.R. 5248. I wish to thank our colleague, the gentleman from New Jersey [Mr. PALLONE] for his leadership in introducing this bill, as well as the gentleman from Indiana [Mr. SHARP], who so ably has chaired this subcommittee and exhibited leadership for this One-Call. Of course, Mr. Speaker, we are all going to miss PHIL. We came together in 1974, and we are going to miss his leadership.

Mr. Speaker, I rise in support of H.R. 5248, the Comprehensive One-Call Notification Act of 1994. This bill includes the same text as H.R. 4394, which passed in the House this past Monday.

As I stated at that time, this committee has long supported the worthiness of the concept for "one-call" notification programs, and in fact, mandated in the 1988 Pipeline Safety Reauthorization Act that the Secretary establish minimum Federal requirements for State "one-call" programs to meet. That legislation, however, was limited to pipelines only and did not apply to other underground facilities.

H.R. 5248, which is before us today, appears to make a significant inroad into solving the well-known problem of damage to pipelines and other underground facilities as a result of excavation by third parties. This legislation will enhance the safety of those underground facilities and the general public.

There are only a few very carefully constructed exemptions to the elements a State must consider in this legislation. The definition of some of the activities involved in those narrow exemptions are, however, illustrative and not necessarily exclusive. It is the committee's intent that these programs, if adopted by a State, be as comprehensive as possible.

Therefore, I urge my colleagues to join me in passing H.R. 5248.

Mr. SHUSTER. Mr. Speaker, my thanks to NORM MINETA, JOHN DINGELL, CARLOS MOORHEAD, NICK JOE RAHALL, PHIL SHARP, and TIM PETRI for working together to bring this bill to the floor. I also want to thank our colleagues, Congressman PALLONE, a former member of the Committee, and BOB FRANKS, a current member of our Committee, for their leadership in pushing one-call Legistation this year.

Comprehensive one-call notification systems are a critical tool to protect life, health and property in our country. The building boom of the last forty years, combined with the proliferation of underground facilities, makes excavation damage an increasingly prevalent problem.

Particularly with regard to natural gas and hazardous liquid pipelines, excavation damage remains the number one cause of pipeline failures.

Several improvements have been made to the bill to address concerns of several groups whose activities do not present a significant risk to underground facilities. I believe these changes represent the balance we must always strive to achieve between public safety goals and placing unreasonable burdens on average citizens.

I specifically want to comment on the exemption granted to routine railroad maintenance activities. During consideration of this legislation on the floor, there was a misleading statement inserted but not spoken in the RECORD on the issue of what constitutes routine railroad maintenance.

The railroad provisions of this bill are intended to completely exempt routine maintenance from the measure's notification requirements.

It is important to note that two key committees of jurisdiction—one in this body and one in the other body—both approved language excluding railroad maintenance from one-call

requirements in their respective reported bills. This was done because there is no evidence of any instances in which routine railroad maintenance that disturbs the ground to a depth of no more than 18 inches from the surface of the ground has caused harm to underground pipeline or telecommunications facilities.

Railroads in this country have been conducting routine maintenance on their rights-of-way for more than 150 years. Such maintenance functions do not threaten underground facilities which are buried between 3 and 10 feet beneath the surface of the ground.

It is also important to understand that the activities listed in the definition of routine railroad maintenance is illustrative and is not intended to be exclusive. Other routine railroad maintenance activities, such as ditch cleaning and tamping, would be included under this definition.

H.R. 4394 as modified by the Public Works and Transportation and Energy and Commerce committees will go a long way to encourage States to adopt comprehensive and effective one-call programs.

Title II of this bill is the high risk driver program. This bill will improve highway safety for the millions of drivers in our Nation between 16 and 20 years old and 70 years and over. These groups of drivers are disproportionately represented in vehicle crash rates, fatality rates, and traffic safety violation rates.

I want to commend my colleague from Virginia, FRANK WOLF, for his leadership in sponsoring this bill in the House.

I urge my colleagues to support the legislation.

Mr. MOORHEAD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ONE-CALL

SEC. 101. SHORT TITLE.

This title may be cited as the "Comprehensive One-Call Notification Act of 1994".

SEC. 102. DEFINITIONS.

For purposes of this title, the following definitions apply:

(1) DAMAGE.—The term "damage" means any impact or contact with an underground facility, its appurtenances, or its protective coating, or weakening of the support for the facility or protective housing, which requires repair.

(2) EXCAVATION.—The term "excavation" means any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of any mechanized tools or equipment, or any explosive, but shall not include—

(A) any generally accepted normal agricultural practices and activities taken in support thereof, as determined by each State, including tilling of the soil for agricultural purposes to a depth of 18 inches or less;

(B) generally accepted normal lawn and garden activities, as determined by each State;

(C) the excavation of a gravesite in a cemetery; and

(D) routine railroad maintenance as long as such maintenance would disturb the ground to a depth of no more than 18 inches as measured from the surface of the ground and the railroad has rules requiring underground facilities other than its own to be buried 3 feet or lower on its property or along its right-of-way.

When a facility operator believes that its underground facility is not buried 3 feet or lower on railroad property or right-of-way, the facility operator may request permission to enter the railroad property or right-of-way for the purpose of assessing the depth of such underground facility and report its finding to the railroad.

(3) EXCAVATOR.—The term "excavator" means a person who conducts excavation.

(4) FACILITY OPERATOR.—The term "facility operator" means any person who operates an underground facility.

(5) HAZARDOUS LIQUID.—The term "hazardous liquid" has the meaning given such term in section 60101(a)(4) of title 49, United States Code.

(6) NATURAL GAS.—The term "natural gas" has the meaning given the term "gas" in section 60101(a)(2) of title 49, United States Code.

(7) PERSON.—The term "person" includes any agency of Federal, State, or local government.

(8) ROUTINE RAILROAD MAINTENANCE.—The term "routine railroad maintenance" includes such activities as ballast cleaning, general ballast work, track lining and surfacing, signal maintenance, and the replacement of crossties.

(9) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(10) STATE.—The term "State" has the meaning given such term in section 60101(a)(20) of title 49, United States Code.

(11) STATE PROGRAM.—The term "State program" means the program of a State to establish or maintain a one-call notification system.

(12) UNDERGROUND FACILITY.—The term "underground facility" means any underground line, system, or structure used for gathering, storing, transmitting, or distributing oil, petroleum products, other hazardous liquids, natural gas, communication, electricity, water, steam, sewerage, or any other commodities the Secretary determines should be included under the requirements of this title, but such term does not include a portion of a line, system, or structure if the person who owns or leases, or holds an oil or gas mineral leasehold interest in, the real property in which such portion is located also operates, or has authorized the operation of, the line, system, or structure only for the purpose of furnishing services or materials to such person, except to the extent that such portion contains predominantly natural gas or hazardous liquids and—

(A) is located within an easement for a public road (as defined under section 101(a) of title 23, United States Code), or a toll highway, bridge, or tunnel (as described in section 129(a)(2) of such title); or

(B) is located on a mineral lease and is within the boundaries of a city, town, or village.

SEC. 103. NATIONWIDE TOLL-FREE NUMBER SYSTEM.

Within 1 year after the date of enactment of this Act, the Secretary shall, in consultation with the Federal Communications Commission, facility operators, excavators, and one-call notification system operators, provide for the establishment of a nationwide toll-free telephone number system to be used by State one-call notification systems.

SEC. 104. STATE PROGRAMS.

(a) CONSIDERATION.—Each State shall consider whether to adopt a comprehensive statewide one-call notification program with each element described in section 105, to protect all underground facilities from damage due to any excavation. Such State program may be provided for through the establishment of a new program, or through modification or improvement of an existing program, and may be implemented by a nongovernmental organization.

(b) PROCEDURES.—State consideration under subsection (a) shall be undertaken after public notice and hearing, and shall be completed within 3 years after the date of enactment of this Act. Such consideration may be undertaken as part of any proceeding of a State with respect to the safety of pipelines or other underground facilities.

(c) COMPLIANCE.—If a State fails to comply with the requirements of subsection (a), the Secretary or any person aggrieved by such failure may in a civil action obtain appropriate relief against any appropriate officer or entity of the State, including the State itself, to compel such compliance.

(d) APPROPRIATENESS.—Nothing in this title prohibits a State from making a determination that it is not appropriate to adopt a State program described in section 105, pursuant to its authority under otherwise applicable State law.

SEC. 105. ELEMENTS OF STATE PROGRAM.

(a) IN GENERAL.—Each State's consideration under section 104(a) shall include consideration of program elements that—

(1) provide for a one-call notification system or systems which shall—

(A) apply to all excavators and to all facility operators;

(B) operate in all areas of the State and not duplicate the geographical coverage of other one-call notification systems;

(C) receive and record appropriate information from excavators about intended excavations;

(D) inform facility operators of any intended excavations that may be in the vicinity of their underground facilities; and

(E) inform excavators of the identity of facility operators who will be notified of the intended excavation;

(2) provide for 24-hour coverage for emergency excavation, with the manner and scope of coverage determined by the State;

(3) employ mechanisms to ensure that the general public, and in particular all excavators, are aware of the one-call telephone number and the requirements, penalties, and benefits of the State program relating to excavations;

(4) inform excavators of any procedures that the State has determined must be followed when excavating;

(5) require that any excavator must contact the one-call notification system in accordance with State specifications, which may vary depending on whether the excavation is short term, long term, routine, continuous, or emergency;

(6) require facility operators to provide for locating and marking or otherwise identifying their facilities at an excavation site, in accordance with State specifications, which may vary depending on whether the excavation is short term, long term, routine, continuous, or emergency;

(7) provide effective mechanisms for penalties and enforcement as described in section 106;

(8) provide for a fair and appropriate schedule of fees to cover the costs of providing for,

maintaining, and operating the State program;

(9) provide an opportunity for citizen suits to enforce the State program; and

(10) require railroads to report any accidents that occur during or as a result of routine railroad maintenance to the Secretary and the appropriate local officials.

(b) EXCEPTION.—Where excavation is undertaken by or for a person, on real property owned or leased, or in which an oil or gas mineral leasehold interest is held, by that person, and the same person operates all underground facilities located at the site of the excavation, a State program may elect not to require that such person contact the one-call notification system before excavating.

SEC. 106. PENALTIES AND ENFORCEMENT.

(a) GENERAL PENALTIES.—Each State's consideration under section 104(a) shall include consideration of a requirement that any excavator or facility operator who violates the requirements of the State program shall be liable for an appropriate administrative or civil penalty.

(b) INCREASED PENALTIES.—If a violation results in damage to an underground facility resulting in death, serious bodily harm, or actual damage to property exceeding $50,000, or damage to a hazardous liquid underground facility resulting in the release of more than 50 barrels of product, the penalties shall be increased, and an additional penalty of imprisonment may be assessed for a knowing and willful violation.

(c) DECREASED PENALTIES.—Each State's consideration under section 104(a) shall include consideration of reduced penalties for a violation, that results in or could result in damage, that is promptly reported by the violator.

(d) EQUITABLE RELIEF AND MANDAMUS ACTIONS.—Each State's consideration under section 104(a) shall include consideration of provisions for appropriate equitable relief and mandamus actions.

(e) IMMEDIATE CITATION OF VIOLATIONS.—Each State's consideration under section 104(a) shall include consideration of procedures for issuing a citation of violation at the site and time of the violation.

SEC. 107. GRANTS TO STATES.

(a) AUTHORITY.—Using $4,000,000 of the amounts previously collected under section 7005 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (previously codified as 49 U.S.C. App. 1682a) or section 60301 of title 49, United States Code, for each of the fiscal years 1996, 1997, and 1998, to the extent provided in advance in appropriations Acts, the Secretary shall make grants to States, or to operators of one-call notification systems in such States, which have elected to adopt a State program described in section 105, or to establish and maintain a State program pursuant to subsection (b) of this section. Such grants may be used in establishing one-call notification systems, modifying existing systems to conform to standards established under this title, and improving systems to exceed such standards. Such grants may be used to—

(1) improve communications systems linking one-call notification systems;

(2) improve location capabilities, including training personnel and developing and using location technology;

(3) improve record retention and recording capabilities;

(4) enhance public information and education campaigns;

(5) increase and improve enforcement mechanisms, including administrative processing of violations; and

(6) otherwise further the purposes of this title.

(b) ALTERNATE FORM OF STATE PROGRAM.—The Secretary may make a grant under subsection (a) to a State that establishes or maintains a State program that differs from a State program described in section 105 if such State program is at least as protective of the public health and safety and the environment as a State program described in section 105.

SEC. 108. DEPARTMENT OF TRANSPORTATION.

(a) COORDINATION WITH OTHER RESPONSIBILITIES.—

(1) COORDINATION.—The Secretary shall coordinate the implementation of this title with the implementation of chapter 601 of title 49, United States Code.

(2) REVIEW OF PROGRAMS.—Within 18 months after the date of enactment of this Act, the Secretary shall review, and report to Congress on, the extent to which any policies, programs, and procedures of the Department of Transportation could be used to achieve the purposes of this title.

(b) MODEL PROGRAM.—

(1) DEVELOPMENT.—Within 1 year after the date of enactment of this Act, the Secretary, in consultation with facility operators, excavators, one-call notification system operators, and State and local governments, shall develop and make available to States a model State program, including a model enforcement program. Such model program may be amended by the Secretary on the Secretary's initiative or in response to reports submitted by the States pursuant to section 109, or as a result of workshops conducted under paragraph (3) of this subsection.

(2) SUGGESTED ELEMENTS.—The model program developed under paragraph (1) shall include all elements of a State program described in section 105. The Secretary shall consider incorporating the following elements into the model program:

(A) The one-call notification system or systems shall—

(i) receive and record appropriate information from excavators about intended excavations, including—

(I) the name of the person contacting the one-call notification system;

(II) the name, address, and telephone number of the excavator;

(III) the specific location of the intended excavation, along with the starting date thereof and a description of the intended excavation activity; and

(IV) the name, address, and telephone number of the person for whom the work is being performed; and

(ii) maintain records on each notice of intent to excavate for the period of time necessary to ensure that such records remain available for use in the adjudication of any claims relating to the excavation.

(B) The provision of information on excavation requirements at the time of issuance of excavation or building permits, or other specific mechanisms for ensuring excavator awareness.

(C) A requirement that any excavator must contact the one-call notification system at least 2 business days, and not more than 10 business days, before excavation begins.

(D) Alternative notification procedures for excavation activities conducted as a normal part of ongoing operations within specific geographic locations over an extended period of time.

(E) A requirement that facility operators—

(i) provide for locating and marking, in accordance with the American Public Works Association Uniform Color Code for Utilities, or otherwise identifying, in accordance with standards established by the State or the American National Standards Institute, their underground facilities at the site of an intended excavation within no more than 2 business days after notification of such intended excavation; and

(ii) monitor such excavation as appropriate.

(F) Provision for notification of excavators if no underground facilities are located at the excavation site.

(G) Provision for the approval of a State program under this title with time limitations longer than those required under subparagraphs (C) and (E) of this paragraph where special circumstances, such as severe weather conditions or remoteness of location, pertain.

(H) Procedures for excavators and facility operators to follow when the location of underground facilities is unknown.

(I) Procedures to improve underground facility location capabilities, including compiling and notifying excavators, facility operators, and one-call centers of any information about previously unknown underground facility locations when such information is discovered.

(J) Alternative rules for timely compliance with State program requirements in emergency circumstances.

(K) If a State has procedures for licensing or permitting entities to do business, procedures for the revocation of the license or permit to do business of any excavator determined to be a habitual violator of the requirements of the State program.

(3) WORKSHOPS.—Within 6 months after the date of enactment of this Act, and annually thereafter, the Secretary shall conduct workshops with facility operators, excavators, one-call notification system operators, and State and local governments in order to develop, amend, and promote the model program, and to provide an opportunity to share information among such parties and to recognize State programs that exemplify the goals of this title.

(c) PUBLIC EDUCATION.—The Secretary shall develop, in conjunction with facility operators, excavators, one-call notification system operators, and State and local governments, public service announcements and other educational materials and programs to be broadcast or published to educate the public about one-call notification systems, including the national phone number.

SEC. 109. STATE REPORTS.

(a) REQUIREMENT.—

(1) INITIAL REPORT.—Within 3 years after the date of enactment of this Act, each State shall submit to the Secretary a report on progress made in implementing this title.

(2) STATUS REPORTS.—Within 4½ years after the date of enactment of this Act, and annually thereafter, each State shall report to the Secretary on the status of its State program, if any, and its requirements, and any other information the Secretary requires.

(b) SIMPLIFIED REPORTING FORM.—Within 3 years after the date of enactment of this Act, the Secretary shall develop and distribute to the States a simplified form for complying with the reporting requirements of subsection (a)(2).

SEC. 110. FEDERAL REPORT.

The Secretary shall report annually to Congress on the number and circumstances surrounding accidents caused by routine railroad maintenance.

SEC. 111. MORE PROTECTIVE SYSTEMS.

Nothing in this title prohibits a State from implementing a one-call notification system that provides greater protection for underground facilities from damage due to excavation than a system established pursuant to this title.

SEC. 112. USE OF TECHNOLOGIES FOR REMOTE AND ABOVE-GROUND PIPELINE LOCATION.

The Secretary shall consult with other agencies as to the availability and affordability of technologies which will help relocate pipelines from above-ground and remote locations.

SEC. 113. VISION WAIVER STUDY PROGRAM.

In order to further substantiate research carried out by the Secretary in fiscal year 1992 under the vision waiver study program, the Secretary shall carry out a follow-up study to such program to include drivers who otherwise would have qualified to participate in the initial vision waiver study but for the time limits on applications and the failure to learn of the program in a timely manner. Any study issued under this section shall comply with the requirements of section 31136(e) of title 49, United States Code, and applicable case law.

SEC. 114. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this title should be American-made.

(b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this title, the Administrator of the Research and Special Programs Administration of the Department of Transportation, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a).

TITLE II—HIGH RISK DRIVERS PROGRAM

Subtitle A—High-Risk and Alcohol-Impaired Drivers

SEC. 211. FINDINGS.

The Congress makes the following findings:

(1) The Nation's traffic fatality rate has declined from 5.5 deaths per 100 million vehicle miles traveled in 1966 to an historic low of an estimated 1.8 deaths per 100 million vehicle miles traveled during 1992. In order to further this desired trend, the safety programs and policies implemented by the Department of Transportation must be continued, and at the same time, the focus of these efforts as they pertain to high risk drivers of all ages must be strengthened.

(2) Motor vehicle crashes are the leading cause of death among teenagers, and teenage drivers tend to be at fault for their fatal crashes more often than older drivers. Drivers who are 16 to 20 years old comprised 7.4 percent of the United States population in 1991 but were involved in 15.4 percent of fatal motor vehicle crashes. Also, on the basis of crashes per 100,000 licensed drivers, young drivers are the highest risk group of drivers.

(3) During 1991, 6,630 teenagers from age 15 through 20 died in motor vehicle crashes. This tragic loss demands that the Federal Government intensify its efforts to promote highway safety among members of this high risk group.

(4) The consumption of alcohol, speeding over allowable limits or too fast for road conditions, inadequate use of occupant restraints, and other high risk behaviors are several of the key causes for this tragic loss of young drivers and passengers. The Department of Transportation, working cooperatively with the States, student groups, and other organizations, must reinvigorate its current programs and policies to address more effectively these pressing problems of teenage drivers.

(5) In 1991 individuals aged 70 years and older, who are particularly susceptible to injury, were involved in 12 percent of all motor vehicle traffic crash fatalities. These deaths accounted for 4,828 fatalities out of 41,462 total traffic fatalities.

(6) The number of older Americans who drive is expected to increase dramatically during the next 30 years. Unfortunately, during the last 15 years, the Department of Transportation has supported an extremely limited program concerning older drivers. Research on older driver behavior and licensing has suffered from intermittent funding at amounts that were insufficient to address the scope and nature of the challenges ahead.

(7) A major objective of United States transportation policy must be to promote the mobility of older Americans while at the same time ensuring public safety on our Nation's highways. In order to accomplish these two objectives simultaneously, the Department of Transportation must support a vigorous and sustained program of research, technical assistance, evaluation, and other appropriate activities that are designed to reduce the fatality and crash rate of older drivers who have identifiable risk characteristics.

SEC. 212. DEFINITIONS.

For purposes of this subtitle—

(1) The term "high risk driver" means a motor vehicle driver who belongs to a class of drivers that, based on vehicle crash rates, fatality rates, traffic safety violation rates, and other factors specified by the Secretary, presents a risk of injury to the driver and other individuals that is higher than the risk presented by the average driver.

(2) The term "Secretary" means the Secretary of Transportation.

SEC. 213. POLICY AND PROGRAM DIRECTION.

(a) GENERAL RESPONSIBILITY OF SECRETARY.—The Secretary shall develop and implement effective and comprehensive policies and programs to promote safe driving behavior by young drivers, older drivers, and repeat violators of traffic safety regulations and laws.

(b) SAFETY PROMOTION ACTIVITIES.—The Secretary shall promote or engage in activities that seek to ensure that—

(1) cost effective and scientifically-based guidelines and technologies for the nondiscriminatory evaluation and licensing of high risk drivers are advanced;

(2) model driver training, screening, licensing, control, and evaluation programs are improved;

(3) uniform or compatible State driver point systems and other licensing and driver record information systems are advanced as a means of identifying and initially evaluating high risk drivers; and

(4) driver training programs and the delivery of such programs are advanced.

(c) DRIVER TRAINING RESEARCH.—The Secretary shall explore the feasibility and advisability of using cost efficient simulation and other technologies as a means of enhancing driver training; shall advance knowledge regarding the perceptual, cognitive, and decision making skills needed for safe driving and to improve driver training; and shall investigate the most effective means of integrating licensing, training, and other techniques for preparing novice drivers for the safe use of highway systems.

Subtitle B—Young Driver Programs

SEC. 221. STATE GRANTS FOR YOUNG DRIVER PROGRAMS.

(a) ESTABLISHMENT OF GRANT PROGRAM.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 411. Programs for young drivers

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement programs for young drivers which include measures, described in this section, to reduce traffic safety problems resulting from the driving performance of young drivers. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate estimated expenditures from all other sources for programs for young drivers at or above the average level of such expenditures in its 2 fiscal years preceding the fiscal year in which the High Risk Drivers Act of 1994 is enacted.

"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 5 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the young driver program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third, fourth, and fifth fiscal years the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) MAXIMUM AMOUNT OF BASIC GRANTS.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) shall equal 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title. A grant to a State under this section shall be in addition to the State's apportionment under section 402, and basic grants during any fiscal year may be proportionately reduced to accommodate an applicable statutory obligation limitation for that fiscal year.

"(e) ELIGIBILITY FOR BASIC GRANTS.—

"(1) GENERAL.—For purposes of this section, a State is eligible for a basic grant if such State—

"(A) establishes and maintains a graduated licensing program for drivers under 18 years of age that meets the requirements of paragraph (2); and

"(B)(i) in the first year of receiving grants under this section, meets 3 of the 7 criteria specified in paragraph (3);

"(ii) in the second year of receiving such grants, meets 4 of such criteria;

"(iii) in the third year of receiving such grants, meets 5 of such criteria;

"(iv) in the fourth year of receiving such grants, meets 6 of such criteria; and

"(v) in the fifth year of receiving such grants, meets 6 of such criteria.

For purposes of subparagraph (B), a State shall be treated as having met one of the requirements of paragraph (3) for any year if

the State demonstrates to the satisfaction of the Secretary that, for the 3 preceding years, the alcohol fatal crash involvement rate for individuals under the age of 21 has declined in that State and the alcohol fatal crash involvement rate for such individuals has been lower in that State than the average such rate for all States.

"(2) GRADUATED LICENSING PROGRAM.—

"(A) A State receiving a grant under this section shall establish and maintain a graduated licensing program consisting of the following licensing stages for any driver under 18 years of age:

"(i) An instructional license, valid for a minimum period determined by the Secretary, under which the licensee shall not operate a motor vehicle unless accompanied in the front passenger seat by the holder of a full driver's license.

"(ii) A provisional driver's license which shall not be issued unless the driver has passed a written examination on traffic safety and has passed a roadtest administered by the driver licensing agency of the State.

"(iii) A full driver's license which shall not be issued until the driver has held a provisional license for at least 1 year with a clean driving record.

"(B) For purposes of subparagraph (A)(iii), subsection (f)(1), and subsection (f)(6)(B), a provisional licensee has a clean driving record if the licensee—

"(i) has not been found, by civil or criminal process, to have committed a moving traffic violation during the applicable period;

"(ii) has not been assessed points against the license because of safety violations during such period; and

"(iii) has satisfied such other requirements as the Secretary may prescribe by regulation.

"(C) The Secretary shall determine the conditions under which a State shall suspend provisional driver's licenses in order to be eligible for a basic grant. At a minimum, the holder of a provisional license shall be subject to driver control actions that are stricter than those applicable to the holder of a full driver's license, including warning letters and suspension at a lower point threshold.

"(D) For a State's first 2 years of receiving a grant under this section, the Secretary may waive the clean driving record requirement of subparagraph (A)(iii) if the State submits satisfactory evidence of its efforts to establish such a requirement.

"(3) CRITERIA FOR BASIC GRANT.—The 7 criteria referred to in paragraph (1)(B) are as follows:

"(A) The State requires that any driver under 21 years of age with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated for the purpose of (i) administrative or judicial sanctions or (ii) a law or regulation that prohibits any individual under 21 years of age with a blood alcohol concentration of 0.02 percent or greater from driving a motor vehicle.

"(B) The State has a law or regulation that provides a mandatory minimum penalty of at least $500 for anyone who in violation of State law or regulation knowingly, or without checking for proper identification, provides or sells alcohol to any individual under 21 years of age.

"(C) The State requires that the license of a driver under 21 years of age be suspended for a period specified by the State if such driver is convicted of the unlawful purchase or public possession of alcohol. The period of suspension shall be at least 6 months for a first conviction and at least 12 months for a subsequent conviction; except that specific license restrictions may be imposed as an alternative to such minimum periods of suspension where necessary to avoid undue hardship on any individual.

"(D) The State conducts youth-oriented traffic safety enforcement activities, and education and training programs—

"(i) with the participation of judges and prosecutors, that are designed to ensure enforcement of traffic safety laws and regulations, including those that prohibit drivers under 21 years of age from driving while intoxicated, restrict the unauthorized use of a motor vehicle, and establish other moving violations; and

"(ii) with the participation of student and youth groups, that are designed to ensure compliance with such traffic safety laws and regulations.

"(E) The State prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway; except as allowed in the passenger area, by persons (other than the driver), of a motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers.

"(F) The State provides, to a parent or legal guardian of any provisional licensee, general information prepared with the assistance of the insurance industry on the effect of traffic safety convictions and at-fault accidents on insurance rates for young drivers.

"(G) The State requires that a provisional driver's license may be issued only to a driver who has satisfactorily completed a State-accepted driver education and training program that meets Department of Transportation guidelines and includes information on the interaction of alcohol and controlled substances and the effect of such interaction on driver performance, and information on the importance of motorcycle helmet use and safety belt use.

"(f) SUPPLEMENTAL GRANT PROGRAM.—

"(1) EXTENDED APPLICATION OF PROVISIONAL LICENSE REQUIREMENT.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that a driver under 21 years of age shall not be issued a full driver's license until the driver has held a provisional license for at least 1 year with a clean driving record as described in subsection (e)(2)(B).

"(2) REMEDIAL DRIVER EDUCATION.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires, at a lower point threshold than for other drivers, remedial driver improvement instruction for drivers under 21 years of age and requires such remedial instruction for any driver under 21 years of age who is convicted of reckless driving, excessive speeding, driving under the influence of alcohol, or driving while intoxicated.

"(3) RECORD OF SERIOUS CONVICTIONS; HABITUAL OR REPEAT OFFENDER SANCTIONS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 5 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—

"(A) requires that a notation of any serious traffic safety conviction of a driver be maintained on the driver's permanent traffic record for at least 10 years after the date of the conviction; and

"(B) provides additional sanctions for any driver who, following conviction of a serious traffic safety violation, is convicted during the next 10 years of one or more subsequent serious traffic safety violations.

"(4) INTERSTATE DRIVER LICENSE COMPACT.—The State is a member of and substantially complies with the interstate agreement known as the Driver License Compact, promptly and reliably transmits and receives through electronic means interstate driver record information (including information on commercial drivers) in cooperation with the Secretary and other States, and develops and achieves demonstrable annual progress in implementing a plan to ensure that (i) each court of the State report expeditiously to the State driver licensing agency all traffic safety convictions, license suspensions, license revocations, or other license restrictions, and driver improvement efforts sanctioned or ordered by the court, and that (ii) such records be available electronically to appropriate government officials (including enforcement, officers, judges, and prosecutors) upon request at all times.

"(5) The State has a law or regulation that provides a minimum penalty of at least $100 for anyone who in violation of State law or regulation drives any vehicle through, around, or under any crossing, gate, or barrier at a railroad crossing while such gate or barrier is closed or being opened or closed.

"(6) VEHICLE SEIZURE PROGRAM.—The State has a law or regulation that—

"(A) mandates seizure by the State or any political subdivision thereof of any vehicle driven by an individual in violation of an alcohol-related traffic safety law, if such violator has been convicted on more than one occasion of an alcohol-related traffic offense within any 5-year period beginning after the date of enactment of this section, or has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense;

"(B) mandates that the vehicle be forfeited to the State or a political subdivision thereof if the vehicle was solely owned by such violator at the time of the violation;

"(C) requires that the vehicle be returned to the owner if the vehicle was a stolen vehicle at the time of the violation; and

"(D) authorizes the vehicle to be released to a member of such violator's family, the co-owner, or the owner, if the vehicle was not a stolen vehicle and was not solely owned by such violator at the time of the violation, and if the family member, co-owner, or owner, prior to such release, executes a binding agreement that the family member, co-owner, or owner will not permit such violator to drive the vehicle and that the vehicle shall be forfeited to the State or a political subdivision thereof in the event such violator drives the vehicle with the permission of the family member, co-owner, or owner.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

carry out this section, $9,000,000 for the fiscal year ending September 30, 1996, $12,000,000 for the fiscal year ending September 30, 1997, $14,000,000 for the fiscal year ending September 30, 1998, $16,000,000 for the fiscal year ending September 30, 1999, and $18,000,000 for the fiscal year ending September 30, 2000.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by inserting immediately after the item relating to section 410 the following new item:

"411. Programs for young drivers.".

(c) DEADLINES FOR ISSUANCE OF REGULATIONS.—The Secretary shall issue and publish in the Federal Register proposed regulations to implement section 411 of title 23, United States Code (as added by this section), not later than 6 months after the date of enactment of this Act. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress not later than 12 months after such date of enactment.

SEC. 222. PROGRAM EVALUATION.

(a) EVALUATION BY SECRETARY.—The Secretary shall, under section 403 of title 23, United States Code, conduct an evaluation of the effectiveness of State provisional driver's licensing programs and the grant program authorized by section 411 of title 23, United States Code (as added by section 101 of this Act).

(b) REPORT TO CONGRESS.—By January 1, 1997, the Secretary shall transmit a report on the results of the evaluation conducted under subsection (a) and any related research to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives. The report shall include any related recommendations by the Secretary for legislative changes.

Subtitle C—Older Driver Programs

SEC. 231. OLDER DRIVER SAFETY RESEARCH.

(a) RESEARCH ON PREDICTABILITY OF HIGH RISK DRIVING.—

(1) The Secretary shall conduct a program that funds, within budgetary limitations, the research challenges presented in the Transportation Research Board's report entitled "Research and Development Needs for Maintaining the Safety and Mobility of Older Drivers" and the research challenges pertaining to older drivers presented in a report to Congress by the National Highway Traffic Safety Administration entitled "Addressing the Safety Issues Related to Younger and Older Drivers".

(2) To the extent technically feasible, the Secretary shall consider the feasibility and further the development of cost efficient, reliable tests capable of predicting increased risk of accident involvement or hazardous driving by older high risk drivers.

(b) SPECIALIZED TRAINING FOR LICENSE EXAMINERS.—The Secretary shall encourage and conduct research and demonstration activities to support the specialized training of license examiners or other certified examiners to increase their knowledge and sensitivity to the transportation needs and physical limitations of older drivers, including knowledge of functional disabilities related to driving, and to be cognizant of possible countermeasures to deal with the challenges to safe driving that may be associated with increasing age.

(c) COUNSELING PROCEDURES AND CONSULTATION METHODS.—The Secretary shall encourage and conduct research and disseminate information to support and encourage the development of appropriate counseling procedures and consultation methods with relatives, physicians, the traffic safety enforcement and the motor vehicle licensing communities, and other concerned parties. Such procedures and methods shall include the promotion of voluntary action by older high risk drivers to restrict or limit their driving when medical or other conditions indicate such action is advisable. The Secretary shall consult extensively with the American Association of Retired Persons, the American Association of Motor Vehicle Administrators, the American Occupational Therapy Association, the American Automobile Association, the Department of Health and Human Services, the American Public Health Association, and other interested parties in developing educational materials on the interrelationship of the aging process, driver safety, and the driver licensing process.

(d) ALTERNATIVE TRANSPORTATION MEANS.—The Secretary shall ensure that the agencies of the Department of Transportation overseeing the various modes of surface transportation coordinate their policies and programs to ensure that funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 1914) and implementing Department of Transportation and Related Agencies Appropriation Acts take into account the transportation needs of older Americans by promoting alternative transportation means whenever practical and feasible.

(e) STATE LICENSING PRACTICES.—The Secretary shall encourage State licensing agencies to use restricted licenses instead of canceling a license whenever such action is appropriate and if the interests of public safety would be served, and to closely monitor the driving performance of older drivers with such licenses. The Secretary shall encourage States to provide educational materials of benefit to older drivers and concerned family members and physicians. The Secretary shall promote licensing and relicensing programs in which the applicant appears in person and shall promote the development and use of cost effective screening processes and testing of physiological, cognitive, and perception factors as appropriate and necessary. Not less than one model State program shall be evaluated in light of this subsection during each of the fiscal years 1996 through 1998. Of the sums authorized under subsection (i), $250,000 is authorized for each such fiscal year for such evaluation.

(f) IMPROVEMENT OF MEDICAL SCREENING.—The Secretary shall conduct research and other activities designed to support and encourage the States to establish and maintain medical review or advisory groups to work with State licensing agencies to improve and provide current information on the screening and licensing of older drivers. The Secretary shall encourage the participation of the public in these groups to ensure fairness and concern for the safety and mobility needs of older drivers.

(g) INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.—In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary shall ensure that the National Intelligent Vehicle-Highway Systems Program devotes sufficient attention to the use of intelligent vehicle-highway systems to aid older drivers in safely performing driver functions. Federally-sponsored research, development, and operational testing shall ensure the advancement of night vision improvement systems, technology to reduce the involvement of older drivers in accidents occurring at intersections, and other technologies of particular benefit to older drivers.

(h) TECHNICAL EVALUATIONS UNDER INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT.—In conducting the technical evaluations required under section 6055 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2192), the Secretary shall ensure that the safety impacts on older drivers are considered, with special attention being devoted to ensuring adequate and effective exchange of information between the Department of Transportation and older drivers or their representatives.

(i) Authorization of Appropriations—Of the funds authorized under section 403 of title 23, United States Code, $1,250,000 is authorized for each of the fiscal years 1995 through 1997 to support older driver programs described in subsections (a), (b), (c), (e), and (f).

Subtitle D—High Risk Drivers

SEC. 241. STUDY ON WAYS TO IMPROVE TRAFFIC RECORDS OF ALL HIGH RISK DRIVERS.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, the Secretary shall complete a study to determine whether additional or strengthened Federal activities, authority, or regulatory actions are desirable or necessary to improve or strengthen the driver record and control systems of the States to identify high risk drivers more rapidly and ensure prompt intervention in the licensing of high risk drivers. The study, which shall be based in part on analysis obtained from a request for information published in the Federal Register, shall consider steps necessary to ensure that State traffic record systems are unambiguous, accurate, current, accessible, complete, and (to the extent useful) uniform among the States.

(b) SPECIFIC MATTERS FOR CONSIDERATION.—Such study shall at a minimum consider—

(1) whether specific legislative action is necessary to improve State traffic record systems;

(2) the feasibility and practicality of further encouraging and establishing a uniform traffic ticket citation and control system;

(3) the need for a uniform driver violation point system to be adopted by the States;

(4) the need for all the States to participate in the Driver License Reciprocity Program conducted by the American Association of Motor Vehicle Administrators;

(5) ways to encourage the States to cross-reference driver license files and motor vehicle files to facilitate the identification of individuals who may not be in compliance with driver licensing laws; and

(6) the feasibility of establishing a national program that would limit each driver to one driver's license from only one State at any time.

(c) EVALUATION OF NATIONAL INFORMATION SYSTEMS.—As part of the study required by this section, the Secretary shall consider and evaluate the future of the national information systems that support driver licensing. In particular, the Secretary shall examine whether the Commercial Driver's License Information System, the National Driver Register, and the Driver License Reciprocity program should be more closely linked or continue to exist as separate information systems and which entities are best suited to operate such systems effectively at the least cost. The Secretary shall cooperate with the American Association of Motor Vehicle Administrators in carrying out this evaluation.

SEC. 242. STATE PROGRAMS FOR HIGH RISK DRIVERS.

The Secretary shall encourage and promote State driver evaluation, assistance, or

control programs for high risk drivers. These programs may include in-person license reexaminations, driver education or training courses, license restrictions or suspensions, and other actions designed to improve the operating performance of high risk drivers.

Subtitle E—Funding

SEC. 251. FUNDING FOR 23 USC 410 PROGRAM.

In addition to any amount otherwise appropriated or available for such use, there are authorized to be appropriated $15,000,000 for fiscal years 1995, 1996, and 1997 for the purpose of carrying out section 410 of title 23, United States Code.

TITLE III—CORRECTION OF LOCATION

Section 301

The table contained in Section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended in item number 24, by adding at the end "and for similar purposes eligible for funding under title 23, United States Code, or under the Intermodal Surface Transportation Efficiency Act on any similar existing facility within a 150 mile radius of such project as selected by the State of Pennsylvania."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING THE SOCIAL SECURITY ACT AND RELATED ACTS TO MAKE MISCELLANEOUS AND TECHNICAL AMENDMENTS

Mr. STARK. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means and the Committee on Energy and Commerce be discharged from further consideration of the bill (H.R. 5252) to amend the Social Security Act and related acts to make miscellaneous and technical amendments, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. JOHNSON of Connecticut. Mr. Speaker, reserving the right to object, I yields to the gentleman from California [Mr. STARK].

Mr. STARK. Mr. Speaker, I will be glad to explain the bill. This bill is a combination of two bills which we have been waiting for from the other body. With the concurrence of the majority and the minority from the Committee on Ways and Means and the Committee on Energy and Commerce, we have taken a portion of H.R. 11, the Social Security Act technical amendments, which have twice passed the House and once passed the Senate, and embodied them in this bill, which, if the gentlewoman will not object, will go to the Senate and await further consideration. We have added to that a provision that is there because of the perception and perseverance and persistence of the gentlewoman from Connecticut [Mrs. JOHNSON].

□ 2200

This is an extension of a Medicare select demonstration that is working in 15 States. We are extending that demonstration for 6 months from the first of the year and it is the intention of the Committee on Ways and Means and the Committee on Energy and Commerce to immediately begin to work on a permanent bill for this plan.

I would further state that there were other provisions in H.R. 11 which are not in this bill because of serious objections from the other body and that no new provisions have been added. I would like to take this opportunity as the year ends, if the gentlewoman would further yield, to thank certainly on behalf of the Committee on Ways and Means and more specifically the House subcommittee, the ranking minority member of the House subcommittee, the gentlewoman; the distinguished staff of the subcommittee and the staff of the full committee for their work through the year as we have dealt with many issues dealing with Medicare and health reform.

Mrs. JOHNSON of Connecticut. I thank the gentleman from California for her explanation and I thank my chairman as well of his hard work in bringing these Medicare technical amendments to passage and for his willingness to extend the Medicare select program for a few months while our subcommittee does the appropriate oversight work necessary to reauthorization. These technical amendments do represent many, many hours of hard work by the subcommittee and do merit our attention and passage.

Further reserving my right to object, I yield to the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. I thank the gentlewoman for yielding.

Mr. Speaker, I want to very briefly commend both of you. It is getting to be kind of tiresome to have technical corrections that were simply followups to bills that have been passed sitting around for 2 years because the other body is not willing to do its job. I commend the chairman for putting the Medicare select provisions in, even though it is for just 6 months, so that we do not diminish Medicare benefits. But I also want to at this time acknowledge the kind of work that the gentlewoman from Connecticut has done, not just on this one particular measure which frankly was moribund until she was willing to make sure that the House did what it was supposed to do. But for the long, long hours that she put in on health care so that the subcommittee, the full committee, and the House could be better informed about what we need to do in making difficult choices in front of us. I just want to compliment her not just for her perseverance but for the knowledge that she has acquired and the contribution that she has made in this and previous Congresses and I look forward to the contributions she makes in the next Congress.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman from California.

Mr. Speaker, I withdraw my reservation of objection and state my support for H.R. 5252.

The SPEAKER pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

(The bill will be printed in a subsequent issue of the CONGRESSIONAL RECORD.)

The bill was ordered to be ingrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. STARK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5252, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles;

H.R. 3160. An act to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to make technical corrections necessitated by the enactment of Public Law 102-586, and for other purposes; and

H.R. 4598. An act to direct the Secretary of the Interior to make technical corrections to maps relating to the Coastal Barrier Resources System, and to authorize appropriations to carry out the Coastal Barrier Resources Act.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2375. An act to amend title 18, United States Code, to make clear a telecommunications carrier's duty to cooperate in the interception of communications for law enforcement purposes, and for other purposes.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL 6 P.M., FRIDAY, NOVEMBER 4, 1994, TO FILE INVESTIGATIVE REPORTS

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations may have until 6 p.m. on Friday, November 4, 1994, to file 12 investigative reports. This request has been cleared with the minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan.

There was no objection.

TRIBUTE TO THE HONORABLE RONALD K. MACHTLEY

(Mr. STEARNS asked and was given permission to address the House for 1 minute.)

Mr. STEARNS. Mr. Speaker, I rise today to pay tribute to an outstanding Member of the House of Representatives who will be leaving this body at the end of the year, RON MACHTLEY.

RON has been an effective Representative of the people of the First District of Rhode Island since coming to Congress in 1988. He was the first Republican to fill that seat in over 40 years. Before coming to Congress RON worked in private practice and was instrumental in the revitalization of Newport. He served his country in the U.S. Navy and continues to serve as a Captain in the U.S. Naval Reserves.

RON has worked tirelessly for the people of Rhode Island and has served with distinction on the House Armed Services and Small Business Committees. RON introduced legislation that sought to allocate defense conversion funds to States that have been hardest hit by defense budget cuts. He also introduced legislation to offer employers tax credits to encourage the hiring of unemployed defense workers. Always sensitive to the disenfranchised and struggling small business person, he introduced legislation to reduce prepayment penalties on small businesses seeking to get out from underneath high interest rates on these loans.

Few Members have represented their constituents with such devotion and purpose. Returning every weekend to his district, RON remained what he began his political life as, a citizen Congressman. It has been a privilege to know him and work with him.

I wish RON, his wife Kati, and their children a rich and full life in the years ahead. I will miss him as a colleague and friend.

Mr. Speaker, I yield to the gentleman from Rhode Island [Mr. MACHTLEY].

Mr. MACHTLEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, my time here compared to our minority leader's and others has been a nanosecond. But as I have marched in this army of great patriots, as I have felt the spirit of the 10,000 Americans who have served in this House, I have been honored to serve. This is truly the People's House. As I have served here, I have always tried to remember where I came from, I have always tried to remember what my duties are as a Congressman to protect this country's constitutional rights. I have always tried to remember something that I think is important, where I will return.

As I leave here with great memories and with great friends, I thank the people of Rhode Island who have given me this honor, I thank the great friends who I have served with here, and I wish them fair winds and following seas. Our country needs you great leaders to do the things which are necessary as we go into the 21st century.

God bless you all and thank you for this experience.

INTRASTATE TOW AND WRECKER TRUCK TRANSPORTATION TECHNICAL CORRECTION ACT OF 1994

Mr. RAHALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5123) to make a technical correction to an Act preempting State economic regulation of motor carriers with a Senate amendment thereto, and disagree to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. TECHNICAL CORRECTION OF 1994 FAA AUTHORIZATION ACT.

(a) IN GENERAL.—Section 11501(h)(2) of title 49, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and insert in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(C) does not apply to the transportation of garbage and refuse;

"(D) does not apply to the transportation for collection of recyclable materials that are a part of a residential curbside recycling program; and

"(E) does not restrict the regulatory authority of a State, political subdivision of a State, or political authority of 2 or more States before January 1, 1997, insofar as such authority relates to tow trucks or wreckers providing for-hire service.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1995.

Mr. RAHALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

Mr. EMERSON. Mr. Speaker, reserving the right to object, I do so to enable the gentleman from West Virginia, the subcommittee chairman, to explain the bill.

Mr. RAHALL. Mr. Speaker, if the gentleman will yield under his reservation, this is a technical amendments, technical corrections bill. It has been agreed to by both sides of the aisle.

Mr. EMERSON. Mr. Speaker, I thank the gentleman. The gentleman is correct. There is no objection on this side.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from West Virginia?

There was no objection.

A motion to reconsider was laid on the table.

TRIBUTE TO THE HONORABLE WILLIAM D. FORD

(Mr. MCCLOSKEY asked and was given permission to address the House for 1 minute.)

Mr. MCCLOSKEY. Mr. Speaker, I am pleased to rise to honor BILL FORD whom I am sorry to see retiring at the end of this Congress. I am grateful to call BILL FORD a personal friend, in addition to being a distinguished colleague.

BILL FORD has been a champion over the past 30 years for the American worker and the American college student. He has contributed significantly to every Federal education bill since the 89th Congress. His most recent efforts include passage of the Elementary and Secondary Education Act reauthorization which was an uphill battle, and reauthorization of the Higher Education Act which made it possible for any student to qualify for Federal Education assistance regardless of their income level.

Having been raised by parents who worked in the auto industry in the plant lines, BILL has never forgotten his roots and has always promoted and defended the rights of American workers. In the past two Congresses he has taken the lead on comprehensive OSHA reform. He was the driving force behind the Worker Adjustment Retraining and Notification Act [WARN]. He won a 14-year battle to obtain passage of his plant-closing legislation despite a veto by President Reagan. He has also been on the forefront to assist American workers whose jobs move to Mexico and to obtain fair trade treatment for the auto industry and its workers.

I am happy to have served under BILL FORD's stewardship of the House Committee on Post Office and Civil Service. He and his staff were extremely helpful to me when I became the chairman of the Subcommittee on Postal Personnel and Modernization in 1985. During his tenure as chairman of Post Office and Civil Service, He worked tirelessly to help Federal employees and to ensure the viability of the U.S. Postal Service. He and BILL CLAY, my distinguished current chairman, were instrumental in obtaining passage of Hatch Act reform which was signed into law last year.

As I stated earlier, his staff has been extremely helpful to me whenever I have contacted them. I wish BILL great success in the private sector and hope that I see him often in whatever path he chooses after Congress.

BILL FORD came to Congress as a man with high ideals and I am happy

to say will be leaving Congress with all of the same high ideals. I wish BILL and his lovely wife, Mary Whalen, much happiness and success in life after Congress.

IN HONOR OF PATRICIA RISSLER, STAFF DIRECTOR OF COMMITTEE ON EDUCATION AND LABOR

Mr. McCLOSKEY. Mr. Speaker, I want to take this opportunity to also pay tribute to Pat Rissler, who is also retiring from Congress at the end of this year.

Pat Rissler came to Washington in 1963 from her home in Charles Town, WV. Since that time she has worked only for Michigan Members of Congress. She started her congressional career working for Senator Pat McNamara. Subsequently she worked for Senator Phil Hart, and then moved to the House side to work for BILL FORD.

Pat began as a typist and has risen to be the staff director of one our principal committees, the Committee on Education and Labor. Although the staff director of Education and Labor Committee, and involved in education for the past 21 years, Pat was unable to afford the money or the time for a college education of her own. Prior to being the staff director at Education and Labor, she was the deputy staff director and then staff director of the committee on Post Office and Civil Service.

She has worked for BILL FORD since he became chairman of his first subcommittee in 1973. That was the Subcommittee on Agricultural Labor of the Education and Labor Committee. At that time, BILL FORD began working on the issues of migrant labor and education for the children of migrant laborers. BILL has maintained his interest in Education for the children of migrants and Pat has worked with him on these efforts for 21 years.

My personal experience with Pat on the Post Office and Civil Service Committee was wonderful. The trains ran on time, there were no surprises, and we got the important things done.

Pat is also leaving this Congress when BILL retires. She is going to go to the private sector for the first time since she was in high school. Whoever she works for will be the beneficiary of our loss. I wish Pat the best in whatever endeavor she chooses. I know she will excel.

□ 2210

COASTAL BARRIER RESOURCES ACT AUTHORIZATION AND CORRECTIONS TO MAPS

Mrs. UNSOELD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4598) to direct the Secretary of the Interior to make technical corrections to maps relating to the Coastal Barrier Resources System, and to authorize appropriations to carry out the Coastal Barrier Resources Act, with a Senate amendment thereto and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. CORRECTION TO MAPS.

(a) IN GENERAL.—The Secretary of the Interior shall, not later than 30 days after the date of enactment of this Act, make such corrections to the maps described in subsection (b) as are necessary to ensure that—

(1) depictions of areas on the maps are consistent with the depictions of areas appearing on the maps entitled 'Coastal Barrier Resources System", dated September 27, 1994, and on file with the Secretary of the Interior; and

(2) the Coastal Barrier Resources System does not include any area that, on the day before the date of the enactment of this Act, was part of unit FL-05P of the System.

(b) MAPS DESCRIBED.—The maps described in this subsection are maps that—

(1) are included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990; and

(2) related to the following units of the Coastal Barrier Resources System: AL-01P, FL-05P; P11A, P17, P17A, P18P, P19P, FL-15, FL-95P, FL-36P, P31P, FL-72P, MI21, NY75, and VA62P.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 12 of the Coastal Barrier Resources Act (16 U.S.C. 3510) is amended to read as follows:

"SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary for carrying out this Act $2,000,000 for each of fiscal years 1995 to 1998.".

Mrs. UNSOELD (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentlewoman from Washington?

Mrs. FOWLER. Mr. Speaker, reserving the right to object, I do not plan to object. This is a bipartisan bill and is well supported.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Washington?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentlewoman from Washington?

There was no objection.

A motion to reconsider was laid on the table.

INQUIRY INTO POTENTIAL CONFLICTS OF INTEREST WITH THE SECRETARY OF COMMERCE

(Mr. CLINGER asked and was given permission to address the House for 5 minutes and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, I take this time reluctantly but out of a sense of frustration, Mr. Speaker, because of a project that we have had underway in the Committee on Government Operations for some time, and have found ourselves unable to get the information we need in order to resolve an apparent conflict of interest, or apparent conflicts of interest with a member of the President's Cabinet.

The Committee on Government Operations, on which I am pleased to serve as the ranking Republican member, is charged, among other things, with ensuring the ethical running of the Government. As part of that responsibility, we are charged with ensuring that no conflicts exist. Cabinet-level officials are required to file financial disclosure reports upon entry into service and annually to ensure that they are not in any way put in a situation where they may have a conflict of interest. Those reports report their assets, their transactions, their liabilities and positions that are held outside of the Government. As a part of our review of Secretary of Commerce Brown's holdings, the reports have revealed to us what appeare to be potential conflicts of interest. Let me just say what I feel that conflicts appear to be, and that is that the Secretary has large financial interests in the information and communications area. He has had or holds a number of interests in telecommunications and in communications areas.

Why is that a conflict of interest? Because the Secretary, as the Secretary of Commerce, has a significant role to play in the development and implementation of policy in that sector. The Secretary is responsible under the law for the National Telecommunications and Information Administration, for the International Trade Administration, and both of the above, Mr. Speaker, have significant roles in the development of the information highway, which is a major initiative of this administration.

He is also, in his capacity as Secretary of Commerce, co-chairman of the U.S. Advisory Council on the National Information Infrastructure.

Over the past 8 months we have attempted to resolve or get answers to these appearances of potential conflicts, which I think are very real. However, the Secretary has consistently refused to answer questions about these holdings, and that has gone on now for a period of about 8 months. Apparently the Secretary is determined that he is not accountable to Congress or to the American public with regard to his holdings in what seems to be a very apparent conflict of interest.

As a result of that I have called for, and 2 days ago sent letters asking for, two independent investigations of these matters which we have not been able to resolve in the Committee on Government Operations. First I have directed or asked the Department of Commerce inspector general to determine whether the Secretary's personal

financial holdings during his tenure as Secretary pose any conflicts of interest with his financial responsibilities. I have further asked and directed a letter to the Office of Government Ethics to ask them to seriously evaluate the ethics program at the Commerce Department, because the department's ethics officials failed to obtain the necessary information to satisfactorily review and analyze Secretary Brown's financial holdings prior to certifying on his financial disclosure reports that no conflicts exist.

That is the bottom line. We are really trying to determine if there is a conflict.

We are not doing this, I must say, as any Republican witch hunt. We are not out to get the Secretary. We are just out to try and get some information.

To give an example of how we have tried to get this information, back in February of this year, I sent a letter to the Secretary asking very specific questions about his interests in companies in the communications and information area given his responsibilities as Secretary of Commerce in this field. I did not allege any wrongdoing. I still do not allege any wrongdoing. I simply stated that the potential appearance of a conflict needed to be alleviated in order to alleviate my concerns. I received no response from the Secretary. That was back in February. Instead, on March 2 of last year I received a letter from Barbara Fredericks who is the assistant general counsel and at the designated agency ethics official at the Department of Commerce. Her response ignored most of my specific questions. She suggested that I wait for 3 months until May of this year to view the Secretary's 1993 incumbent financial disclosure report which would then be released.

□ 2220

Having really not gotten any satisfactory answer, on March 23 of this year, I wrote to the Secretary to emphasize the lack of responsiveness to my February letter as well as reiterated my original questions about what did he hold, when did he hold it, when did he get rid of it, if he did get rid of it, and so forth. Again, this time I got no response from the Secretary for the second time. This time I received a letter from Ginger Lew, general counsel of the Department of Commerce, on June 1, 1994; she enclosed a copy of the Secretary's financial disclosure statement of 1993, which she said should answer all of my questions.

Frankly, it was totally unsatisfactory. There were few questions that were answered, and it raised many additional questions.

The staff, my staff on Government Operations, then met with Ms. Lew and Ms. Fredericks in an attempt once again to answer these outstanding questions. They saw no reason for such a meeting and declined to attend a meeting. Finally, with much reluctance, they agreed. They informed me that the bulk of the information requested was beyond the scope of the designated agency ethics officer's responsibility and, therefore, they could not provide me with the information.

Actually my requests from the word go were directed to Secretary Brown, not to any ethics officer or to anyone else in the Commerce Department, but the Secretary or somebody referred the letter to the ethics officer to respond.

The bottom line is we did not get any answer.

Then on September 9 of this year we finally received a response from the Secretary himself, after 8 months, who claims that my requests are no longer relevant, because he had divested his interest in most of the companies in question. That assertion, Mr. Speaker, fails to recognize accountability under the Government ethics statutes during his entire tenure in office and, in fact, from his ethics report, it is not clear whether in fact he has divested his interest in many of these holdings.

So, what interests and activities has he been involved in is what we would like to get some answers to. That is why I am here tonight. I have not gone public with this; I have not tried to make political hay out of it or publicity out of it. I have just been trying to get some answers, and having been foiled at every turn, I chose this forum to try and get the attention of the Secretary to try and get some response to some questions.

He has held or holds interest in the Boston Bank of Commerce and Boston Bank of Commerce Associates, where he indicated in his initial filing that he had a $15,000 to $50,000 interest in the Boston Bank of Commerce Associates and a directorship in the Boston Bank of Commerce. His incumbent financial disclosure report in 1993 retained his interest in the Boston Bank of Commerce Association but resigned his directorship in the Boston Bank of Commerce. I know this gets very convoluted and very complex, but the Secretary never actually asked for a waiver for his interest in the Boston Bank of Commerce.

He said he was going to ask for a waiver. No such waiver was ever filed.

The waiver, as written, referred only to the Boston Bank of Commerce, not to the Boston Bank of Commerce Associates. Ms. Lew, who we talked to, claimed the Boston Bank of Commerce Associates is a holding company for Boston Bank of Commerce. However, despite repeated requests, no written verification has ever been provided. We would like to get some verification.

The Secretary continues to have substantial interest in a company, in an industry, the banking industry, which could be affected and very clearly could be affected by the policies the Secretary develops and implements in his capacity as the Secretary of Commerce of the United States.

The second holding which we have questions about but have not received answers for has to do with the First International Communications Co. When he became Secretary of Commerce, Mr. Brown showed that he had a $500,000 to $1 million interest in an outfit called First International Communications, Inc. No waiver was ever asked or received from the White House for that interest, and in light of this very large financial interest, we asked him to provide the client list, the nature of what was indicated as international-domestic consulting and investment services the company provided to their clients, the names of the officers, the major stockholders, the company's net worth, the company's current valuation, and the nature of the Secretary's financial interest.

In response, Ms. Fredericks at Commerce on behalf of the Secretary said, and I am quoting, "With regard to First International Communications, the Secretary's sole financial interest in this entity is that he owns an equity interest." Well, that was apparent from what he said on his report; he owns an equity interest.

But the committee staff went to other sources: Dunn and Bradstreet revealed that First International Communications, Inc., was just a trade name for Corridor Broadcasting Corp., which is clearly involved in the telecommunications-communications industry, and ironically, in response to another of my questions, Ms. Fredericks stated, "The Secretary does not have, nor has he ever had, a financial interest in Corridor Communications," a clear conflict for which we are still waiting for an answer to resolve why we were told he did not have any interest in Corridor Communications but, in fact, Corridor Communications is basically the name of First International, which is a major communications company in which he had a $500,000 to $1 million interest.

Pursuant to Ms. Lew's suggestion, we looked to the incumbent report to find clarification about First International. The only information provided was that the Secretary sold his interest in First International on or before December 31, 1993. That made no sense, frankly; because Ms. Fredericks informed me on March 2, 3 months later, the Secretary had an equity interest in First International. So, you see, the plot thickens. It gets very, very complex. We get confusing, conflicting answers about the nature of the Secretary's interests and when he had them and when he got rid of them.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. CLINGER. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, has the Secretary been willing to cooperate

with you in resolving these matters, where this is a very confusing interlocking of relationships?

Mr. CLINGER. That is why we are here tonight, frankly. As I said at the beginning, I am reluctant to really come to the floor with this, because we have been trying to get some resolution of these questions. I have got to say very frankly that the Secretary's financial statements which he filed when he became Secretary and which he has filed subsequently are misleading, do not give a clear picture of what his holdings are, the extent of those holdings, when they were sold, if they were sold. Holdings appear on his statement which then the next year disappear, and yet there is no indication of how they were gotten rid of or what happened to them.

Mr. WALKER. Are those financial disclosure forms the same as the ones we file?

Mr. CLINGER. Exactly the same.

Mr. WALKER. Are not there supposed to be places, as I recall, on that form for saying whether or not you sold off an asset or bought an asset in the previous years? You mean, those particular parts of the financial disclosure form are not properly filled out?

Mr. CLINGER. They just disappear. Of course, you are not required to report a sale if it results in less than $1,000 coming back to you, but these were interests that were $500,000 to $1 million, $15,000 to $50,000. Suddenly they just disappeared. There is no indication of who now owns them or whether the Secretary still owns them.

Again, I say, what he owns or does not own is not really relevant. What he owns that has relation to the telecommunications-communications industry and the new massive development that we are going to have in the telecommunications superhighway, I think, is relevant and deserves some answers. That is all we are trying to get at: Is there a conflict or not?

Mr. WALKER. Is not this the kind of thing that would typically be subjected to some congressional hearings when these kinds of questions arise with regard to a Cabinet official?

Mr. CLINGER. I would think that would be an appropriate thing to do. Clearly, I am going to be calling for that and asking for those hearings in the next session of Congress, because we have, frankly, been frustrated at every turn to get the answers, and I really have tried very hard to get a response.

Mr. WALKER. The committee, the Committee on Government Operations in the personage of the chairman, has not been willing to use the subpoena power of the committee to try to get some of these records?

Mr. CLINGER. We have not gone to that route. However, I think that may be what we are going to have to do in order to get this. Because, frankly, the Secretary, I think, has shown, basically a contempt for legitimate requests of a committee that has oversight over these kinds of responsibilities, has not been willing to give us the barest understanding of it. I was, frankly, not suspicious of anything really involved. I really just said, "Look, there is an appearance of a conflict here. Let us clear it up." That has been 8 months ago. We are now 8 months down, and we keep getting this sort of misdirection, "No, we cannot tell you that; no, we told you all we are going to tell you; we are not going to give you any more information," We have reached a stonewall which brings me to the floor tonight.

□ 2230

Mr. WALKER. You know, I remember from some of the work that the gentleman was doing over the past several months that he turned up some concern about Secretary Brown having association with a woman by the name of Nolanda Hill, who within the last year defaulted on a loan taken over by the FDIC which resulted in a $23 million loss to the American taxpayers. Has the gentleman's investigation resolved the matter of that loan and that loss?

Mr. CLINGER. The very short answer to that is no, we have not been able to resolve that. That is one of the other questions that still remains hanging out there to which we do not have answers. Nolanda Hill was and may still be actively involved in two of the companies which were or may still be owned by Secretary Brown, First International and Harmon International. As I stated before, the purposes of these companies and the relationship of Nolanda Hill remain unclear despite our efforts to try to get them resolved. The Secretary refused to answer my questions about their relationship. In addition, the Secretary has an outstanding promissory note to a company called Know, Inc. Our sources have told us that Nolanda Hill is involved in Know, Inc. I might add that at the time that Nolanda Hill was defaulting on that loan which the gentleman mentioned which did result in the loss to taxpayers of some many millions of dollars, she was at that very time contributing $75,000 to the Democratic National Party in soft money.

Mr. WALKER. I believe the gentleman said in his answer that the Secretary has refused to answer his questions about the relationship and some of these troubling problems. The gentleman has written him specifically about this or he has inquired, and what has he—has he just refused to answer the letters?

Mr. CLINGER. Basically the first two letters we wrote we got—we were siphoned off onto the designated agency ethics officer, who was nonresponsive to the questions we asked. The final letter, which we received a couple of weeks ago, basically said, "You got all we are going to give you." This was from the Secretary, and he said, "You got all we are going to give you. We are not going to give you any further answers. You have got my ethics report which I filed, my disclosure statement." The disclosure statement is totally inadequate because it does not show what disposition was made of the interest in telecommunications companies that showed up on the previous report. It is not adequate, and that is why I am here. I am just trying to force some action, some response to the questions that we have raised.

Mr. WALKER. Let me just try to clear something here for the record. I think maybe the gentleman has had some correspondence, as I recall, with the designated agency ethics officer, which is what the gentleman just referred to. And that ethics officer—that ethics officer came up to the Hill, and you were informed that you had to ask the Secretary the questions about his financial holdings directly.

Mr. CLINGER. That is right. The ethics officer said, "We can't answer those questions, those questions you would have to ask the Secretary." Of course, we asked the Secretary because the letter we wrote was directed to the Secretary. He chose not to answer them, referred them to the ethics officer, who then said, "We can't answer those questions, those can only be answered by the Secretary."

So, I feel, that I have been run around in a circle in this whole thing because we have been trying quietly, not in the glare of publicity, trying to get some answers. But on February 10, I sent the Secretary questions, the questions were referred to the ethics officer by the Secretary, I presume, because the letter was sent to him and the ethics officer came up to Capitol Hill and we met for some time, got no answers to the questions, and we wrote other letters and got no answer, which brought me to the floor tonight.

Mr. WALKER. Let me see if I can understand the merry-go-round. On the merry-go-round, you write a letter to the Secretary, the Secretary refers it to the ethics officer, the ethics officer comes and talks to you, and he says that what you have to do is talk to the Secretary. So when you go to the Secretary, the Secretary says he is not going to answer, you have to talk to the ethics officer, and the ethics officer then comes back and says that you have to talk to the Secretary, and round and round and round you go and nobody ever answers.

Mr. CLINGER. That is why I am here tonight, because I really feel we have got to break this chain of nonresponseness which we have been getting for the last 8 months. So, as a result of that, I have now, as I indicated earlier in my response, requested the Office of Government Ethics to

look into whether the ethics officers in the Department of Commerce are doing their job.

Second, I have requested the Commerce Department inspector general to try to get answers to the questions that I have been asking now for 8 months and have not been able to get a response to.

Mr. WALKER. I will tell you what I find disturbing in all this. These are the kinds of questions that should be asked by the appropriate committees of the Congress and typically would be asked except that in instance after instance on Capitol Hill this particular Congress has refused to ask these kinds of questions to officers of this administration. And I think as a result we now have almost trial by newspaper headline, as some of these things then do leak out and people are put through the mill of innuendo about what is going on. Far better that we would hold some hearings and properly handle these things. It seems to me the gentleman has legitimate questions that should be posed by the committees of the Congress, answered by the Secretary.

If he has good answers for them, that clears up the matter immediately. It is done on the public record that way, it clears up the matter immediately and we do not have to go through the kind of exercise we are going through here tonight.

Mr. CLINGER. It could have been done 8 months ago. It could have been given 8 months ago, those answers. But I think it raises a broader question, and that is where you do have the executive branch and the legislative branch both in the control of one political party, how do we really assure that we conduct—that we can conduct oversight to make sure everything is done properly?

Well, that is not the case, for example, in the last administration. We had a Republican executive branch and a Democratic Congress, the Congress had the subpoena power to compel the answers to the questions.

That is not what we have at the present time. That has made our job much more difficult, which is why I think what we are raising here is really a broader question what is the right of the minority to know, what is the right of the American people to know, when there is an effort to not provide information?

That is really what the broader question is that is raised by our example here of trying to get some information from Secretary Brown. I think we will ultimately proceed to get that information, but it has taken too long and it has been too difficult to acquire, and we really need to, I think, address the broader question.

Mr. WALKER. I thank the gentleman. I congratulate him for the work he has done and the amount of time he has spent on this investigation. It seems to me he raises some very troubling questions here, questions that deserve answers, not just for the Congress, but the American people deserve answers to these questions because the conflicts of interest that occur in a department like the Commerce Department are matters then that affect the whole of the public. Middle-class America does deserve to have answers to questions as troubling as the ones that the gentleman raised tonight.

Mr. CLINGER. I thank the gentleman. I think that really is the bottom line. We do have responsibility to assure that decisions that are made by poicymakers are made without concern for personal aggrandizement and where you have at least a suggestion that those decisions, policy decisions, could be influenced by financial holdings in industries that may be benefited or harmed by decisions that you make, I think we desperately need to have that information. And the American people deserve to have it to be sure that the decisions are unbiased.

I thank the gentleman, and I yield back the balance of my time.

TRIBUTE TO MAJOR SMITH, DECEASED

(Mr. McCLOSKEY asked and was given permission to revise and extend his remarks.)

Mr. McCLOSKEY. Mr. Speaker, as we grind down to the waning minutes of this session, one thing that strikes me is that all the great employees and staff personnel that give us so much support hardly ever receive the particular or general thanks that they really deserve.

I do not have a formal statement with me, but one of the particular sadnesses that I have as I leave tonight and go away from the Congress tomorrow is that this was a year that an outstanding Capitol Hill policeman, one Major Smith, passed away. I think many of us know "Smitty" from our walkings around the Hill.

He was usually posted on the very, very bottom floor, in the 1st floor of the Cannon. Though he will never be famous, I shall remember him to my dying day as one of the more outstanding individuals I have ever met.

□ 2240

He was truly honest, caring, brave and concerned.

I got to know Smitty and his family, his family to a lesser degree, over the years, but he really had an amazing life. He did everything right, was a distinguished Air Force veteran of some 20 years in the Air Force, not quite as long as with the Capitol Hill Police, but he was a gentleman who made a great impression on any person that he ever met.

It was a particular element of heartbreak to me that within 2 or 3 months after Smitty had earned a well-earned retirement after all these years that, as is often the case, he was struck with cancer, and within a matter of several months was gone, but his spirit lives on, and I think he exemplifies the best of Federal and Capitol service.

I know all the people that know him over the years agree, and particularly, I guess as we all live in stressful times, I want to thank the Capitol Hill Police, of which he was an outstanding member, for all the services, the dedication and the security they give to us.

I will have a formal statement by Monday morning, Mr. Speaker, in Smitty's memory, and I really appreciate this opportunity.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, I join with my good friend, the gentleman from Indiana [Mr. McCLOSKEY], a fellow Hoosier, in remembering Smitty. There are so many people like Smitty around here that make our job a lot easier, who contribute to making the country a better place, who are unsung heroes. They are never on television. Never are their names out in the limelight. We do not see their names in the legislation that passes or does not pass. There are heroes who do or do not do something for this country, there are a lot of people like that that serve Capitol Hill that are the unsung heroes that we every once in a while should stop to say, "Thank you," for the job they do.

A lot of people say, "Oh, they got paid for their job. Why should we thank them?"

But they are really working for all our country when they serve here. They had other careers, many of them military.

Mr. McCLOSKEY. He was in the Air Force.

Mr. MYERS of Indiana. But there are so many people like that who have really contributed so much to our job and our country. They are true heroes, and we ought to stop more often than we do, maybe, and thank them for the job they do because they are really the heroes.

And some of us get on television, we do all these things, but they are the people that really make the country great.

Mr. Speaker, I say to the gentleman, "Thank you for honoring Smitty tonight."

Mr. McCLOSKEY. I say to the gentleman, "Thank you, Mr. MYERS."

I say in closing again, Mr. Speaker, he will always be remembered and appreciated, and more than once he gave me advice and counsel to help me immeasurably in my day-to-day activities out here.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the subject of the tributes previously given.

The SPEAKER pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from Indiana?

There was no objection.

RECESS

The SPEAKER pro tempore. The House will now stand in recess for approximately 10 minutes.

Accordingly (at 10 o'clock and 43 minutes p.m.) the House stood in recess for approximately 10 minutes.

□ 2350

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. DURBIN] at 11 o'clock and 55 minutes p.m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 512. An act to amend chapter 87 of title 5, United States Code, to provide that group life insurance benefits under such chapter may, upon application, be paid out to an insured individual who is terminally ill, and for other purposes;

H.R. 2970. An act to reauthorize the Office of Special Counsel, and for other purposes;

H.R. 3499. An act to amend the Defense Department Overseas Teachers Pay and Personnel Practices Act; and

H.R. 4361. An act to amend title 5, United States Code, to provide that an employee of the Federal Government may use sick leave to attend to the medical needs of a family member, to modify the voluntary leave transfer program with respect to employees who are members of the same family; and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2478. An act to amend the Small Business Act to enhance the business development opportunities of small business concerns owned and controlled by socially and economically disadvantaged individuals, and for other purposes.

REAUTHORIZING THE OFFICE OF SPECIAL COUNSEL

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2970) to reauthorize the Office of Special Counsel, and for other purposes, with a Senate Counsel, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment: Strike out all after the enacting clause and insert:

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

(a) MERIT SYSTEMS PROTECTION BOARD.—Section 8(a)(1) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note: Public Law 101-12: 103 Stat. 34) is amended by striking out "1989, 1990, 1991, 1992, 1993, and 1994" and inserting in lieu thereof "1993, 1994, 1995, 1996, and 1997."

(b) OFFICE OF SPECIAL COUNSEL.—Section 8(a)(2) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note: Public Law 101-12; 103 Stat. 34) is amended by striking out "1989, 1990, 1991, and 1992" and inserting in lieu thereof "1993, 1994, 1995, 1996, and 1997".

SEC. 2. REASONABLE ATTORNEY FEES IN CERTAIN CASES.

Section 1204 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(m)(1) Except as provided in paragraph (2) of this subsection, the Board, or an administrative law judge or other employee of the Board designated to hear a case arising under section 1215, may require payment by the agency involved of reasonable attorney fees incurred by an employee or applicant for employment if the employee or applicant is the prevailing party and the Board, administrative law judge, or other employee (as the case may be) determines that payment by the agency is warranted in the interest of justice, including any case in which a prohibited personnel practice was engaged in by the agency or any case in which the agency's action was clearly without merit.

"(2) If an employee or applicant for employment is the prevailing party of a case arising under section 1215 and the decision is based on a finding of discrimination prohibited under section 2302(b)(1) of this title, the payment of attorney fees shall be in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)).".

SEC. 3. OFFICE OF SPECIAL COUNSEL.

(a) SUCCESSION.—Section 1211(b) of title 5, United States Code, is amended by inserting after the first sentence: "The Special Counsel may continue to serve beyond the expiration of the term until a successor is appointed and has qualified, except that the Special Counsel may not continue to serve for more than one year after the date on which the term of the Special Counsel would otherwise expire under this subsection."

(b) LIMITATIONS ON DISCLOSURES.—Section 1212(g) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking out "provide information concerning" and inserting in lieu thereof "disclose any information from or about"; and

(2) in paragraph (2), by striking out "a matter described in subparagraph (A) or (B) of section 2302(b)(2) in connection with a" and inserting in lieu thereof "an evaluation of the work performance, ability, aptitude, general qualifications, character, loyalty, or suitability for any personnel action of any".

(c) STATUS REPORT BEFORE TERMINATION OF INVESTIGATION.—Section 1214(a) of title 5, United States Code, is amended—

(1) in paragraph (1) by adding at the end thereof the following new subparagraph:

"(D) No later than 10 days before the Special Counsel terminates any investigation of a prohibited personnel practice, the Special Counsel shall provide a written status report to the person who made the allegation of the proposed findings of fact and legal conclusions. The person may submit written comments about the report to the Special Counsel. The Special Counsel shall not be required to provide a subsequent written status report under this subparagraph after the submission of such written comments."; and

(2) in paragraph (2)(A)—

(A) in clause (ii) by striking out "and" after the semicolon;

(B) in clause (iii) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(C) by adding at the end thereof the following new clause:

"(iv) a response to any comments submitted under paragraph (1)(D).".

(d) DETERMINATIONS.—Section 1214(b)(2) of title 5, United States Code, is amended—

(1) by redesignating subparagraphs (A), (B), and (C) as subparagraphs (B), (C), and (D), respectively;

(2) by inserting before subparagraph (B) (as redesignated by paragraph (1) of this subsection) the following:

"(A)(i) Except as provided under clause (ii), no later than 240 days after the date of receiving an allegation of a prohibited personnel practice under paragraph (1), the Special Counsel shall make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken.

"(ii) If the Special Counsel is unable to make the required determination within the 240-day period specified under clause (i) and the person submitting the allegation of a prohibited personnel practice agrees to an extension of time, the determination shall be made within such additional period of time as shall be agreed upon between the Special Counsel and the person submitting the allegation."; and

(3) by inserting after subparagraph (D) (as redesignated by paragraph (1) of this subsection) the following new subparagraph:

"(E) A determination by the Special Counsel under this paragraph shall not be cited or referred to in any proceeding under this paragraph or any other administrative or judicial proceeding for any purpose, without the consent of the person submitting the allegation of a prohibited personnel practice.".

(e) REPORTS.—Section 1218 of title 5, United States Code, is amended by inserting "cases in which it did not make a determination whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken within the 240-day period specified in section 1214(b)(2)(A)(i)," after "investigations conducted by it,".

SEC. 4. INDEPENDENT RIGHT OF ACTION.

(a) SUBPOENAS.—Section 1221(d) of title 5, United States Code, is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) At the request of an employee, former employee, or applicant for employment seeking corrective action under subsection (a), the Board shall issue a subpoena for the attendance and testimony of any person or the production of documentary or other evidence from any person if the Board finds that the testimony or production requested is not unduly burdensome and appears reasonably calculated to lead to the discovery of admissible evidence.".

(b) CORRECTIVE ACTIONS.—Section 1221(e)(1) is amended by adding after the last sentence: "The employee may demonstrate that the

disclosure was a contributing factor in the personnel action through circumstantial evidence, such as evidence that—

"(A) the official taking the personnel action knew of the disclosure; and

"(B) the personnel action occurred within a period of time such that a reasonable person could conclude that the disclosure was a contributing factor in the personnel action."

(c) REFERRALS.—Section 1221(f) of title 5, United States Code, is amended by adding after paragraph (2) the following new paragraph:

"(3) If, based on evidence presented to it under this section, the Merit Systems Protection Board determines that there is reason to believe that a current employee may have committed a prohibited personnel practice, the Board shall refer the matter to the Special Counsel to investigate and take appropriate action under section 1215.".

SEC. 5. PROHIBITED PERSONNEL PRACTICES.

(a) PERSONNEL ACTIONS.—Section 2302(a)(2)(A) of title 5, United States Code, is amended—

(1) in clause (ix) by striking out "and" after the semicolon:

(2) by striking out clause (x) and inserting in lieu thereof the following:

"(x) a decision to order psychiatric testing or examination; and

"(xi) any other significant change in duties, responsibilities, or working conditions;"; and

(3) in the matter following designated clause (xi) (as added by paragraph (2) of this subsection) by inserting before the semicolon the following: ", and in the case of an alleged prohibited personnel practice described in subsection (b)(8), an employee or applicant for employment in a Government corporation as defined in section 9101 of title 31".

(b) COVERED POSITIONS.—Section 2302(a)(2)(B) of title 5, United States Code, is amended to read as follows:

"(B) 'covered position' means, with respect to any personnel action, any position in the competitive service, a career appointee position in the Senior Executive Service, or a position in the excepted service, but does not include any position which is, prior to the personnel action—

"(i) excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

"(ii) excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration; and".

(c) AGENCIES.—Section 2302(a)(2)(C) of title 5, United States Code, is amended in clause (i) by inserting before the semicolon: ", except in the case of an alleged prohibited personnel practice described under subsection (b)(8)".

(d) INFORMATIONAL PROGRAM.—Section 2302(c) of title 5, United States Code, is amended in the first sentence by inserting before the period ", and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter 12 of this title".

SEC. 6. PERFORMANCE APPRAISALS.

Section 4313(5) of title 5, United States Code, is amended to read as follows:

"(5) meeting affirmative action goals, achievement of equal employment opportunity requirements, and compliance with the merit systems principles set forth under section 2301 of this title.".

SEC. 7. MERIT SYSTEMS APPLICATION TO CERTAIN VETERANS AFFAIRS PERSONNEL.

Section 2105 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) For purposes of sections 1212, 1213, 1214, 1215, 1216, 1221, 1222, 2302, and 7701, employees appointed under chapter 73 or 74 of title 38 shall be employees.".

SEC. 8. CORRECTIVE ACTIONS ORDERED BY THE MERIT SYSTEMS PROTECTION BOARD.

(a) IN GENERAL.—Section 1214 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) If the board orders corrective action under this section, such corrective action may include—

"(1) that the individual be placed, as nearly as possible, in the position the individual would have been in had the prohibited personnel practice not occurred; and

"(2) reimbursement for attorney's fees, back pay and related benefits, medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential damages.".

(b) CERTAIN REPRISAL CASES.—Section 1221(g) of title 5, United States Code (as amended by section 4(d) of this Act) is further amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2) (as redesignated by paragraph (1) of this subsection) the following new paragraph:

"(1)(A) If the Board orders corrective action under this section, such corrective action may include—

"(i) that the individual be placed, as nearly as possible, in the position the individual would have been in had the prohibited personnel practice not occurred; and

"(ii) back pay and related benefits, medical costs incurred, travel expenses, and any other reasonable and foreseeable consequential changes.

"(B) Corrective action shall include attorney's fees and costs as provided for under paragraph (2) and (3).".

SEC. 9. AUTHORITIES RELATING TO ARBITRATORS AND CHOICE OF REMEDIES NOT INVOLVING JUDICIAL REVIEW.

(a) AUTHORITIES WHICH MAY BE EXTENDED TO ARBITRATORS.—Section 7121(b) of title 5, United States Code, is amended—

(1) by redesignating subparagraphs (A) through (C) of paragraph (3) as clauses (i) through (iii), respectively;

(2) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(3) by striking "(b)" and inserting "(b)(1)"; and

(4) by adding at the end the following:

"(2)(A) The provisions of a negotiated grievance procedure providing for binding arbitration in accordance with paragraph (1)(C)(iii) shall, if or to the extent that an alleged prohibited personnel practice is involved, allow the arbitrator to order—

"(i) a stay of any personnel action in a manner similar to the manner described in section 1221(c) with respect to the Merit Systems Protection Board; and

"(ii) the taking, by an agency, of any disciplinary action identified under section 1215(a)(3) that is otherwise within the authority of such agency to take.

"(B) Any employee who is the subject of any disciplinary action ordered under subparagraph (A)(ii) may appeal such action to the same extent and in the same manner as if the agency had taken the disciplinary action absent arbitration.".

(b) CHOICE OF REMEDIES PROVISION NOT INVOLVING JUDICIAL REVIEW.—Section 7121 of title 5, United States Code, is amended by adding at the end the following:

"(g)(1) This subsection applies with respect to a prohibited personnel practice other than a prohibited personnel practice to which subsection (d) applies.

"(2) An aggrieved employee affected by a prohibited personnel practice described in paragraph (1) may elect not more than one of the remedies described in paragraph (3) with respect thereto. For purposes of the preceding sentence, a determination as to whether a particular remedy has been elected shall be made as set forth under paragraph (4).

"(3) The remedies described in this paragraph are as follows:

"(A) An appeal to the Merit Systems Protection Board under section 7701.

"(B) A negotiated grievance procedure under this section.

"(C) Procedures for seeking corrective action under subchapters II and III of chapter 12.

"(4) For the purpose of this subsection, a person shall be considered to have elected—

"(A) the remedy described in paragraph (3)(A) if such person has timely filed a notice of appeal under the applicable appellate procedures;

"(B) the remedy described in paragraph (3)(B) if such person has timely filed a grievance in writing, in accordance with the provisions of the parties' negotiated procedure; or

"(C) the remedy described in paragraph (3)(C) if such person has sought corrective action from the Office of Special Counsel by making an allegation under section 1214(a)(1).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 7121(a)(1) of title 5, United States Code, is amended—

(1) by striking "(d) and (e)" and inserting "(d), (e), and (g)"; and

(2) by inserting "administrative" after "exclusive".

SEC. 10. EXPENSES RELATED TO FEDERAL RETIREMENT APPEALS.

Section 8348(a) of title 5, United States Code, is amended—

(1) in paragraph (1)(B) by striking out "and" at the end thereof:

(2) in paragraph (2) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(3) is made available, subject to such annual limitation as the Congress may prescribe, for any expenses incurred by the Merit Systems Protection Board in the administration of appeals authorized under sections 8347(d) and 8461(e) of this title.".

SEC. 11. ELECTION OF APPLICATION OF LAWS BY EMPLOYEES OF THE RESOLUTION TRUST CORPORATION AND THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

(a) ELECTION OF PROVISIONS OF TITLE 5, UNITED STATES CODE.—If an individual who believes he has been discharged or discriminated against in violation of section 21a(q)(1) of the Federal Home Loan Bank Act (12 U.S.C. 144a(g)(1)) seeks an administrative corrective action or judicial remedy for such violation under the provisions of chapters 12 and 23 of title 5, United States Code, the provisions of section 21a(q) of such Act shall not apply to such alleged violation.

(b) ELECTION OF PROVISIONS OF FEDERAL HOME LOAN BANK ACT.—If an individual files a civil action under section 21a(q)(2) of the Federal Home Loan Bank Act (12 U.S.C.

1441a(q)(2)), the provisions of chapters 12 and 23 of title 5, United States Code, shall not apply to any alleged violation of section 21a(q)(1) of such Act.

SEC. 12. IMPLEMENTATION.

(a) POLICY STATEMENT.—No later than 6 months after the date of enactment of this Act, the Special Counsel shall issue a policy statement regarding the implementation of the Whistleblower Protection Act of 1989. Such policy statement shall be made available to each person alleging a prohibited personnel practice described under section 2302(b)(8) of title 5, United States Code, and shall include detailed guidelines identifying specific categories of information that may (or may not) be communicated to agency officials for an investigative purpose, or for the purpose of obtaining corrective action under section 1214 of title 5, United States Code, or disciplinary action under section 1215 of such title, the circumstances under which such information is likely to be disclosed, and whether or not the consent of any person is required in advance of any such communication.

(b) TERMINATION STATEMENT.—The Special Counsel shall include in any letter terminating an investigation under section 1214(a)(2) of title 5, United States Code, the name and telephone number of an employee of the Special Counsel who is available to respond to reasonable questions from the person regarding the investigation or review conducted by the Special Counsel, the relevant facts ascertained by the Special Counsel, and the law applicable to the person's allegations.

SEC. 13. ANNUAL SURVEY OF INDIVIDUALS SEEKING ASSISTANCE.

(a) IN GENERAL.—The Office of Special Counsel shall, after consulting with the Office of Policy and Evaluation of the Merit Systems Protection Board, conduct an annual survey of all individuals who contact the Office of Special Counsel for assistance. The survey shall—

(1) determine if the individual seeking assistance was fully apprised of their rights;

(2) determine whether the individual was successful either at the Office of Special Counsel or the Merit Systems Protection Board; and

(3) determine if the individual, whether successful or not, was satisfied with the treatment received from the Office of Special Counsel.

(b) REPORT.—The results of the survey conducted under subsection (a) shall be published in the annual report of the Office of Special Counsel.

SEC. 14. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall be effective on and after the date of the enactment of this Act.

Mr. MCCLOSKEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Indiana?

Mr. MYERS of Indiana. Mr. Speaker, reserving the right to object, I do so to yield to my friend, my longtime friend from Indiana, Mr. MCCLOSKEY, and a former constituent of mine, in fact.

I yield to the gentleman.

Mr. MCCLOSKEY. I thank the gentleman for yielding.

Mr. Speaker, H.R. 2970 reauthorizes and reforms the Office of Special Counsel and the Merit Systems Protection Board. I would note that there was one amendment in the Senate deleting the provision in the House allowing an action de novo in a Federal court in dealing with complaints going through the OSC. Much of our legislation is intact still. Particularly, one of the things I am most concerned about is that there are protections against abusive practices, such as ordering psychiatric examinations arbitrarily, arbitrarily suspending or terminating security clearances. And as I said to the gentleman's esteemed colleague, the gentleman from Wisconsin [Mr. SENSENBRENNER], earlier, there is nothing in the Senate amendment that affects any of this legislation that is nongermane.

Mr. MYERS of Indiana. I thank my colleague. That is a question that I have. Through the years as we close out these sessions, often things are crowded into a bill that none of us knows what is in there.

I think we all fear when we do not see the legislation.

It is necessary in the closing hours of the session that we do put things in the legislation, but there is nothing that is not germane to the House rules in that compromise. Is that right?

Mr. MCCLOSKEY. That is correct.

Mr. MYERS of Indiana. And there is nothing substantively changed in the House-passed bill.

Mr. MCCLOSKEY. Except for the deletion as to a right to a particular form of legal action.

Mr. MYERS of Indiana. Other than that, no substantive changes in the House-passed legislation.

Mr. MCCLOSKEY. That is correct.

Today, the House will consider H.R. 2970 which reauthorizes and reforms the Office of Special Counsel [OSC] and the Merit Systems Protection Board [MSPB].

Earlier this week, the House approved H.R. 2970 which the Senate has amended. Although this legislation which we are now considering is far less comprehensive than the House's earlier efforts, I urge the House to approve this bill.

This legislation will reauthorize the OSC and the MSPB through fiscal year 1997.

The bill allows prevailing parties to require payment of reasonable attorney fees incurred by the employee or applicant in pursuing his or her case.

The expanded provisions for consequential damages and attorney fees are intended to provide a realistic expectation that employees who prevail will recover their costs, the same as if a merit system reprisal had not occurred. Too many employees who win their cases find their victories to be pyrrhic. Further, if an employee with a pending case wins substantial relief, the agency's motives for providing it are not relevant grounds to deny fees. There is no requirement for an employee who substantially prevails under this act under any available procedure, including before the Office of Special Counsel, whether formally through negotiated settlement or through unilateral agency action rendering the dispute moot, to demonstrate a nexus between the relief and the proceeding. The special counsel, agency chiefs, and the Board retain the authority to award fees in any case where an employee earns substantial relief through a no-fault settlement.

This legislation establishes further limitations on the information the OSC may disclose about an individual who comes seeking redress. The special counsel's final status report with proposed findings of fact and legal conclusions may not be admitted into any administrative or judicial forum without the complainant's consent.

The bill tightens the language for a key WPA provision that the OSC has obeyed as the exception, rather than the rule—the prohibition on disclosing the evidence on an employee's case to the employer allegedly engaged in retaliation: 59 percent of OSC complainants reported to GAO that the special counsel undercut their rights by leaking information about their cases back to their employers. This can impose a fatal handicap on the employee in a subsequent MSPB appeal or individual right of action. It also flatly violates section 3 of the joint explanatory statement for the WPA that individuals may allege prohibited personnel practices to the OSC "without any fear that the information they provide or the investigation their disclosure triggers is used against them." The bill reaffirms this and associated legislative history in the 1989 WPA. Of course, some information must be released in order to obtain further evidence necessary for investigative finding supporting an employee. But the decision on what risks to take is the complainant's alone. The complainant controls the information the same way a client seeking private counsel is the privilege holder under the attorney-client privilege, even if the lawyer chooses not to take the case. The restriction exists as soon as the OSC obtains the information, and lasts as long as it is in the special counsel's possession. Without the complainant's consent, an OSC employee is acting outside the scope of his or her Government authority. The OSC's policy statement in section 12 on disclosures shall implement these instructions.

New timelines for OSC action are established and the OSC must provide a written status report to the complainant and allow for response 10 days before terminating any investigation.

During an independent right of action before the MSPB, H.R. 2970 establishes new subpoena authority for the complainant. The Senate amendment also establishes that an employee may demonstrate that a protected disclosure was a contributing factor in the personnel action through more favorable evidentiary standards.

The bill also overturns the Federal circuit court of appeals decision in Clark versus Department of Army by codifying that among the circumstantial evidence factors to establish a prima facie case of whistleblowing prohibited personnel practice is when a challenged personnel action occurred within a period of time

that a reasonable person could conclude a protected disclosure was a contributing factor in the personnel action. A personnel action taken during the pendency of a performance appraisal period meets this standard, which was specified in legislative history for the Whistleblower Protection Act of 1989 but must be codified, because it has not been honored by the Federal circuit or the Board.

Also contrary to the Federal circuit's decision in Clark, an agency's ability to demonstrate it could have taken the personnel action, that is, that it can sustain its normal personnel burden of proof under section 7701(c) to support a proposed personnel action, is irrelevant. The prohibited personnel practice affirmative defense is legally independent from the merits of an agency action. There is no need to further revise statutory language. That standard already was codified clearly in the Whistleblower Protection Act by sections 1214 and 1221.

It also is not possible to further clarify the clear statutory language in section 2302(b)(8)(A) that protection for "any" whistleblowing disclosure evidencing a reasonable belief of specified misconduct truly means "any." A protected disclosure may be made as part of an employee's job duties, may concern policy or individual misconduct, and may be oral or written and to any audience inside or outside the agency, without restriction to time, place, motive, or context. In 1989, Congress explicitly changed the language in section 2302(b)(8) from protecting "a" disclosure to protecting "any" disclosure, specifically to prohibit those type exceptions. If information is classified or its release is specifically prohibited by statute, employees must disclose it through specified confidentiality channels to maintain protection. Otherwise there are no exceptions.

H.R. 2970 expands the definition of prohibited personnel practices to include the decision to order psychiatric examination and any other significant change in duties, responsibilities, or working conditions.

Consistent with the Whistleblower Protection Act's remedial purpose, the provision adding "any other significant change in duties, responsibilities, or working conditions" to listed personnel actions should be interpreted broadly. This personnel action is intended to include any harassment or discrimination that could have a chilling effect on whistleblowing or otherwise undermine the merit system, and should be determined on a case-by-case basis. Examples include denial, revocation, or suspension of a security clearance; issuing, denying, or removing an employee from specific assignments; changes in duty station; removal of support staff; and any analogous actions taken because of protected activity.

Similarly, the prohibition against threats in sections 2302(b)(8) and (b)(9) should be broadly construed even if not formal changes in duties, responsibilities, or working conditions, the Board should consider whether other common forms of harassment represent prohibited threats, because they are a prelude or precondition to listed forms of personnel actions. The techniques to harass a whistleblower are limited only by the imagination. Illustrative examples, however, include retaliatory investigations, threat of or referral for prosecution, defunding, reductions in force and denial or workers compensation benefits. In evaluating whether harassment constitutes a threatened personnel action, among factors the board should consider is whether the activity is discriminatory, or could have a chilling effect on merit system duties and responsibilities.

The House report on H.R. 2970 lists 14 examples of decisions where the Merit Systems Protection Board or the Federal circuit court of appeals have ruled contrary to the clear mandate of the Whistleblower Protection Act of 1989. A new example, *Costin* v. *Department of Health and Human Services* (No. AT–12221–93–0670–W–1), may be the most significant, by requiring whistleblowers to identify the precise personnel actions at issue in their initial complaint to the Office of Special Counsel.

First this burden forces employees without counsel to fashion their complaints in legally technical language. Second, it is unrealistic, because often the full scope of reprisals is not exposed until the complaint is investigated or otherwise pursued. Third, OSC closeout letters do not always list all the reprisals alleged by whistleblowers. This burden would eliminate the guaranteed right of all whistleblowers to a due process hearing before the board.

There should not be any confusion. To exhaust the OSC administrative remedy and qualify for an individual right of action, an employee or applicant only must allege a violation of section 2302(b)(8). The examples of alleged reprisals listed in the OSC complaint, and the scope of the evidence that a whistleblower presents to the OSC, are completely irrelevant to establish jurisdiction for an IRA.

Today, the House expands the number of Federal employees covered by whistleblower protections and includes employees in the Department of Veterans Affairs, Federal Deposit Insurance Corporation, and the Resolution Trust Corporation.

In response to concerns first raised by the Banking Committee, the bill also provides that employees of the FDIC and the RTC who have separate whistleblower protection provisions as a result of the savings and loan bailout legislation must choose to either follow those procedures in title 39 or the ones established in title 5.

H.R. 2970, as amended by the Senate, includes provisions in the House-passed bill to expand the authority of arbitrators to order a stay of any personnel action and any disciplinary action allowable under section 1215. Judicial review shall be allowed in any disciplinary action case in the same manner as it could be obtained if the order had been issued by the employee's agency The legal burdens of proof for whistleblower cases in arbitration shall be the same as with cases before the MSPB.

Consistent with the WPA's intent that whistleblower reprisal may not play any factor in a personnel action, the provision requiring Board referrals for OSC disciplinary investigation is triggered by a prima facie case that section 2302(b)(8) is violated. A final determination of prohibited personnel practice creates an inference that disciplinary sanctions are warranted and that the critical element for the relevant agency manager(s) to comply with merit system and equal opportunity laws has not been met.

As detailed in the House report on H.R. 2970, Congress is dissatisfied with the OSC's recent nontrack record on referring for agency investigation and aggressively evaluating subsequent agency reports on whistleblowing disclosures under section 1213. It is the legislate intent that when in doubt, the OSC should refer whistleblower charges for investigation. Most significant, the OSC should reevaluate agency reports with a "strict scrutiny" or "clear and convincing evidence" standard.

Finally, the legislation provides for reporting and survey requirements for the OSC.

I urge all of my colleagues to support this measure.

Mr. MYERS of Indiana. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Indiana?

There was no objection.

A motion to reconsider was laid on the table.

DEFENSE DEPARTMENT OVERSEAS TEACHERS PAY AND PERSONNEL PRACTICES ACT AMENDMENTS

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3499) to amend the Defense Department Overseas Teachers Pay and Personnel Practices Act, with a Senate amendment thereto and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment: page 2 after line 12, insert:

SEC. 2. PROHIBITION ON CASH AWARDS TO CERTAIN FEDERAL OFFICERS.

(a) IN GENERAL.—Chapter 45 of title 5, United States Code, is amended by inserting after section 4507 the following new sections:

"§ 4508. Limitation of awards during a Presidential election year

"(a) For purposes of this section, the term—

"(1) 'Presidential election period' means any period beginning on June 1 in a calendar year in which the popular election of the President occurs, and ending on January 20 following the date of such election; and

"(2) 'senior politically appointed officer' means any officer who during a Presidential election period serves—

"(A) in a Senior Executive Service position and is not a career appointee as defined under section 3132(a)(4); or

"(B) in a position of a confidential or policy-determining character under schedule C of subpart C of part 213 of title 5 of the Code of Federal Regulations.

"(b) No senior politically appointed officer may receive an award under the provisions of this subchapter during a Presidential election period.

"§ 4509. Prohibition of cash award to Executive Schedule officers

"No officer may receive a cash award under the provisions of this subchapter, if such officer—

79–059 O—97 Vol. 140 (Pt. 21) 20

"(1) serves in—

"(A) an Executive Schedule position under subchapter II of chapter 53; or

"(B) a position for which the compensation is set in statute by reference to a section or level under subchapter II of chapter 53; and

"(2) was appointed to such position by the President, by and with the advice and consent of the Senate.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 45 of title 5, United States Code, is amended by inserting after the item relating to section 4507 the following:

"4508. Limitation of awards during a Presidential election year.

"4509. Prohibition of cash award to Executive Schedule officers.".

Mr. MCCLOSKEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Indiana?

Mr. MYERS of Indiana. Mr. Speaker, reserving the right to object, I yield to the gentleman from Indiana [Mr. MCCLOSKEY] to explain what is in this compromise.

Mr. MCCLOSKEY. Mr. Speaker, H.R. 3499 provides for the establishment of voluntary leave transfer and leave bank programs for the Department of Defense Depend Schools [DODDS] teachers. These programs already exist for Federal employees generally. They permit Federal employees to transfer and receive annual leave donated by their coworkers when either they or their coworkers are expecting medical emergencies requiring extended absence from the workplace.

However, since by definition, DODDS teacher leave is not considered annual leave, a voluntary leave sharing program may not be established for them without providing new statutory authority.

In addition, H.R. 3499, authorizes 3 additional days of leave for teachers employed in supervisory or higher positions because such employees generally work 222 days per school year compared to the 190 days required of regular teachers.

The Senate amended H.R. 3499, by adding a provision prohibiting the award of cash bonuses to noncareer appointees in the Senior Executive Service or persons serving in a position of a confidential or policy-determining character under schedule C during a 6-month period, June 1 prior to a Presidential election to the following January 20, and it also completely prohibits cash bonuses to those in Executive Schedule (ES) I—V and those Executive Schedule equivalents who are Presidential appointees confirmed by the Senate.

This provision is in response to the last minute bonuses that were awarded to political appointees at the end of the previous administration. It would enact current OPM policy regarding bonuses for these high-level political employees. This amendment will not affect career Executive Schedule employees.

This provision is similar to S. 1070, which passed the Senate by unanimous consent on November 24, 1993. It has the support of the Office of Personnel Management.

The Post Office and Civil Service Committee has no objection to this amendment.

Mr. Speaker, I would just say that again, in the interest of brevity and it being almost exactly midnight, that there is nothing which is nongermane. And I have been told that it has been accepted on the gentleman's side.

Mr. MYERS of Indiana. Mr. Speaker, it is close to midnight, and I do not want to change into a pumpkin. The magic date for adjuornment is October 7, and we are almost missing that.

So there is nothing that is not germane to the House rules in this legislation.

Mr. MCCLOSKEY. That is true.

Mr. MYERS of Indiana. There are no substantive changes in the compromise.

Mr. MCCLOSKEY. That is my understanding.

Mr. MYERS of Indiana. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Indiana?

There was no objection.

A motion to reconsider was laid on the table.

□ 2400

PROVIDING FOR GROUP LIFE INSURANCE BENEFITS TO BE PAID TO TERMINALLY ILL INDIVIDUALS

Mr. MCCLOSKEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 512) to amend chapter 87 of title 5, United States Code, to provide that group life insurance benefits under such chapter may, upon application, be paid out to an insured individual who is terminally ill, and for other purposes with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments: Page 7, after line 12, insert:

SEC. 5. CONTINUATION OF HEALTH BENEFITS COVERAGE FOR INDIVIDUALS ENROLLED IN A PLAN ADMINISTERED BY THE OFFICE OF THE COMPTROLLER OF THE CURRENCY OR THE OFFICE OF THRIFT SUPERVISION.

(a) ENROLLMENT IN CHAPTER 89 PLAN.—For purposes of the administration of chapter 89 of title 5, United States Code, any period of enrollment under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision before the termination of such plans on January 7, 1995, shall be deemed to be a period of enrollment in a health benefits plan under chapter 89 of such title.

(b) CONTINUED COVERAGE.—(1) Any individual who, on January 7, 1995, is covered by a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision may enroll in an approved health benefits plan described under section 8903 or 8903a of title 5, United States Code—

(A) either as an individual or for self and family, if such individual is an employee, annuitant, or former spouse as defined under section 8901 of such title; and

(B) for coverage effective on and after January 8, 1995.

(2) An individual who, on January 7, 1995, is entitled to continued coverage under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision—

(A) shall be deemed to be entitled to continued coverage under section 8905a of title 5, United States Code, for the same period that would have been permitted under the plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision; and

(B) may enroll in an approved health benefits plan described under section 8903 or 8903a of such title in accordance with section 8905a of such title for coverage effective on and after January 8, 1995.

(3) An individual who, on January 7, 1995, is covered as an unmarried dependent child under a health benefits plan administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision and who is not a member of family as defined under section 8901(5) of title 5, United States Code—

(A) shall be deemed to be entitled to continued coverage under section 8905a of such title as though the individual had, on January 7, 1995, ceased to meet the requirements for being considered an unmarried dependent child under chapter 89 of such title; and

(B) may enroll in an approved health benefits plan described under section 8903 or 8903a of such title in accordance with section 8905a for continued coverage effective on and after January 8, 1995.

(c) TRANSFERS TO THE EMPLOYEES HEALTH BENEFITS FUND.—The Office of the Comptroller of the Currency and the Office of Thrift Supervision shall transfer to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, amounts determined by the Director of the Office of Personnel Management, after consultation with the Office of the Comptroller of the Currency and the Office of Thrift Supervision, to be necessary to reimburse the Fund for the cost of providing benefits under this section not otherwise paid for by the individuals covered by this section. The amounts so transferred shall be held in the Fund and used by the Office in addition to amounts available under section 8906(g)(1) of such title.

(d) ADMINISTRATION AND REGULATIONS.—The Office of Personnel Management—

(1) shall administer the provisions of this section to provide for—

(A) a period of notice and open enrollment for individuals affected by this section; and

(B) no lapse of health coverage for individuals who enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with this section; and

(2) may prescribe regulations to implement this section.

Amend the title so as to read: "An Act to amend chapter 87 of title 5, United States Code, to provide that group life insurance benefits under such chapter may, upon application, be paid out to an insured individual who is terminally ill; to provide for continuation of health benefits coverage for certain individuals enrolled in health benefits plans administered by the Office of the Comptroller of the Currency or the Office of Thrift Supervision; and for other purposes.".

Mr. MCCLOSKEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Indiana?

Mr. MYERS of Indiana. Mr. Speaker, reserving the right to object, I would yield to the gentleman from Indiana [Mr. MCCLOSKEY] so he may explain what is in the compromise here.

Mr. MCCLOSKEY. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Indiana.

Mr. MCCLOSKEY. Mr. Speaker, H.R. 512, provides that Federal employees who are diagnosed as terminally ill with a life expectancy of 9 months or less could elect to receive all or a portion of their basic life insurance benefit in advance of their death as a living benefit.

The Subcommittee on Compensation and Employee Benefits held a hearing on April 20, 1994, where Congressman GILMAN, the Office of Personnel Management, and the National Association of Retired Federal Employees testified in favor of the legislation. On June 22, 1994, the Post Office and Civil Service Committee approved this legislation by a record vote of 22 to 0. The House approved this bill by a voice vote under suspension of the rules on July 19, 1994.

The Senate amended H.R. 512 by adding a provision to allow employees of the Office of the Comptroller of the Currency [OCC] and the Office of Thrift Supervision [OTS] to enroll in the Federal Employees Health Benefits Program [FEHBP]. The Senate amendment is almost identical to a bill I introduced this week, H.R. 5164, the OCC and OTS Health Benefits Continuation Act.

The Senate amendment permits employees to have their OCC or OTS health plan treated like FEHBP health coverage. This is necessary because unless Federal employees are covered under FEHBP for at least 5 years immediately preceding retirement, they cannot continue their FEHBP coverage into retirement. Therefore this bill eliminates the potential that employees within 5 years of retirement will be forced to work longer so as not to lose their health insurance. With respect to current retirees, if no action is taken on this bill, OCC and OTS will be forced to purchase expensive private health coverage once their current health plan expires so that the retirees will not be left without any coverage whatsoever.

The amendment provides that OCC and OTS will pay the Employees Health Benefit Fund an amount determined by the Office of Personnel Management to cover the FEHBP benefits not otherwise paid for by the enrollees. The Congressional Budget Office has estimated that as the result of this payment this bill has no cost and that Federal outlays would not change.

The Post Office and Civil Service Committee has no objection to this amendment.

Mr. MYERS of Indiana. Further reserving the right to object, I understand there is no substantive changes in the attempt of the House here to take care of those who are terminally ill.

Mr. MCCLOSKEY. The gentleman is correct.

Mr. MYERS of Indiana. Further reserving the right to object, Mr. Speaker, I would point out that the gentlewoman from Maryland [Mrs. MORELLA] has worked very hard on this legislation and should be commended for her efforts.

Mrs. MORELLA. Mr. Speaker, I rise in support of H.R. 512, a bill introduced by our distinguished colleague from New York [Mr. GILMAN], ranking Republican on the Committee on Foreign Affairs, and a very active member of the Committee on Post Office and Civil Service.

H.R. 512 is a compassionate bill which will help terminally ill Federal employees and retirees who participate in the Federal Employees Group Life Insurance [FEGLI] Program. This bill is budget neutral and brings to the Federal sector what has been provided for by many private sector employees. Employees and retirees who have been certified by their physician as having just 9 months or less to live, may receive the benefits of their FEGLI policy minus the interest which may have accrued at maturity—about 97 percent of the value. As we know, Mr. Speaker, in most cases, people who are dying because of terminal illnesses have often spent their savings to pay medical expenses. H.R. 512 is indeed a thoughtful, sensible and cost-effective bill.

This legislation was amended in the Senate to include health benefits of retirees of two Federal agencies, the Office of Thrift Supervision [OTS] and the Office of the Comptroller of the Currency [OCC], our bank and thrift regulators.

These agencies carried health plans for their employees which were administered separately from the Federal Employee Health Benefits Program [FEHBP]. These plans have been in place since the 1980's as a means of attracting and retaining valuable specialized banking talent. The two agencies and their employees financed health care coverage. However, increased costs for separate health plans have adversely impacted these Federal offices.

Both agencies are primarily funded by assessments on the financial institutions they regulate. The cost of Federal supervision has been a complaint by the entities that are supervised. The Office of the Comptroller of the Currency is launching a major effort to cut costs, thereby hoping to have a positive impact on assessments. The Office of Thrift Supervision is confronted with a shrinking industry, decreasing revenues and has been operating at a deficit for many years.

For these reason, Mr. Speaker, the agencies have had to make the difficult decision to eliminate their separate health plans. Current employees will now be offered quality health care under the Federal Employees Health Benefits Program. What this legislation does is afford the same options to retirees currently enrolled in the plans being terminated. This legislation also ensures that employees within 5 years of retirement will be able to carry FEHBP into retirement.

This bill has been crafted in a joint effort by the Office of Thrift Supervision, the Office of the Comptroller of the Currency, and the Office of Personnel Management. The OTS and the OCC have agreed to pay the employee health benefit fund the amount needed for the benefits provided by this legislation not otherwise paid for by the individuals to be covered. The Congressional Budget Office and the Office of Management and Budget have determined that this legislation is budget-neutral for pay-as-you-go purposes.

This is a cooperative effort by three Federal offices looking to continue quality health care for employees. I urge my colleagues to support this interagency cooperative effort and the measure proposed by our colleague from New York.

Mr. MYERS of Indiana. Further reserving the right to object, Mr. Speaker, we made midnight, maybe a minute or so after, and, with that understanding, I have no objection.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

A motion to reconsider was laid on the table.

FEDERAL EMPLOYEES FAMILY FRIENDLY LEAVE ACT

Mr. MCCLOSKEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4361) to amend title 5, United States Code, to provide that an employee of the Federal Government may use sick leave to attend to the medical needs of a family member; to modify the voluntary leave transfer program with respect to employees who are members of the same family; and for other purposes, with Senate amendments thereto and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Family Friendly Leave Act".

SEC. 2. USE OF SICK LEAVE FOR PURPOSES RELATING TO A FAMILY MEMBER.

Section 6307 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) For the purpose of this subsection, the term 'family member' shall have such meaning as the Office of Personnel Management shall by regulation prescribe, except that such term shall include any individual who meets the definition given that term, for purposes of the leave transfer program under subchapter III, under regulations prescribed by the Office (as in effect on January 1, 1993).

"(2) Subject to paragraph (3) and in addition to any other allowable purpose, sick leave may be used by an employee—

"(A) to give care or otherwise attend to a family member having an illness, injury, or other condition which, if an employee had such condition, would justify the use of sick leave by such an employee; or

"(B) for purposes relating to the death of a family member, including to make arrangements for or attend the funeral of such family member.

"(3)(A) Sick leave may be used by an employee for the purposes provided under paragraph (2) only to the extent the amount used for such purposes does not exceed—

"(i) 40 hours in any year, plus

"(ii) up to an additional 64 hours in any year, but only to the extent the use of such additional hours does not cause the amount of sick leave to the employee's credit to fall below 80 hours.

"(B) In the case of a part-time employee or an employee on an uncommon tour of duty, the Office of Personnel Management shall establish limitations that are proportional to those prescribed under subparagraph (A).

"(4)(A) This subsection shall be effective during the 3-year period that begins upon the expiration of the 2-month period that begins on the date of the enactment of this subsection.

"(B) Not later than 6 months before the date on which this subsection is scheduled to cease to be effective, the Office shall submit a report to Congress in which it shall evaluate the operation of this subsection and make recommendations as to whether or not this subsection should be continued beyond such date.".

Amend the title so as to read: "An Act to amend chapter 63 of title 5, United States Code, to provide that an employee of the Federal Government may use sick leave to attend to the medical needs of a family member, and for other purposes.".

Mr. McCLOSKEY (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Indiana?

Mrs. MYERS of Indiana. Mr. Speaker, I am reserving the right to object, again I do so to allow our colleague, the gentleman from Indiana [Mr. McCLOSKEY] to explain what is in the compromise.

Mr. McCLOSKEY. Mr. Speaker, will the gentleman yield?

Mr. MYERS of Indiana. I yield to the gentleman from Indiana.

Mr. McCLOSKEY. Mr. Speaker, H.R. 4361, the Federal Employees Family Friendly Leave Act, clarifies the right of Federal employees to use their sick leave to care for sick family members or for purposes relating to the death of a family member. The second part of the bill provides that Federal employees may donate and receive annual leave for any reason from family members who also work for the Federal Government.

On August 10, 1994, the Committee on Post Office and Civil Service, by a record vote of 19 to 1, approved H.R. 4361. The House approved the bill by voice vote under suspension of the rules on September 19, 1994.

The Senate amended H.R. 4361 and removed the provision allowing Federal employees to transfer their annual leave to their family members. In addition, the Senate amended the provision regarding sick leave to restrict employees' ability to substitute sick leave to at least 5 sick days per year to care for a sick family member, plus up to 8 more days per year—for a ceiling of 13 days—as long as the employee's sick leave balance would not fall below 10 days.

The Post Office and Civil Service Committee has no objection to the Senate amendments.

Ms. NORTON. Mr. Speaker, the Federal Employees Family Friendly Leave Act—Family Friendly Leave Act—explicitly guarantees Federal employees the right to use their sick leave to care for ill family members. The Family and Medical Leave Act—FMLA—which applies to both private and public sector employees, may cover some of the same situations as the Family Friendly Leave Act and I therefore wish to clarify how these acts may overlap and diverge.

The Family Friendly Leave Act, as I introduced it, clarified that Federal employees may use an unlimited amount of accrued sick leave to care for or otherwise attend to a family member with an illness, injury, or condition which, if a Federal employee was so afflicted, would justify the use of sick leave by that employee. As amended by the Senate and passed by both the House and Senate, an employee is entitled to use a minimum of 5 accrued sick days per year to care for a family member. The employee may use up to 13 accrued sick days per year for this purpose, provided the employee maintains a balance of 10 days.

The FMLA, on the other hand, allows employees to take up to 12 weeks of unpaid leave per year to care for a seriously ill parent, spouse, or child. The FMLA is more restrictive than the Family Friendly Leave Act in both the definition of family member and the degree of health condition of the family member. The FMLA also enables employees to substitute accrued annual or sick leave for unpaid leave when the employee is seriously ill or when the employee takes leave to care for a family member, with the proviso that an employer is not required "to provide paid sick leave in any situation in which such employer would not normally provide any such paid leave." 5 U.S.C. 6382(d).

In its interim regulations, the Office of Personnel Management—OPM—interpreted the FMLA to allow substitution of accrued sick leave only where "consistent with current law and regulations governing the granting and use of annual or sick leave." As indicated in the committee report for Family Friendly Leave, OPM is not currently permitting Federal employees to substitute accrued sick leave for FMLA leave taken to care for a seriously ill family member.

I believe OPM's interim interpretation of the FMLA on this point is incorrect. My understanding of the legislative intent of the FMLA is that the proviso was intended to limit an employee's right to substitute accrued sick leave for unpaid leave only when the specific condition in question is not covered by the employer's sick leave plan. For example, if a private employer does not permit an employee to use sick leave to see a mental health professional, the FMLA does not permit such an employee to substitute sick leave to take his or her child to see a mental health professional. Because Federal employees are allowed to use their sick leave for any medical condition without restriction, the FMLA proviso does not restrict their ability to substitute paid sick leave for unpaid leave for any condition. Indeed, the proviso could not have been intended to prohibit all substitution of paid sick leave for unpaid leave to care for a seriously ill family member, as OPM's interpretation suggests. Such an interpretation would effectively nullify the provision allowing for substitution.

OPM has not yet issued final regulations interpreting the FMLA and the courts have not yet begun to grapple with the meaning of these provisions. It is not intended that the Family Friendly Leave Act be read as an indication of congressional intent to limit the application of the FMLA. To the contrary, these two acts are complementary. The Family Friendly Leave Act is intended neither to limit nor to interpret the FMLA. Rather, it is intended to create a separate right for Federal employees as to the use of their accrued sick leave, not as to the substitution for FMLA leave.

Mr. MYERS of Indiana. Mr. Speaker, we all recognize that we have a lot of friends who have medical problems who necessarily need to have extra time; others, colleagues, who have a surplus of time, and this is very necessary. It is a way of sharing time for people who need it because of illness, or the family, or themselves. So, with the understanding that there are no nongermane provisions here and nothing that is not substantive to changes in the House, then I have no objection.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Indiana?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the four bills that were just considered and legislation adopted.

The SPEAKER pro tempore. is there objection to the request of the gentleman from Indiana?

The was no objection.

LINCOLN COUNTY, MONTANA, LANDS TRANSFER ACT OF 1994

Mr. VENTO. Mr. Speaker, I ask unanimous consent that the Committee on Natural Resources be discharged from further consideration of the Senate bill (S. 528) to provide for the transfer of certain U.S. Forest Service lands located in Lincoln County, MT to Lincoln County in the State of Montana, and ask for its immediate consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lincoln County, Montana, Lands Transfer Act of 1994".

SEC. 2. CONVEYANCE OF PROPERTY.

(a) As soon as practicable, but in no event not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture (hereinafter the "Secretary") shall convey, without consideration, all right, title, and interest of the United States to the following lands located within the boundaries of the Kootenai National Forest, Montana, to Lincoln County, Montana—

(1) approximately 30 acres, as generally depicted on the map entitled "Kootenai National Forest Lands—Libby Junior High School" dated August 1994;

(2) approximately 2 acres, as generally depicted on the map entitled "Kootenai National Forest Lands—Boyd Cemetery" dated August 1994;

(3) approximately 27.68 acres, as generally depicted on the map entitled "Kootenai National Forest Lands—Yaak Ambulance Barn" dated August 1994;

(4) approximately 170 acres, as generally depicted on the map entitled "Kootenai National Forest Lands—Libby Landfill" dated August 1994;

(5) approximately 11 acres, as generally depicted on the map entitled "Kootenai National Forest Lands—Eureka Administration Site" dated August 1994; and

(6) approximately 99.5 acres, as generally depicted on the map entitled "Kootenai National Forest Lands—Old Libby Airport" dated August 1994.

(b) As soon as practicable after the date of enactment of this Act, the Secretary shall convey, without consideration, the timber and mineral rights to approximately 182.04 acres at the new Libby Airport, as generally depicted on the map entitled "Kootenai National Forest Lands—Timber and Mineral Rights Transfer at Libby Airport" dated August 1994, to Lincoln County, Montana.

(c) If the lands referred to in subsection (a) cease to be used for public purposes, such lands shall revert to the United States: *Provided*, That the lands shall not revert if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 and following)).

SEC. 3. RELEASE.

Upon the transfer of any lands or interests therein identified in section 2 of this Act to Lincoln County, Lincoln County shall release the United States from any liability for claims relating to such lands or interests therein.

SEC. 4. MAPS.

The maps referred to in this Act shall be on file and available for public inspection in the Office of the Chief of the Forest Service, in Washington, D.C.

Mr. VENTO. Mr. Speaker, S. 528 would transfer about 340 acres of the Kootenai National Forest to Lincoln County, MT.

These lands are in six parcels and would be used by the county for a variety of public purposes, including a junior high school, a cemetery, an ambulance barn, a landfill, an administrative site, and an airport.

Under the bill, if the county ceases to use the lands for public purposes, title will revert to the United States unless they have been subjected to contamination such that the United States does not wish to receive title.

I urge the passage of the bill.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Miss COLLINS of Michigan (at the request of Mr. GEPHARDT), for today after 6 p.m., on account of illness.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PETRI, and to include extraneous matter notwithstanding the fact that it exceeds 2 pages of the RECORD and is estimated by the Public Printer to cost $1,627.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4278. An act to make improvements in the old-age, survivors, and disability insurance program under title II of the Social Security Act;

H.R. 4379. An act to amend the Farm Credit Act of 1971 to enhance the ability of the banks for cooperatives to finance agricultural exports, and for other purposes; and

H.R. 4950. An act to extend the authorities of the Overseas Private Investment Corporation, and for other purposes.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 221. Joint resolution to express the sense of the Congress in commemoration of the 75th anniversary of Grand Canyon National Park.

ADJOURNMENT TO TUESDAY, NOVEMBER 29, 1994

Mr. HUGHES. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the provisions of House Concurrent Resolution 315 of the 103d Congress, the House stands adjourned until 12 noon, Tuesday, November 29, 1994.

Thereupon (at 12 o'clock and 5 minutes a.m.), pursuant to House Resolution 315, the House adjourned until Tuesday, November 29, 1994, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3926. A letter from the Department of the Air Force, transmitting notification that the performance of the contracts for engineering and manufacturing development of the F–22 aircraft and for design, development, test and delivery of its engine, F–33657–91–C–0006 and F33657–91–C–0007 respectively, will continue for a period exceeding 10 years, pursuant to 22 U.S.C. 2352 note; to the Committee on Armed Services.

3927. A letter from the Department of the Air Force, transmitting notification that the performance of the contracts for engineering and manufacturing development of the B–52 Tri-Service Standoff Attack Missile [TSSAM] integration contract, F33657–84–C–2256, will continue for a period exceeding 10 years, pursuant to 22 U.s.C. 2352 note; to the Committee on Armed Services.

3928. A letter from the Deputy Secretary of Defense, transmitting the interim report of the Defense Equal Opportunity Council Task Force On Discrimination and Sexual Harassment; to the Committee on Armed Services.

3929. A letter from the Federal Housing Finance Board, transmitting the board's annual report on the low-income housing and community development activities of the Federal Home Loan Bank system for 1993, pursuant to 12 U.S.C. 1422a; to the Committee on Banking, Finance, and Urban Affairs.

3930. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Brazil (Transmittal No. 01–95), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

3931. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a cooperative feasibility study to be

conducted by the United States and eight other NATO nations–Canada, France, Germany, Italy, the Netherlands, Norway, Turkey, and the United Kingdom, pursuant to 22 U.S.C. 2767(f); to the Committee on Foreign Affairs.

3932. A letter from the Acting Director, Defense Security Assistance Agency, transmitting concerning the establishment and operation of an organization to further the implementation of Continuous Acquisition and Life-cycle Support [CALS] within NATO. The participants who are contributing to the support of the NATO CALS Office—the executive arm of the organization which will be located on the premises of NATO Headquarters in Brussels—are Canada, France, Germany, Italy, the Netherlands, Norway, Spain, Turkey, the United Kingdom, and the United States, pursuant to 22 U.S.C. 2767(f); to the Committee on Foreign Affairs.

3933. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Turkey for defense articles and services (Transmittal No. 95–01), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3934. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to France for defense articles and services (Transmittal No. 95–02), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3935. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance [LOA] to Kuwait for defense articles and services (Transmittal No. 95–05), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3936. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Egypt for defense articles and services (Transmittal No. 95–06), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3937. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a copy of Transmittal No. A–95 which relates to enhancement or upgrades from the level of sensitivity of technology or capability described in section 36(b)(1), AECA certification 92–20 of 27 April 1992, pursuant to 22 U.S.C. 2776(b)(5)(A); to the Committee on Foreign Affairs.

3938. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Secretary's determination and certification that assistance to the countries of Europe and the Independent States of the former Soviet Union from funds appropriated or otherwise made available under that act is in the national interest of the United States; to the Committee on Foreign Affairs.

3939. A letter from the Secretary of Defense, transmitting a report pursuant to section 1206 of the Cooperative Threat Reduction Act of 1993, title XII of Public Law 103–160 and the fiscal year 1994 DoD Appropriations Act, Public Law 103–139; to the Committee on Foreign Affairs.

3940. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation entitled, "To Approve the Location of the Thomas Paine Memorial"; to the Committee on Natural Resources.

3941. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to provide statutory authority for the surrender of fugitives and the provision of judicial assistance to the International Tribunal for the Prosecution of Persons responsible for Serious Violations of International Humanitarian Law in the Territory of the Former Yugoslavia, in accordance with the United States' obligations under U.N. Security Council Resolution No. 827; to the Committee on the Judiciary.

3942. A letter from the Secretary of Energy, transmitting the Department's 5-Year transportation program plan, pursuant to section 2021 of the Energy Policy Act of 1992 (42 U.S.C. 13431); jointly, to the Committees on Energy and Commerce and Science, Space, and Technology.

3943. A letter from the Secretary of Energy, transmitting the Department's report entitled, "Clean Energy Demonstration Project" proposed by Clean Energy Partners, L.P.; jointly, to the Committees on Energy and Commerce, Science, Space, and Technology, and Appropriations.

3944. A letter from the Secretary of Commerce, transmitting the annual report of the Secretary of Commerce to the Congress for the fiscal year ending September 30, 1993, pursuant to 15 U.S.C. 1519; jointly, to the Committees on Energy and Commerce, Ways and Means, Government Operations, the Judiciary, Science, Space, and Technology, Post Office and Civil Service, Banking, Finance and Urban Affairs, Foreign Affairs, Merchant Marine and Fisheries, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 3600. A bill to ensure individual and family security through health care coverage for all Americans in a manner that contains the rate of growth in health care costs and promotes responsible health insurance practices, to promote choice in health care, and to ensure and protect the health care of all Americans; with amendments (Rept. 103–601 Pt. 7). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 2289. A bill to amend the Ethics in Government Act of 1978 to extend the authorization of appropriations for the Office of Government Ethics for 8 years, and for other purposes; with an amendment (Rept. 103–785 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. MINETA: Committee on Public Works and Transportation. H.R. 2873. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide for an expanded Federal program of hazard mitigation, relief, and insurance against the risk of catastrophic natural disasters, such as hurricanes, earthquakes, and volcanic eruptions, and for other purposes; with an amendment (Rept. 103–848 Pt. 1). Ordered to be printed.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 4477. A bill to amend the act commonly referred to as the "Dingell-Johnson Sport Fish Restoration Act" to provide funding for recreational boating safety programs, and for other purposes; with an amendment (Rept. 103–849). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 4236. A bill to establish a National Undersea Research Program within the National Oceanic and Atmospheric Administration; with an amendment (Rept. 103–850). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 579. Resolution providing for the adoption of the resolution (H. Res. 578) amending the Rules of the House of Representatives to apply certain laws to the House of Representatives, and for other purposes (Rept. 103–851). Referred to the House Calendar.

Mr. BROOKS: Committee on the Judiciary. H.R. 9. A bill to modify the antitrust exemption applicable to the business of insurance; with an amendment (Rept. 103–853). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 4490. A bill to extend the Administrative Conference of the United States, and for other purposes; with an amendment (Rept. 103–854). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 3297. A bill to amend title 5, United States Code, to extend the treatment currently afforded to Federal judges under the Federal Employees Group Life Insurance Program to certain other judicial officials; with amendments (Rept. 103–855). Referred to the Committee of the Whole House on the State of the Union.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 1231. A bill to amend the act of March 3, 1931 (known as the Davis-Bacon Act), to revise the standard for coverage under that act, and for other purposes; with an amendment (Rept. 103–856). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROWN of California: Committee on Science, Space, and Technology. H.R. 4306. A bill to establish a comprehensive risk assessment program within the Environmental Protection Agency, and for other purposes; with an amendment (Rept. 103–857). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 115. A bill to strengthen the authority to require safe workplaces for Federal and Postal Service employees, and for other purposes; with an amendment (Rept. 103–858). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. H.R. 4862. A bill for the relief of Inslaw, Inc., a Delaware corporation, and William A. Hamilton and Nancy Hamilton, individually; with an amendment (Rept. 103–852). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. UNSOELD:

H.R. 5241. A bill to amend section 9147 of Public Law 102-396; jointly, to the Committees on Armed Services and the Judiciary.

By Ms. SCHENK:

H.R. 5242. A bill to amend the act commonly referred to as the "Johnson Act" to limit the authority of States to regulate gambling devices on vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. WISE (for himself, Mr. KANJORSKI, Mr. MINETA, Mr. GONZALEZ, Mr. SHUSTER, Ms. MOLINARI, and Mr. RIDGE):

H.R. 5243. A bill to amend the Public Works and Economic Development Act of 1965 to reauthorize economic development programs, and for other purposes; jointly, to the Committees on Public Works and Transportation and Banking, Finance and Urban Affairs.

By Mr. MONTGOMERY (for himself and Mr. STUMP):

H.R. 5244. A bill to amend title 38, United States Code, to revise and improve veterans' benefits programs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. GONZALEZ:

H.R. 5245. A bill to provide for the extension of certain programs relating to housing and community development, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GEJDENSON (for himself and Mr. GILMAN):

H.R. 5246. A bill to amend the Foreign Assistance Act of 1961 to make certain corrections relating to international narcotics control activities, and for other purposes; to the Committee on Foreign Affairs.

By Mr. SHARP (for himself and Mr. MOORHEAD):

H.R. 5247. A bill to provide for extensions and modifications of certain hydro and renewable energy programs; to the Committee on Energy and Commerce.

By Mr. SHARP:

H.R. 5248. A bill to require States to consider adopting mandatory, comprehensive, statewide one-call notification systems to protect natural gas and hazardous liquid pipelines and all other underground facilities from being damaged by any excavations, and for other purposes; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. ANDREWS of Texas (for himself, Mrs. KENNELLY, and Mr. SHAW):

H.R. 5249. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence; to the Committee on Ways and Means.

By Mr. DINGELL:

H.R. 5250. A bill to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation of municipal solid waste, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BACHUS of Alabama:

H.R. 5251: A bill to amend the Federal Home Loan Bank Act to require the Resolution Trust Corporation to use competitive procedures in procuring property and services necessary or appropriate to carry out its duties; to the Committee on Banking, Finance and Urban Affairs.

By Mr. STARK:

H.R. 5252. A bill to amend the Social Security Act and related acts to make miscellaneous and technical amendments, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By. Mr. BALLENGER:

H.R. 5253. A bill to establish standards relating to the calculation and payment of damages in medical malpractice liability claims and actions, to restrict attorneys' contingency fees under such claims and actions, and for other purposes; to the Committee on the Judiciary.

By Mr. BERMAN (for himself, Mr. GILMAN, Mr. ROSE, Mr. PORTER, Mr. LANTOS, Mrs. UNSOELD, Mr. LEWIS of Georgia, Mr. ABERCROMBIE, and Ms. PELOSI):

H.R. 5254. A bill to establish the position of United States Special Envoy for Tibet, and for other purposes; to the Committee on Foreign Affairs.

By Mr. BONIOR (for himself, Mr. BROOKS, Mr. DINGELL, Mr. PALLONE, Mr. GILLMOR, Mr. PAYNE of New Jersey, and Mr. GOSS):

H.R. 5255. A bill to require the Secretary of the Treasury to mint coins in commemoration of the sesquicentennial of the birth of Thomas Alva Edison; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BREWSTER (for himself and Mr. DELAY):

H.R. 5256. A bill to guarantee the ability of licensed pharmacists to conduct the practice of pharmacy compounding and to ensure their right to the necessary supply of bulk drug products, subject to applicable State and Federal laws; to the Committee on Energy and Commerce.

By Mr. BROWN of Ohio:

H.R. 5257. A bill to authorize a study regarding the incidence of breast and prostate cancer, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CONYERS:

H.R. 5258. A bill to improve Federal enforcement against health care fraud and abuse; to the Committee on Government Operations.

By Mr. DREIER:

H.R. 5259. A bill to amend the Internal Revenue Code of 1986 to exclude long-term capital gains from gross income; to the Committee on Ways and Means.

By Mr. EMERSON (for himself, Mr. SKELTON, and Mr. HANCOCK):

H.R. 5260. A bill to provide for the protection of wild horses within the Ozark National Scenic Riverways and prohibit the removal of such horses; jointly, to the Committees on Merchant Marine and Fisheries and Natural Resources.

By Mr. EVANS (for himself, Ms. KAPTUR, Mr. BROWN of California, Mr. CONYERS, and Mr. DEFAZIO):

H.R. 5261. A bill to require the Secretary of State to establish a set of voluntary guidelines to promote socially responsible business practices for U.S. businesses operating in foreign countries; to the Committee on Foreign Affairs.

By Mr. EVERETT (for himself and Mr. BROWDER):

H.R. 5262. A bill to amend the Indian Gaming Regulatory Act to provide for community approval before Indian class III gaming operations may take effect; to the Committee on Natural Resources.

By Mr. FRANKS of Connecticut:

H.R. 5263. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to prohibit any individual convicted of a crime subject to a term of imprisonment of 6 months or longer from serving as a member of the Council of the District of Columbia or as the Mayor of the District of Columbia; to the Committee on the District of Columbia.

H.R. 5264. A bill to prohibit use of education funds to make condoms available in an elementary school; to the Committee on Education and Labor.

By Mr. GUTIERREZ:

H.R. 5265. A bill to amend the National Voter Registration Act of 1993 to increase the number of college students who register and vote; to the Committee on House Administration.

By Mr. HAYES (for himself, Mr. DIXON, Mr. STENHOLM, Mr. SUNDQUIST, and Mr. TAUZIN):

H.R. 5266. A bill to amend the Occupational Safety and Health Act of 1970 to assist small business in compliance with such Act; to the Committee on Education and Labor.

By Mr. HOCHBRUECKNER:

H.R. 5267. A bill to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to require the Secretary of Agriculture to develop programs to encourage source-separated composting at homes, schools, and workplaces, and on farms; to the Committee on Agriculture.

H.R. 5268. A bill to authorize the exchange of National Park Service land in the Fire Island National Seashore in the State of New York for land in the Village of Patchogue, Suffolk County, NY; to the Committee on Natural Resources.

By Mr. LANTOS (for himself, Mrs. UNSOELD, and Ms. PELOSI):

H.R. 5269. A bill to encourage liberalization inside the People's Republic of China and Tibet; to the Committee on Foreign Affairs.

By Ms. MCKINNEY (for herself, Mr. BROWN of California, Mr. DELLUMS, Mr. FARR, Mr. FRANK of Massachusetts, Mr. HINCHEY,, Mr. JOHNSON of Georgia, Mr. LEWIS of Georgia, Mr. NADLER, Mr. ROSE and Ms. SHEPHERD):

H.R. 5270. A bill entitled, the "Farm Viability and Pest Management Improvement Act of 1994: A National Program for Pesticide Reduction"; to the Committee on Agriculture.

By Mr. MFUME (for himself, Mr. CONYERS, Mr. FLAKE, Ms. ROYBAL-ALLARD, Ms. VELAZQUEZ, and Mr. TUCKER):

H.R. 5271. A bill to amend the Small Business Act to make modifications to the small business and capital ownership development program, and for other purposes; to the Committee on Small Business.

By Mr. MINGE:

H.R. 5272. A bill to improve accountability regarding official mail by repealing the use of the frank for official mail, and for other purposes; jointly, to the Committees on Post Office and Civil Service and House Administration.

By Mr. OBERSTAR:

H.R. 5273. A bill to authorize the Secretary of Agriculture to establish and collect recreation use fees on a temporary basis in connection with the recreational use of the Superior National Forest in the State of Minnesota; to the Committee on Natural Resources.

By Mr. OBERSTAR:

H.R. 5274. A bill to improve the safety and convenience of air travel by establishing the Federal Aviation Administration as an independent Federal agency; to the Committee on Public Works and Transportation.

By Mr. OWENS:

H.R. 5275. A bill to establish a Federal Housing Trust Fund to provide decent, safe,

and affordable housing for low-income families lacking such housing; jointly, to the Committees on Ways and Means and Banking, Finance and Urban Affairs.

By Mr. REGULA:

H.R. 5276. A bill to provide for the relief of hospitals treating rural populations under the current calculation of the wage index modifier for the prospective payment under Medicare; to the Committee on Ways and Means.

By Mr. RICHARDSON (for himself and Ms. FURSE) (both by request):

H.R. 5277. A bill to address the need for private financing of home ownership and economic development on and near reservation lands, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SANDERS (for himself, Ms. VELÁZQUEZ, Mr. HINCHEY, Mr. OWENS, Mr. BONIOR, and Mr. BROWN of California):

H.R. 5278. A bill to provide for the creation of jobs in America, and for other purposes; jointly, to the Committees on Public Works and Transportation, Energy and Commerce, Armed Services, Appropriations, Banking, Finance and Urban Affairs, Education and Labor, Natural Resources, and Ways and Means.

By Mr. SHAYS (for himself, Mr. BORSKI, Ms. MOLINARI, Mr. RIDGE, and Mr. SANTORUM):

H.R. 5279. A bill to promote a new urban agenda, and for other purposes; jointly, to the Committees on Government Operations, Foreign Affairs, Public Works and Transportation, Armed Services, Ways and Means, Rules, Banking, Finance and Urban Affairs, and Energy and Commerce.

By Mr. SMITH of Michigan (for himself and Mr. KNOLLENBERG):

H.R. 5280. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for State and local general sales taxes and to compensate for the resulting revenue loss by providing that only 89 percent of the amount of all State and local taxes shall be allowed as a deduction; to the Committee on Ways and Means.

By Mr. SMITH of Michigan (for himself, Mr. MCCOLLUM, Mr. PETRI, and Mr. SOLOMON):

H.R. 5281. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to all families with young children, and for other purposes; to the Committee on Ways and Means.

By Mr. SPRATT:

H.R. 5282. A bill to provide a mechanism for dedicating spending cuts in discretionary spending programs to deficit reduction; jointly, to the Committees on Government Operations and Rules.

By Mr. TORKILDSEN (for himself, Mr. SPENCE, Mr. CUNNINGHAM, Mr. SAXTON, Mr. TALENT, Mr. DORNAN, Mr. MCCLOSKEY, Mr. PARKER, Mr. EMERSON, Mr. MCCOLLUM, Mr. MCHUGH, and Mr. LIPINSKI):

H.R. 5283. A bill to request the Secretary of the Navy to name an appropriate ship of the U.S. Navy the U.S.S. *Joseph Vittori*; to the Committee on Armed Services.

By Mr. TORRICELLI:

H.R. 5284. A bill to provide compensation for victims from persons who unlawfully provide firearms to juveniles, felons, and other disqualified individuals; to the Committee on the Judiciary.

H.R. 5285. A bill to close loopholes in the firearms laws which allow the unregulated manufacture, assembly, shipment, or transportation of firearms or firearms parts, and for other purposes; to the Committee on the Judiciary.

By Mr. TRAFICANT:

H.R. 5286. A bill to amend the Internal Revenue Code of 1986 to provide that the burden of proof shall be on the Secretary of the Treasury in all tax cases, and for other purposes; to the Committee on Ways and Means.

By Mr. VALENTINE:

H.R. 5287. A bill relating to the tariff treatment of pharmaceutical grade phospholipids; to the Committee on Ways and Means.

By Mr. WHEAT:

H.R. 5288. A bill to amend the Solid Waste Disposal Act to prohibit a certain requirement from applying to out-of-State municipal solid waste generated and disposed of within the same bi-State level A metropolitan statistical area; to the Committee on Energy and Commerce.

By Mr. HOYER:

H.J. Res. 425. Joint resolution providing for the convening of the first session of the 104th Congress; considered and passed.

By Mr. COYNE:

H.J. Res. 426. Joint resolution designating October 24, 1995, as "United Nations Day"; to the Committee on Post Office and Civil Service.

By Mr. FRANKS of Connecticut:

H.J. Res. 427. Joint resolution proposing an amendment to the Constitution of the United States to disqualify from certain offices persons who have been convicted of a crime for which a penalty of imprisonment of 6 months or more may be imposed; to the Committee on the Judiciary.

By Mr. PICKETT:

H.J. Res. 428. Joint resolution proposing an amendment to the Constitution of the United States relative to the desecration of the American flag; to the Committee on the Judiciary.

By Mr. MONTGOMERY:

H. Con. Res. 314. Concurrent resolution providing for the printing of a collection of statements made in tribute to Representative JAMIE L. WHITTEN; to the Committee on House Administration.

By Mr. HOYER:

H. Con. Res. 315. Concurrent resolution providing an adjournment or recess of the two Houses; considered and agreed to.

By Mr. FRANKS of Connecticut:

H. Con. Res. 316. Concurrent resolution declaring the sense of the Congress with respect to the use of racial quotas and statistics in connection with death penalty cases; to the Committee on the Judiciary.

By Mr. LIPINSKI (for himself and Mr. FIELDS of Texas):

H. Con. Res. 317. Concurrent resolution to express the sense of Congress that the President, the U.S. Trade Representative, the Secretary of Transportation, and the Secretary of Commerce must take all appropriate and necessary steps to eliminate, through international agreements or otherwise, restrictive foreign shipping practices which restrain or prevent U.S. flag vessels from fair and equitable participation in the transportation of motor vehicles into the United States; jointly, to the Committees on Merchant Marine and Fisheries, Foreign Affairs, and Ways and Means.

By Mr. GIBBONS:

H. Res. 577. Resolution returning to the Senate the bill S. 1216; considered and agreed to.

By Mr. MOAKLEY:

H. Res. 578. Resolution amending the Rules of the House of Representatives to apply certain laws to the House of Representatives, and for other purposes; to the Committee on Rules.

By Mr. GEPHARDT:

H. Res. 580. Resolution providing for the printing of the revised edition of the Rules and Manual of the House of Representatives for the 104th Congress; considered and agreed to.

By Mr. GEPHARDT:

H. Res. 581. Resolution relating to early organization of the House of Representatives for the 104th Congress; considered and agreed to.

By Mr. CLINGER:

H. Res. 582. Resolution declaring the sense of the House with respect to the National Performance Review's recommendation to dismantle the Railroad Retirement System; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. COX:

H. Res. 583. Resolution expressing the sense of the House of Representatives concerning the Iraqi Government's campaign against the Marsh Arabs of southern Iraq; to the Committee on Foreign Affairs.

By Mr. ORTON (for himself, Mr. YOUNG of Alaska, and Mr. HANSEN):

H. Res. 584. Resolution requesting that the Secretary of the Interior withdraw proposed regulations concerning rights-of-way granted under section 2477 of the Revised Statutes; to the Committee on Natural Resources.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. MONTGOMERY (by request):

H.R. 5289. A bill for the relief of John T. Monk; to the Committee on the Judiciary.

By Mr. WILLIAMS:

H.R. 5290. A bill for the relief of Wade Bomar, and for other purposes; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Ms. DUNN.

H.R. 123: Mr. PETERSON of Minnesota and Mr. HALL of Texas.

H.R. 124: Mr. ROTH.

H.R. 127: Ms. DELAURO, Mr. OWENS, Mr. GOODLING, and Mr. WATT.

H.R. 200: Mr. BORSKI.

H.R. 325: Ms. BROWN of Florida, Mr. WATT, Ms. LONG, and Mrs. LLOYD.

H.R. 326: Mr. GONZALEZ.

H.R. 346: Mr. SANTORUM.

H.R. 417: Mr. ISTOOK, Mr. LANCASTER, Mr. DELAY, and Mr. MCDADE.

H.R. 436: Mr. MINGE.

H.R. 438: Mr. BORSKI.

H.R. 539: Mr. BUNNING, Mr. HEFLEY, Mr. BOEHNER, Mr. BALLENGER, Mr. GILCHREST, Mr. COX, Mr. SAXTON, Mr. MICHEL, Mr. HANCOCK, Mr. GUNDERSON, Mr. BAKER of California, Mr. HOEKSTRA, Mr. FRANKS of Connecticut, Mr. HASTERT, Mr. CRANE, Mr. TRAFICANT, Mr. GOODLING, Mr. MYERS of Indiana, and Mr. RIDGE.

H.R. 559: Mr. FARR.

H.R. 885: Mr. ROTH and Mr. BLUTE.

H.R. 896: Ms. DUNN.

H.R. 911: Mr. BATEMAN.

H.R. 1080: Mr. ROTH.

H.R. 1110: Mr. MCHALE.

H.R. 1122: Mr. BLUTE.
H.R. 1293: Ms. DUNN.
H.R. 1417: Mrs. CLAYTON and Mr. FOGLIETTA.
H.R. 1487: Mr. BLUTE.
H.R. 1500: Mr. STOKES, Mr. FARR, and Ms. MCKINNEY.
H.R. 1604: Mr. ROYCE.
H.R. 1605: Mr. ROYCE.
H.R. 1620: Mr. BLUTE.
H.R. 1671: Mrs. ROUKEMA.
H.R. 1703: Mr. NADLER.
H.R. 1709: Mr. EDWARDS of Texas, Mr. MANN, Mr. LUCAS, Mr. PETRI, Mr. VOLKMER, and Mr. WILLIAMS.
H.R. 1843: Mrs. SCHROEDER and Mr. INSLEE.
H.R. 1852: Mr. ROYCE.
H.R. 1853: Mr. ROYCE.
H.R. 1883: Mr. CAMP, Mr. CARR, Mr. CALLAHAN, Mr. DARDEN, and Mr. YATES.
H.R. 1968: Mr. FAZIO.
H.R. 1980: Mr. FARR.
H.R. 2043: Mr. SAWYER and Mr. WATT.
H.R. 2059: Mr. ROYCE.
H.R. 2105: Mr. FARR.
H.R. 2119: Ms. FURSE.
H.R. 2229: Mr. JEFFERSON.
H.R. 2292: Mr. SHAW and Mr. HUTTO.
H.R. 2336: Mrs. MEYERS of Kansas.
H.R. 2365: Mr. BLUTE.
H.R. 2429: Mr. SANGMEISTER.
H.R. 2501: Mr. NADLER.
H.R. 2543: Mr. BERMAN and Mr. FARR.
H.R. 2623: Mr. COX.
H.R. 2664: Mr. BARCIA of Michigan.
H.R. 2673: Mr. BORSKI.
H.R. 2676: Mr. NADLER.
H.R. 2717: Mr. BACHUS of Alabama, Mr. GINGRICH, Mr. KINGSTON, and Mr. CRANE.
H.R. 2727: Mr. SWETT, Mr. LANTOS, and Mr. FARR.
H.R. 2910: Mr. BOEHNER, Mr. COMBEST, Mr. EWING, Mr. KINGSTON, and Mr. PAXON.
H.R. 2971: Mr. SUNDQUIST.
H.R. 3122: Mr. NADLER.
H.R. 3176: Mr. BLUTE.
H.R. 3227: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GUNDERSON, Mr. CRAMER, Mr. BAKER of California, Mr. Stump, Mr. BACHUS of Alabama, Mr. BURTON of Indiana, and Mr. SCHAEFER.
H.R. 3269: Ms. SHEPHERD.
H.R. 3320: Mr. ROTH.
H.R. 3322: Mr. CLYBURN.
H.R. 3397: Mr. SAWYER.
H.R. 3407: Mr. NADLER.
H.R. 3472: Mr. NADLER.
H.R. 3526: Ms. WOOLSEY and Mr. FILNER.
H.R. 3628: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HILLIARD, Mr. FROST, Mr. QUINN, and Mr. FINGERHUT.
H.R. 3692: Mr. BLUTE.
H.R. 3712: Ms. SLAUGHTER and Mr. ORTIZ.
H.R. 3739: Mr. BALLENGER.
H.R. 3747: Mr. DEFAZIO and Mrs. UNSOELD.
H.R. 3846: Mr. PALLONE.
H.R. 3860: Mr. ROTH.
H.R. 3875: Mr. SISISKY.
H.R. 3897: Mr. MORAN.
H.R. 3955: Mr. GEKAS, Mr. KOLBE, Mr. EMERSON, Mr. KINGSTON, Mr. INGLIS of South Carolina, Mr. WALKER, Mr. BEREUTER, Mr. INHOFE, Mr. BAKER of Louisiana, Mr. HOKE, Mr. HEFLEY, Mr. CRANE, Mr. HANSEN, Mr. KNOLLENBERG, Mr. MICA, Mr. SHAW, Mr. SCHAEFER, Mr. SKEEN, Mr. SOLOMON, Ms. PRYCE of Ohio, Mr. HOBSON, Mr. ZIMMER, Mr. CALVERT, Mr. EVERETT, and Mr. WELDON.
H.R. 4028: Mr. ZIMMER.
H.R. 4056: Mr. HOBSON.
H.R. 4096: Mr. TRAFICANT and Mr. FRANK of Massachusetts.
H.R. 4118: Mr. BACHUS of Alabama.
H.R. 4129: Mr. GILCHREST, Ms. COLLINS of Michigan, and Mr. STUPAK.
H.R. 4132: Mr. OWENS.
H.R. 4142: Mr. GILCHREST.
H.R. 4163: Mr. SKAGGS.
H.R. 4213: Mr. FARR.
H.R. 4225: Mr. LEWIS of Florida and Mr. ZIMMER.
H.R. 4291: Mr. KOPETSKI.
H.R. 4303: Mr. COX.
H.R. 4404: Mr. LANTOS and Mr. FISH.
H.R. 4416: Mr. GILCHREST.
H.R. 4496: Mr. SANGMEISTER and Mr. MCDERMOTT.
H.R. 4507: Mr. MORAN.
H.R. 4514: Mr. DOOLITTLE, Mr. GEJDENSON, and Mr. WILSON.
H.R. 4540: Ms. SHEPHERD.
H.R. 4570: Mr. MORAN.
H.R. 4585: Mr. GOODLING, Mr. HOEKSTRA, and Mr. HEFLEY.
H.R. 4654: Mr. MCHALE.
H.R. 4658: Ms. WOOLSEY, Mr. STUDDS, Ms. ESHOO, Ms. ROYBAL-ALLARD, Ms. PELOSI, Mr. EVANS, Ms. FURSE, and Ms. ENGLISH of Arizona.
H.R. 4677: Mrs. MALONEY, Ms. BROWN of Florida, Ms. COLLINS of Michigan, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. LOWEY, Mr. MILLER of California, Ms. SHEPHERD, Mr. LEWIS of Georgia, Mr. BECERRA, and Mr. BARRETT of Wisconsin.
H.R. 4696: Mr. HINCHEY, Ms. NORTON, Mr. OWENS, Mr. PALLONE, Ms. FURSE, Mr. LIPINSKI, and Mr. DELLUMS.
H.R. 4737: Mr. MCHALE.
H.R. 4789: Mr. GILCHREST.
H.R. 4792: Mr. DORNAN.
H.R. 4805: Mr. FINGERHUT.
H.R. 4839: Mr. FARR.
H.R. 4875: Mr. OWENS.
H.R. 4876: Mr. LINDER.
H.R. 4879: Mr. ANDREWS of New Jersey.
H.R. 4903: Mr. ABERCROMBIE, Mr. TOWNS, Ms. NORTON, Mr. CLAY, Mr. RUSH, Mr. KLEIN, and Mr. LEWIS of Georgia.
H.R. 4912: Mr. TORRES and Mr. SCHAEFER.
H.R. 4934: Mr. SOLOMON.
H.R. 4936: Mr. DURBIN.
H.R. 4949: Mr. DUNCAN and Mr. MCCOLLUM.
H.R. 4954: Mr. ACKERMAN.
H.R. 4955: Mr. TORRICELLI and Ms. FURSE.
H.R. 4977: Mr. MILLER of California.
H.R. 4978: Mr. MILLER of California.
H.R. 4979: Mr. MILLER of California.
H.R. 4981: Mr. OLVER, Ms. PELOSI, Mr. MILLER of California, Mr. BERMAN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. EVANS, and Mr. WYDEN.
H.R. 4986: Mrs. JOHNSON of Connecticut, Mrs. MALONEY, Mr. HALL of Ohio, Mr. PAYNE of Virginia, Mr. LIGHTFOOT, Mr. RAHALL, Mr. LIPINSKI, Mr. WILSON, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. HOUGHTON, Mr. MCCLOSKEY, and Mr. BARLOW.
H.R. 4995: Mr. KLUG and Mr. MCHALE.
H.R. 4997: Mr. MANTON and Ms. SCHENK.
H.R. 5006: Mr. CARR, Mr. BEREUTER, Mr. MONTGOMERY, Mr. CRAMER, Mr. BILBRAY, Mr. LAUGHLIN, Mr. MOORHEAD, Mr. OXLEY, Mr. PORTMAN, Mr. TANNER, Mr. DE LA GARZA, Mr. YOUNG of Alaska, Mr. SCHIFF, Mr. WELDON, Mr. HUFFINGTON, Mr. LIGHTFOOT, Mr. KNOLLENBERG, Mr. BALLENGER, Mr. BARTON of Texas, Mr. DUNCAN, Mr. ROHRABACHER, Mr. ORTON, Mr. FARR, and Mr. SOLOMON.
H.R. 5010: Mr. SOLOMON.
H.R. 5013: Mr. BEREUTER, Mr. EMERSON, Ms. ROYBAL-ALLARD, MRS. LOWEY, and Mr. MORAN.
H.R. 5014: Mr. SOLOMON.
H.R. 5032: Mr. JOHNSON of Georgia, Mr. DICKS, Ms. CANTWELL, Mr. SWIFT, Mr. GUNDERSON.
H.R. 5036: Mr. SERRANO, Mr. FILNER, Mr. FROST, Mr. MFUME, and Mr. LANCASTER.
H.R. 5043: Mr. WALSH, Mr. EVANS, Mr. SKEEN, and Mr. SHAYS.
H.R. 5061: Mr. MANTON, Mr. KING, Mr. KNOLLENBERG, Mr. LIVINGSTON, Mr. SOLOMON, Mr. STUPAK, Mr. SAXTON, Mr. MYERS of Indiana, Mr. CRANE, Mrs. THURMAN, Mr. ZELIFF, Mr. BARTON of Texas, and Mr. HOEKSTRA.
H.R. 5062: Ms. WATERS, Mr. LINDER, Mr. JOHNSON of Georgia, Mr. ORTIZ, Mr. CUNNINGHAM, Mr. HUFFINGTON, Mr. QUILLEN, Mr. CRAPO, Ms. FURSE, Mr. LAROCCO, Mr. JOHNSTON of Florida, Mr. SUNDQUIST, Ms. BROWN of Florida, Mr. LAZIO, Mr. BEILENSON, Mr. BARLOW, Mr. CRANE, Mr. HALL of Texas, Mr. REED, and Ms. ENGLISH of Arizona.
H.R. 5069: Mr. KINGSTON.
H.R. 5073: Mr. CALVERT.
H.R. 5075: Mrs. KENNELLY.
H.R. 5082: Mr. SAXTON, MR. CLINGER, Mr. BLILEY, Mr. LINDER, Mr. COBLE, Mr. MCHUGH, Mr. SANTORUM, Mr. THOMAS of Wyoming, Mr. PORTER, Mr. EWING, Mr. MCINNIS, and Mr. WOLF.
H.R. 5083: Mr. DEUTSCH, Mr. HASTINGS, and Ms. LOWEY.
H.R. 5092: Mr. STUMP.
H.R. 5111: Mr. MINGE and Mr. BEILENSON.
H.R. 5119: Mr. SWIFT.
H.R. 5128: Mr. MANN and Mr. FRANK of Massachusetts.
H.R. 5129: Mr. BARRETT of Wisconsin, Mr JOHNSON of South Dakota, Mr. BARCIA of Michigan, Mr. KLEIN, Mr. FRANK of Massachusetts, Mr. ROHRABACHER, Mr. NADLER, and Mr. POMEROY.
H.R. 5134: Mrs. FOWLER, Mrs. MEYERS of Kansas, Mr. BAKER of California, Mr. BARRETT of Nebraska, Mr. PORTMAN, Mr. FIELDS of Texas, and Mr. ANDREWS of New Jersey.
H.R. 5135: Mr. EWING, Mr. EMERSON, and Mr. MILLER of Florida.
H.R. 5141: Mr. MENENDEZ, Mr. SCHUMER, Mr. GUNDERSON, Ms. HARMAN, Mr. SABO, Mr. FRANKS of Connecticut, Mrs. JOHNSON of Connecticut, Mr. GILMAN, Mr. ACKERMAN, Mr. RUSH, Mr. HUGHES, Mr. HORN, and Mr. KLUG.
H.R. 5195: Mrs. LOWEY.
H.R. 5219: Mrs. CLAYTON and Mr. PAYNE of New Jersey.
H.R. 5222: Mrs. MORELLA.
H.R. 5228: Mr. TANNER, Mr. BOEHLERT, Mr. DEAL, Mr. CASTLE, Mrs. LLOYD, Mr. HOUGHTON, Mr. HEFNER, Mr. KLUG, Ms. LONG, Mr. COLLINS of Georgia, Mr. ANDREWS of New Jersey, and Mr. EVERETT.
H.J. Res. 18: Mr. CHAPMAN.
H.J. Res. 44: Mr. LAZIO.
H.J. Res. 145: Mr. CALVERT, Mr. GREENWOOD, and Mr. HEFLEY.
H.J. Res. 184: Mr. WATT, Mr. GOODLING, Mr. REGULA, Mr. OXLEY, Mr. Edwards of California, Mr. BARTLETT of Maryland, Mr. YOUNG of Florida, Mr. COX, Mr. GALLO, Mr. FRANKS of New Jersey, Mr. SOLOMON, Mr. BILIRAKIS, Mr. SMITH of New Jersey, Mr. TORRICELLI, Mr. BARRETT of Wisconsin, Mr. MANTON, Ms. DUNN, Mr. DREIER, Mr. SMITH of Texas, Mr. ROEMER, Mr. VISCLOSKY, Mr. BAKER of Louisiana, Mr. HASTINGS, Mr. BALLENGER, Mr. ROHRABACHER, Mr. BUNNING, Mr. BARRETT of Nebraska, Mr. UPTON, Mr. CARDIN, and Mr. BACHUS of Alabama.
H.J. Res. 332: Mr. PICKETT.
H.J. Res. 385: Mr. MOLLOHAN, Mr. JACOBS, and Mr. GRANDY.
H.J. Res. 399: Ms. BROWN of Florida, Mr. JACOBS, Mr. SAWYER, Mr. PAYNE of New Jersey, Mr. SLATTERY, Mr. HILLIARD, Mr. JEFFERSON, Mr. DIXON, and Mr. MFUME.
H.J. Res. 405: Mr. SMITH of New Jersey, Mr. FIELDS of Louisiana, Mr. COX, Mr. LIGHTFOOT, Mr. QUINN, Mr. PETERSON of Minnesota, Mr. GILLMOR, Mr. GILCHREST, Mr. GEKAS, and Mr. BISHOP.

H.J. Res. 410: Mr. MYERS of Indiana and Mr. CARDIN.

H.J. Res. 411: Mrs. BYRNE, Mr. BACCHUS of Florida, Mr. BARCA of Wisconsin, Mr. EHLERS, Mr. FRANKS of New Jersey, Mr. MACHTLEY, Mr. RAMSTAD, Mr. GALLO, Mr. HASTERT, Mr. GOODLATTE, Mr. SMITH of Texas, Mr. BROWN of California, Mr. WOLF, Mr. ROGERS, Mr. SMITH of Oregon, Mr. STOKES, Mrs. VUCANOVICH, Mr. BEVILL, Mr. LAUGHLIN, Mr. OLVER, Mr. HAMBURG, Mr. BECERRA, Mr. SCOTT, Mr. ROSTENKOWSKI, Mr. FIELDS of Louisiana, Mrs. MINK of Hawaii, Ms. MARGOLIES-MEZVINSKY, Ms. SHEPHERD, Mr. DARDEN, Mr. DEAL, Mr. MENENDEZ, Mr. NEAL of Massachusetts, Mr. DELLUMS, Mr. HUTTO, Mr. KANJORSKI, Mr. MAZZOLI, Mr. MOAKLEY, Mr. SPENCE, Mrs. BENTLEY, Mr. BILIRAKIS, Mr. MCCOLLUM, Mr. GEKAS, Mr. HOLDEN, Mr. SHUSTER, Mr. MURPHY, Mr. RIDGE, Mr. ORTON, Mr. ANDREWS of Maine, Mr. KLINK, Mr. NEAL of North Carolina, Mr. SARPALIUS, Mr. LEVY, Mr. FLAKE, Mr. NADLER, Mr. SCHUMER, Mr. TOWNS, Ms. VELAZQUEZ, Ms. MOLINARI, Mr. RANGEL, Mr. ENGEL, Mr. GILMAN, Mr. PAXON, Mr. LAFALCE, Mr. HOUGHTON, Mr. SAM JOHNSON, Mr. SMITH of Michigan, Mr. ROHRABACHER, Mr. ZIMMER, Mr. CALVERT, Mr. HOKE, Mr. BARTLETT of Maryland, Mr. GRAMS, Ms. SNOWE, Mr. UPTON, Mr. YOUNG of Florida, Ms. DELAURO, Mr. HOCHBRUECKNER, Mr. CARDIN, Mr. TAUZIN, Mr. LEHMAN, Mr. HASTINGS, Mr. DOOLITTLE, Mr. HUNTER, Mr. LEACH, Mrs. MEYERS of Kansas, Mr. QUILLEN, Mr. RAVENEL, Mr. ROEMER, Mr. FALEOMAVAEGA, Mr. SERRANO, Mr. HALL of Texas, Mr. ANDREWS of Texas, Mr. ABERCROMBIE, Mr. BARCIA of Michigan, Mr. BARRETT of Wisconsin, Mr. BISHOP, Mr. BROWDER, Mr. CARR, Mrs. CLAYTON, Mr. CLYBURN, Ms. COLLINS of Michigan, Mr. COYNE, Mr. CRAMER, Ms. DANNER, Mr. DEFAZIO, Mr. EDWARDS of Texas, Ms. ENGLISH of Arizona, Mr. FARR, Mr. FINGERHUT, Mr. FOGLIETTA, Ms. FURSE, Mr. HUGHES, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. KAPTUR, Mr. KLECZKA, Mr. KOPETSKI, Ms. LAMBERT, Ms. LOWEY, Mr. MANTON, Mr. MARKEY, Mr. MCHALE, Ms. MCKINNEY, Mrs. MEEK of Florida, Mr. MINGE, Mr. MORAN, Ms. NORTON, Mr. PAYNE of New Jersey, Mr. GEPHARDT, Mr. GONZALEZ, Mr. HAMILTON, Mr. PETERSON of Florida, Mr. POMEROY, Mr. RAHALL, Mr. ROMERO-BARCELO, Mr. ROSE, Mr. RUSH, Mr. SMITH of Iowa, Mr. STENHOLM, Mr. STUPAK, Mr. SYNAR, Mrs. THURMAN, Mrs. UNSOELD, Ms. WATERS, Ms. WOOLSEY, Mr. WYDEN, and Mr. DELAY.

H.J. Res. 418: Mr. SAXTON.

H. Con. Res. 148: Ms. DUNN, Mr. OWENS, Mrs. MEEK of Florida, Mr. THOMPSON, Ms. SHEPHARD, Mr. TAUZIN, Mr. NEAL of Massachusetts, Mr. BILBRAY, and Mr. JOHNSON of Georgia.

H. Con. Res. 173: Mr. REED, Mr. KOPETSKI, Mr. GILCHREST, Mr. SANTORUM, Mr. MURPHY, Mr. HOLDEN, Mr. LEWIS of California, and Mr. CARR.

H. Con. Res. 188: Mr. LANTOS, Mr. PORTER, Mr. CONDIT, Mr. CONYERS, and Ms. DELAURO.

H. Con. Res. 219: Mr. FILNER.

H. Con. Res. 243: Mr. PASTOR.

H. Con. Res. 258: Mr. DELLUMS, Mr. EMERSON, Mr. LIPINSKI, Mr. MANTON, and Mr. FLAKE.

H. Con. Res. 259: Mr. EDWARDS of Texas, Mr. MAZZOLI, Mr. MONTGOMERY, Mr. LIPINSKI, Mr. FROST, Mr. ORTIZ, and Mr. MANTON.

H. Con. Res. 276: Mr. EVANS.

H. Con. Res. 306: Mr. KOPETSKI, Mr. EVANS, Mr. MCCLOSKEY, Mr. DEFAZIO, Mr. STARK, Mr. FRANK of Massaschusetts, Mr. EDWARDS of California, Mr. WYDEN, and Ms. MCKINNEY.

H. Res. 266: Mr. BLUTE.

H. Res. 473: Mr. UNDERWOOD, Ms. LOWEY, and Mr. MINETA.

H. Res. 519: Mr. ROHRABACHER, Mr. DEUTSCH, Mr. ISTOOK, Mr. PAXON, and Mrs. VUCANOVICH.

H. Res. 527: Mr. JEFFERSON, Mr. PETE GEREN of Texas, Mrs. KENNELLY, Mr. FLAKE, Mr. CLAY, Mr. STOKES, Mr. FORD of Tennessee, Mr. WYNN, Mr. TUCKER, Mr. TEJEDA, Mr. WATT, Mr. REYNOLDS, Mr. SAWYER, Mr. SCOTT, Mr. BONIOR, Mr. RICHARDSON, Mr. BLACKWELL, Mr. TOWNS, Mr. CONYERS, Mr. HASTINGS, Mr. THOMPSON, Ms. NORTON, Mr. CARDIN, Mr. WHEAT, Mr. HUTTO, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MORAN, Mrs. MEEK of Florida, Mr. MINETA, Mr. ACKERMAN, Mr. DELLUMS, Ms. WATERS, Mr. MURPHY, Mr. PAYNE of New Jersey, Mr. DE LUGO, Mr. WASHINGTON, Mr. LINDER, Mr. MONTGOMERY, Mr. MILLER of California, Mr. FROST, Mr. ROWLAND, Mr. BACCHUS of Florida, Mr. EVANS, Mr. KILDEE, Mr. QUINN, Ms. SLAUGHTER, Mr. ENGEL, Mr. JOHNSON of Georgia, Mr. CLYBURN, Mr. MEEHAN, Mr. DEAL, Mr. FILNER, Mr. KINGSTON, Mr. MCDERMOTT, Ms. DELAURO, Mr. SCHUMER, Mr. LANTOS, and Mr. FALEOMAVAEGA.

H. Res. 528: Mr. JEFFERSON, Mr. PETE GEREN of Texas, Mrs. KENNELLY, Mr. FLAKE, Mr. STOKES, Mr. FORD of Tennessee, Mr. WYNN, Mr. TUCKER, Mr. TEJEDA, Mr. WATT, Mr. REYNOLDS, Mr. SAWYER, Mr. SCOTT, Mr. BONIOR, Mr. RICHARDSON, Mr. BLACKWELL, Mr. TOWNS, Mr. CONYERS, Mr. HASTINGS, Mr. THOMPSON, Ms. NORTON, Mr. CARDIN, Mr. WHEAT, Mr. HUTTO, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MORAN, Mrs. MEEK of Florida, Mr. MINETA, Mr. ACKERMAN, Mr. DELLUMS, Ms. WATERS, Mr. MURPHY, Mr. PAYNE of New Jersey, Mr. DE LUGO, Mr. WASHINGTON, Mr. LINDER, Mr. MONTGOMERY, Mr. MILLER of California, Mr. FROST, Mr. ROWLAND, Mr. MACCHUS of Florida, Mr. EVANS, Mr. KILDEE, Mr. QUINN, Ms. SLAUGHTER, Mr. ENGEL, Mr. JOHNSON of Georgia, Mr. CLYBURN, Mr. MEEHAN, Mr. DEAL, Mr. FILNER, Mr. KINGSTON, Mr. MCDERMOTT, Ms. DELAURO, Mr. SCHUMER, and Mr. LANTOS.

H. Res. 529: Mr. THORTON.

H. Res. 545: Mr. BLILEY, Mr. HANSEN, Mr. KINGSTON, Mr. LINDER, Mr. PARKER, Mr. PETERSON of Minnesota, Mr. EMERSON, and Mr. COX.

H. Res. 557: Mr. MCDERMOTT, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. LIPINSKI, Mr. BARRETT of Wisconsin, Mr. ACKERMAN, Mr. BONIOR, Mr. COOPER, Mr. FLAKE, Mrs. FOWLER, Ms. SLAUGHTER, Mr. WATT, Mr. BEILENSON, and Ms. DELAURO.

H. Res. 569: Mr. MANZULLO.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions.

Petition 3 by Mr. MCCOLLUM on House Joint Resolution 38: Collin C. Peterson.

Petition 215 by Mr. BILIRAKIS on House Resolution 382: Wayne T. Gilchrest.

Petition 18 by Mr. HASTERT on House Resolution 402: Christopher H. Smith, James Leach, William F. Goodling, Robert E. (Bud) Cramer, Jr., Wayne T. Gilchrest, and F. James Sensenbrenner, Jr.

Petition 22 by Mr. INHOFE on House Resolution 409: Rod Grams, Eric Fingerhut, Terry Everett, and Bob Goodlatte.

Petition 23 by Mr. TAUZIN on the bill H.R. 3875: Norman Sisisky and Edward R. Royce.

Petition 25 by Mr. CONDIT on House Resolution 489: Thomas J. Ridge and Wayne T. Gilchrest.

Petition 26 by Mrs. FOWLER on House Resolution 472: Terry Everett.

EXTENSIONS OF REMARKS

ST. JOHN'S UNIVERSITY 125TH ANNIVERSARY

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. MANTON. Mr. Speaker, I take this opportunity to pay tribute to my alma mater, St. John's University on their 125th anniversary. In 1865, the Rev. John Loughlin, first bishop of Brooklyn, invited the Vincentian Community to establish a day college for boys in New York City. The school officially opened on September 5, 1870, where it welcomed its first class under the presidency of Rev. J.T. Landry, C.M. In 1933, the Board of Regents authorized St. John's College to be changed to St. John's University, Brooklyn.

In addition to the opening of the college in 1870, a number of other schools within the college were added. The School of Pedagogy was established in 1908, the Graduate School of Arts and Science opened in 1914, the School of Law was instituted in 1925, the School of Accounting, Commerce and Finance was added in 1927, the College of Pharmacy opened in 1929, and in 1942 the School of Nursing was opened.

World War I and II impacted the campus as many students and faculty joined the services and the war industry. In 1917, the St. John's service flag was blessed with 129 stars for collegians who are serving our country in World War I. In 1945, the SS *St John's* a victory ship, was christened as a symbol of the commitment displayed by the St. John's faculty and students. A plaque commemorating those who served in both of the wars was erected in 1945.

Today, the school continues to thrive. The university has extended itself well beyond the campus in New York. Recently, a study abroad program in Ireland was introduced allowing students to receive their education in a different cultural surrounding. In 1985, the university officially launched College Europa for its students. These programs allow the St. John's community to help the world around it by continuing the tradition that was started 125 years ago by Rev. John Loughlin.

Mr. Speaker, I am proud to be a graduate of this fine institution. I am confident St. John's University will continue to bring a high quality educational experience to the community as well as the world. I know my colleagues join me in congratulating St. John's University on 125 years of excellence in education.

TRIBUTE TO DR. JACK VAN NEWKIRK

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. GOODLING. Mr. Speaker, I am very pleased to have the opportunity to join the White Rose Foundation in recognizing an outstanding community leader and educator from Pennsylvania's 19th Congressional District, Dr. Jack Van Newkirk.

As the ranking minority member on the House Education and Labor Committee, I am very fortunate to have Dr. Van Newkirk as a sounding board for various education related proposals which come before Congress. For many years, he has served as a member of my Education Advisory Board and has been an invaluable source in assisting me in the development of our Nation's education policies.

Dr. Van Newkirk has dedicated more than 35 years of his life to the education of our Nation's youth and is most deserving of the Service to Mankind Award. Over that period of time, he has enhanced the lives of literally thousands of people.

He has forged partnerships with Federal, State, and local government officials, business and industry, community leaders, parents and teachers in delivering excellence in education. He has made the education community sit up and take notice of York City schools and received national and statewide attention for his efforts. Most importantly, by having Jack as school superintendent, parents know they play a vital role with regard to their children's education.

As an administrator, he has fostered excellence in education through innovation, high expectations, and effective outreach. In addition, Dr. Van Newkirk has taken giant steps in coordinating education programs and services which meet the needs of a very culturally and socially diverse community. He has implemented policies which set high standards of academic performance for all students. He has developed programs which foster professional growth for teachers and school district employees. In order to meet the challenges of educating America's youth, he developed and supported programs for dropout prevention, teen pregnancy, drug and alcohol abuse, dysfunctional families, and illiteracy.

The fact that he demands that every program he runs is of the highest quality has made my job in Washington a bit easier. I have long been able to point to specific programs which were implemented by Dr. Van Newkirk that really work. I am very proud to know that cutting edge programs which provide the prototype for other school districts exist in my district.

Dr. Van Newkirk has given the people of York a sense of ownership and pride in their schools and their community. He has given our young people a brighter future and the ability to reach their goals, which in my mind, is the best feat any individual can accomplish.

SALUTE TO THE SCHOOL OF SOCIAL WELFARE AT THE UNIVERSITY OF CALIFORNIA, BERKELEY, ON THEIR FIRST 50 YEARS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. DELLUMS. Mr. Speaker, I rise today with pride and honor to share with you and my colleagues a tribute to the School of Social Welfare at the University of California, Berkeley. As an alumnus of this prestigious institution, I congratulate the faculty, staff, and students on 50 years of excellence and achievement.

The School of Social Welfare at Berkeley is one of the outstanding graduate schools of social welfare in the country. The school has committed itself to preparing professionals for careers in public social services. Its students are prepared to deal with contemporary societal issues such as aging, child welfare, family disruption, mental disability, and substance abuse through classroom courses and supervised fieldwork.

Recently, the school initiated the California Social Work Education Center [CalSWEC], a major statewide public service effort to recruit, retain, and better educate child welfare workers in public agencies. CalSWEC will enhance the quality of services to children and families in counties throughout California. Attesting to its level of success, it has already been identified as a national leadership model.

Concern for social welfare and the public institutions that serve the poorest members of our community requires a strong commitment toward building healthy, thriving communities. The School of Social Welfare at the University of California, Berkeley, has demonstrated this commitment in the pride and care it has shown in educating social workers to help communities build their capacity to support families, to educate their youth, and to assist the needy. As you look to the future and the next 50 years, I congratulate you on a job well done and wish you well on the difficult task ahead of coping with ever-changing realities.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

INTRODUCTION OF THE SMALL BUSINESS OSHA COMPLIANCE INCENTIVE ACT

HON. JAMES A. HAYES

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. HAYES. Mr. Speaker, over my 8-year tenure in this body, no problem has been more apparent and of paramount concern to the many small businesses located in my southwestern Louisiana district than the egregious regulatory burdens placed upon them by the Occupational Safety and Health Administration [OSHA]. Ninety-five percent of the business in Louisiana, not accounting for government or farm workers, employ 100 or less workers, and OSHA's costly paperwork requirements and perpetual threatening demeanor not only exemplify the inefficiency of this agency but also reduce our overall economic productivity and hamper competitiveness.

Therefore, in an effort to improve the responsiveness of OSHA in meeting the need of small businesses in Louisiana and throughout the country, today I am introducing "the Small Business OSHA Compliance Incentive Act."

I have been especially disturbed by OSHA's propensity to propose reactive solutions to the problems associated with safety and health hazards in the workplace. The emphasis on punishing employers, rather than working with them, has diverted crucial financial and human resources from preventing potential risks to employee safety. Instead, employers must sift through a maze of red tape.

My bill would change OSHA's primary focus from reactive to proactive policy strategies. The provisions are summarized below:

First, the bill would increase the incentive to states to establish their own safety and health programs. The 23(g) formula would be changed from a 50%/50% Federal-to-State match to a maximum of a 75%/25% split. This will increase the number of section 18(c) State-Plan-State Enforcement Programs and decrease the amount of Federal dollars currently being spent to enforce OSHA requirements. The amount of Federal enforcement monies saved would be directed to 23(g) consultation services to better assist small businesses develop effective safety and health plans. This provision would also provide statutory authority for the consultation service program, which currently can be eliminated with the stroke of a pen.

Second, the proposal would exempt small businesses from any fees that may be instituted by OSHA for use of consultation services, should those small businesses request and utilize consultation assistance.

Third, the bill would also exempt small businesses from OSHA inspections where these businesses implement recommendations from the consultation service for enhancing preventive strategies and for abating hazards.

Fourth, finally, the bill would limit the penalties on small businesses that are able to abate non-willful hazards in a reasonable time period and that exhibit a cooperative and diligent approach to mitigating such hazards.

Officials from the Occupational Safety and Health Consultation Programs (OSHCON) estimate a significant backlog of requests from small businessmen to assist them in meeting OSHA standards. Establishing health and safety plans can range from six months to two years. Dwindling resources have restricted OSHCON's ability to maintain qualified competent staffs and provide timely service. To keep up with inflation alone, in 1991, OSHCON programs would have required an approximately $8 million budgetary increase. While OSHA's enforcement budget has grown only sightly due to overall fiscal constraints within the Department of Labor, the overall fiscal constraints within the Department of Labor, the State and Federal dollars allocated to enforcement, however, have been more than six times greater than those going to consultation.

Clearly, with such scarce resources available for health and safety assistance, the Federal Government should allocate its resources in a more prudent manner. We must redirect them to a more constructive means of achieving OSHA's laudable and necessary goals. Concentrating on enforcement sends the wrong message.

Most small businesses have put forth a good faith effort to protect their employees. It is, after all, impractical, fiscally irresponsible, and counterproductive to implement procedures and processes that endanger employees. But, if OSHA does not have adequate resources to provide all the tools needed to do its job protecting health and safety, then why should we presume that small businessmen, most of whom live on the margin as it is, have the technical expertise and financial resources to do so. They need our help.

This is a work in progress. I introduce this bill today in an effort to inform my colleagues, small business owners and employees, regulators, and others of my thoughts on these important issues and to enlist suggestions for improving this legislation. My intention is to consider these recommendations over the course of the next few months, make revisions that are appropriate, and introduce the bill again early in the 104th Congress. In this way, we may transform OSHA's overregulatory approach and provide the relief that small businessmen everywhere desperately need.

TRIBUTE TO BENJAMIN DeHART

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. FORD of Michigan. Mr. Speaker, I rise today to recognize a dedicated public servant, and a lifelong Democrat, Benjamin DeHart of Westland, Michigan.

Ben DeHart has been a staff representative for the American Federation of State, County, and Municipal Employees for over 27 years, and has served as the union's legislative liaison from 1987 through 1991.

A Democratic Precinct Delegate since he was 21 years old, Ben's involvement in politics runs deep. He has served on the Westland City Council for many years, and has also been elected Deputy Registrar and a member of the City of Westland Planning Commission. He has held a number of leadership positions within the Democratic Party, including co-chair of the District Party.

Ben and his wife, Eileen, have five children—Rebecca, Benjamin, Timothy, Teresa, and Brian. Eileen shares Ben's commitment to political life, and is herself a candidate for State Representative in Michigan's 18th District.

Ben has decided to begin his well-earned retirement this fall. A retirement party honoring Ben DeHart will be held on November 10, 1994, in Westland, Michigan.

At this time, I would like to ask my colleagues in the House to join me in recognizing Ben DeHart for his years of dedication and service to AFSCME, the Democratic Party, and the people of Westland, Michigan.

THE 200TH ANNIVERSARY OF RUSSIAN ORTHODOXY IN AMERICA

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. KLEIN. Mr. Speaker, I rise today to pay tribute to the 200th anniversary of the establishment of the Russian Orthodox Church in America.

The early relationship between the Russian Church and the Native Alaskan cultures has been highlighted in a Library of Congress exhibit entitled "In the Beginning Was the Word." It was with great pleasure that I joined with President Clinton and President Boris Yeltsin at the opening of this exhibit. I commend this exhibit because, given the current changes being experienced in Russia, there is a great deal of insight we can draw from the role the Russian Orthodox Church has played in our region for the last two centuries.

In 1794, eight Russian priests accompanied the arrival of the first official Russian envoy to North America. While conversion was among the primary goals of the mission, it is important to note that the Russian Orthodox method prohibited coercion. The respect of the Russian Orthodox Church towards the North American culture laid the groundwork for a unique merging of two culturally-rich peoples. This bond of tolerance and understanding between these eight Russian priests and the Native Alaskans led to the establishment of a significant Russian Orthodox presence in this country.

Russian Orthodox culture has flourished throughout our Nation ever since. First, sprang a large community that would leave lasting effects from the Aleutian islands through the length of the Pacific coast. Now, Russian Orthodox Churches can be found throughout North America, enriching the lives of both those who belong to the church and those fortunate enough to live in the surrounding communities. The church has established an incomparable legacy of spirituality and dedication to education.

The Russian Orthodox Church has also contributed much to the philosophical framework of the United States. Our modern political state and our religious institutions can prosper together because of a dynamic envisioned during the establishment of Russian

Orthodoxy. It was a recognition of the double allegiance of sacerdotium and imperium—or church and state—which can be dated back to the time of Basil I in the ninth century. It was their view that the two institutions should abide and operate in perfect concord and agreement, respecting and recognizing each other's rights. This understanding has enabled Russian Orthodoxy to persevere through a millennium of political tumult.

It is important for all Americans to try to understand the broad scope of the sweeping social and political changes in Russia. It is in our best interest to see democracy and the free practice of religion guaranteed in modern Russia. The rehabilitation of the Russian Orthodox church has given us the opportunity to explore our shared beliefs and to fully appreciate the resplendent history of the Russian Orthodox Church in America and throughout the world.

As we commemorate the landmark 200th anniversary of the meeting of these two cultures, we are embarking on a new era of relations between Russians and Americans. "In the Beginning Was the Word" represents the first time our two nations have united in official recognition of the rich history between our peoples. It also reminds us that the meetings between the Russian Orthodox Church and the native North Americans are a precedent for the expanded relationships we now seek.

TRIBUTE TO ARAM GEORGE GARABEDIAN

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. REED. Mr. Speaker, it gives me great pleasure to rise today on behalf of Aram G. Garabedian, who is being honored this month by the Armenian Masonic Degree Team of Rhode Island as their Armenian-American of the Year. This organization annually recognizes an individual whose efforts have led to the betterment of life in Armenia and whose noteworthy contributions have made a significant impact on the greater Rhode Island community.

Aram George Garabedian was born in Providence in May 1935, and is a graduate of Hope High School. Aram graduated from the University of Maine in 1957 where he majored in physical education and biology and played college football. He married his high school sweetheart, Jane, and immediately following his graduation, he entered the U.S. Army as an infantry officer.

Upon his return to civilian life, Aram worked in several merchandising capacities as well as teaching and coaching in several schools. In 1966, he joined a small company, Nature's Bounty, where he was instrumental in increasing the company sales from $50,000 to $150,000,000. In 1986, he resigned from their sales force and joined his family's company, Bliss Properties.

In addition to his success in business, Aram has always been actively involved in public service. He held public office for 12 years as a member of the Cranston School Committee and a State representative and was a former candidate for Lt. Governor.

But perhaps Aram's greatest avocation has been his selfless service to the Armenian people. His devotion is evidenced by his countless humanitarian gestures and a lifetime of commitment. In 1988, he was deeply moved by the tragedy of the earthquake in Armenia and helped to mobilize the Armenian Assembly in Washington, organized local relief efforts and was instrumental in the building of a children's rehabilitation center at the earthquake site. He contributes to numerous projects throughout the Armenian churches in Rhode Island and is a generous benefactor and ardent supporter of the preservation of Armenian culture and heritage.

Mr. Speaker, on behalf of my home State of Rhode Island, I would respectfully ask my fellow colleagues join me in honoring an outstanding individual, Aram George Garabedian.

RECYCLING WASTES AS ENERGY IN CEMENT KILNS

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. ANDREWS of Texas. Mr. Speaker, over the last several years, Congress has grappled with the controversial issue of how best to manage hazardous waste in this country. Under direction from Federal law, the U.S. Environmental Protection Agency has found that combustion of certain wastes represents the best demonstrated available technology for safe and effective management. Each year 1.4 million tons of this waste is managed in 15 commercial incinerators and about 25 cement plants. When waste is burned in a cement plant, it is recycled as energy to heat the giant kilns that produce cement, an ingredient essential to rebuilding our roads and bridges. Congress should not let competitive issues distort its judgment regarding safe and productive use of waste fuels.

As Members of Congress, it has long been our collective judgment that well-regulated energy recovery from waste makes great sense as environmental, energy, and economic policy. For example, when we enacted the Resource Conservation and Recovery Act, we established an objective to promote protection of human health and the environment and to conserve valuable material and energy resources. Further, we committed the Federal Government to a cooperative effort with the States, local governments, and private enterprise to encourage energy recovery from waste.

Mr. Speaker, use of waste fuels in cement kilns makes particular sense. First, because of the high temperatures, turbulence, and long burn times inside the kiln, the cement kiln can manage wastes in a manner protective of human health and the environment. Second, instead of squandering the heat generated by combustion of waste, the cement kiln can channel it into energy savings, the equivalent of 168 million gallons of oil or 1 million tons of coal. The men and women that work in cement kilns strongly support the use of waste fuels. Consider the statement of Ande Abbott, the legislative director of the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers, AFL–CIO, on the subject:

> Waste fuel substitution in cement production is a vital link in a unique and efficient materials reuse chain. Fuel substitution provides a valuable end use for the residues of recycling, solving a waste disposal problems and conserving fossil fuel resources. The industry benefits from lower costs, making them more competitive on the world market, thereby protecting the jobs of workers. The public benefits from the total destruction of hazardous waste without air or ground pollution.

As Dr. Randall Seeker, a member of the EPA Science Advisory Board, recently noted, "Cement kilns satisfy all of the critical design parameters for the ideal high-temperature destruction of hazardous waste." EPA itself has described the regulations that cover cement kilns, known as the Boilers and Industrial Furnaces Rule, as "substantive requirements that protect human health and the environment." In contrast to the recently promulgated BIF rule, commercial incinerator regulations were last updated back in 1981.

This win-win situation is being challenged in a recent bill, H.R. 4948, which would benefit economic competitors of the cement industry. Commercial incinerators, who do not recover energy, would gain an unfair competitive advantage through a one-sided, anticompetitive legislative proposal that purports to protect the environment while cynically undermining an environmentally sensitive form of waste management—energy recovery. The bill would skew regulatory priorities and undermine ongoing EPA investigations. In short, the legislation attempts to achieve for the commercial incinerator industry what it could not accomplish in the marketplace. I encourage my fellow Members not to support such one-sided, unilateral legislation. Instead, Congress should be prepared to encourage energy recovery consistent with the meaning of the Resource Conservation and Recovery Act.

THE EQUITABLE TRANSPORTATION OF MOTOR VEHICLES INTO THE UNITED STATES

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. FIELDS of Texas. Mr. Speaker, today I am please tc join with Chairman LIPINSKI in introducing a concurrent resolution calling on the Clinton administration to do everything in its power to open the international car carrier trade to U.S.-flag vessels, owned, operated, and crewed by citizens of the United States. We must urge other countries to eliminate their restrictive practices which unfairly exclude U.S.-flag carriers from the carriage of automobiles into the United States. If appropriate steps have not been taken to open this market by the time Congress reconvenes next year, I intend to work with the chairman next year on legislation that would provide equitable access to the vitally important car carrier trade for U.S.-flag carriers.

Each year, millions of cars and trucks are shipped into the United States from overseas

on foreign-flag vessels, owned, operated, and controlled by foreign companies and crewed by foreign seafarers. Foreign shipping companies and foreign automobile manufacturers are clearly engaging in unfair trading practices—condoned and facilitated by foreign governments—which have the effect of eliminating or minimizing the participation of U.S.-flag vessels and U.S. seafarers in the transportation of motor vehicles in the foreign commerce of the United States. These unfair and unjustified practices must end. U.S.-flag vessels must be given the opportunity to compete in this trade on a fair and equitable basis.

Mr. Speaker, this resolution enjoys bipartisan support because both Democrats and Republicans understand the importance of opening markets for American industry. Our concurrent resolution simply asks the President, the U.S. Trade Representative, the Secretary of Transportation, and the Secretary of Commerce to take all necessary and appropriate steps to eliminate the unfair and anticompetitive practices in the automobile transportation trade. I urge all Members to lend their support to this resolution. Should favorable action not be taken on this matter in the near future, I look forward to working with my committee and the Congress to address this issue early next year.

HUMAN RIGHTS WATCH/ASIA REPORT

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BARTON of Texas. Mr. Speaker, I submit the following press release and excerpts from the Human Rights Watch Asia Report for August 1994 for my colleagues review.

EXCERPTS FROM THE HUMAN RIGHTS WATCH/ASIA REPORT (AUGUST 1994)

The Human rights situation in Kashmir is getting worse at a time when international pressure on the Indian government has all but ceased. Indeed, it could be argued that the increase in deaths in custody and other abuses over the last six months is not unrelated to the signals sent by India's one-time critics, notably the United States, that human rights would no longer feature prominently in bilateral discussions.

As the conflict in Kashmir continues into its fifth year, the government of India appears to have stepped up its catch-and-kill campaign against Muslim insurgents. As a result, human rights abuses, particularly deaths in custody, have escalated since early 1994.

For their part, Indian troops continue to summarily execute detainees, kill civilians in reprisal attacks and burn down neighborhoods and villages and collective punishment for those suspected of supporting the militants.

Torture also continues to be routine. Human rights groups have compiled a list of over fifty interrogation centers where detainees are kept in unacknowledged detention and tortured.

The security forces routinely defy court orders to produce the detainees, and several thousand habeas corpus petitions filed in these cases remain pending without result, according to the Jammu and Kashmir Bar Association. All of these actions are in clear violation of the International Covenant on Civil and Political rights, to which India is a party.

Although the government claims to have punished security personnel for abuses, to Human Rights Watch/Asia's knowledge not a single soldier has been prosecuted for the murder or torture of a detainee.

That human rights would be relegated to private discussion only was made clear by the new U.S. ambassador to India, Frank Wisner, in an interview published in the July 15, 1994, issue of India Today.

In addition, the State Department has repeatedly given India credit for measures the government has not even taken.

One crucial opportunity to raise human rights is through the United Nations. India should be urged to invite the specialized agencies of the U.N. Human Rights Commission to visit Kashmir and investigate abuses.

The countries who aid and trade with India have a particular responsibility to ensure that India's potential as a market does not obscure its human rights problem.

MEMORIAL TO PVT. WALTER S. VERRET

HON. JAMES A. HAYES

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. HAYES. Mr. Speaker, I rise today to ask that it be remembered that on this date, 50 years ago, Pvt. Walter S. Verret, son of Fernest and Edna Verret of Jeanerette, LA, died from wounds received in action. Pvt. Verret died near Morey, France while serving with the Army's Co. C 317th Inf. Regt., Eightieth Division. Pvt. Verret along with thousands of other soldiers made the highest and noble sacrifice so that we may be free. Please let them be remembered and honored.

This memorial is submitted on behalf of Pvt. Verret's brother Howard A. Verret, who served in World War II in the Pacific theatre.

TRIBUTE TO PAT RISSLER

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mrs. UNSOELD. Mr. Speaker, I write these words in honor of one super terrific staffer, Pat Rissler, who is retiring at the end of this Congress. I have worked closely with Pat during her tenure as staff director of the Education and Labor Committee.

Pat has worked on the Hill for over 30 years. Originally from West Virginia, she started out in Congress as a staff assistant and worked her way up through a series of high-level staff positions to her current role on the committee. BILL FORD, who will also be sorely missed, has been an excellent chairman of the Committee on Education and Labor, and I have no doubt that Pat's hard work has directly contributed to his success as chairman.

Her performance goes far beyond mere professional excellence. Pat has been the brains and the organizer of everything that might be needed when it is needed. She is the soother, the consensus builder, the persuader, the translator and the one with the stick-to-itiveness to make sure that all that details are in place when the last piece of paper is filed.

After all of her years of service on the hill, and after all the long hours and late nights working on the committee's agenda, I wish Pat a wonderful retirement. We will all miss the opportunity to work with her in the future. This institution will miss her, but with her goes our appreciation and our love.–

CONGRATULATING THE MIDWAY, TEX., ALL-STARS MAJOR LEAGUE SOFTBALL TEAM FOR WINNING THEIR THIRD CONSECUTIVE WORLD SERIES

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. EDWARDS of Texas. Mr. Speaker, today I wish to congratulate the Midway All-Stars major league softball team for clinching the Girls' Major League Softball World Series for the third consecutive year.

On August 20, these 14 young women, ages 11 and 12, capped another phenomenal season. The Midway girls are three-time world champions, having also won the world title in 1992 and 1993. This is an amazing accomplishment for any team in any sport.

The Midway girls' triumph was international in scope as teams from the Philippines, Czechoslovakia, Canada, and the United States competed for the title of world champion in Portland, OR.

This year's squad overpowered opponents at the district, sectional, State, and southern region levels before capturing the world series. The team consists of girls from the small community of Hewitt/Woodway right outside of Waco in the heart of Texas' 11th Congressional District.

Members of this world championship team include Stephanie Bonnell, Rebecca Brophy, Kristi Crosby, Michelle Dalton, Katy Davis, Laura Decker, Renee Fratus, Megan Johnson, Sharee Johnson, Annesa Lindsey, Tammy Martinez, Jessica Pryor, Lindsey Reaves and Suzanne Rosiles. They should be lauded not only for their outstanding achievement, but for the qualities that made that achievement possible: teamwork, hard work, self-discipline and commitment. These are qualities that will serve them well throughout their lifetimes.

The coaching staff includes Rick Brophy, Mike Reaves, Joe Martinez, Tom Lindsey, Terry Dalton, Don Fratus, Roy Colslasure and Danny Pryor. Through their unselfish dedication, they have forever touched the lives of these young people.

I ask members to join me in congratulating this year's world series team and their coaches for this outstanding athletic accomplishment.

TRIBUTE TO WILLIAM SHAPIRO

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. KLEIN. Mr. Speaker, I rise to pay tribute today to an outstanding citizen of Passaic, NJ, as he retires as executive director of the Congregation Adas Israel.

Mr. Shapiro has dedicated 30 years of service to the synagogue and has committed half a century to the community at large. Through his diverse activities, Mr. Shapiro has touched countless people and has helped improve the quality of life in northern New Jersey.

In addition to serving as the executive director at Congregation Ada Israel, Mr. Shapiro has served as president of the Passaic Hebrew Independent Benevolent Association, secretary of the Passaic-Clifton Chapter of the Mizrachi, and financial secretary of Congregation Chevra Thilim. Mr. Shapiro has also been instrumental by his role in 1948 as a founding member of the Keyman Organization, the fundraising arm of the Jewish Community Center, the predecessor of the Jewish Federation of Greater Clifton-Passaic.

Despite his retirement, Mr. Shapiro will continue to be active. Currently, Mr. Shapiro is the commissioner of the Passaic Housing Authority. He also plans to remain busy with the Jewish Federation, the B'nai Brith, the Daughters of Miriam, Hillel Academy, Beth Israel Hospital, and other organizations.

Mr. Shapiro's career has earned him well-deserved recognition. He has been honored by the religious Zionists of America, Yeshiva University, and along with his wife, Lillian, has been twice honored by Hillel Academy.

I am honored to join Mr. Shapiro's family and Congregation Adas Israel in saluting him for proving how much hard work can accomplish. Mr. Shapiro has been a role model to everyone, I thank him for his unrelenting energy.

DR. JOHN LATSCHAR: AN OUTSTANDING SUPERINTENDENT IN THE NATIONAL PARK SERVICE

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. McDADE. Mr. Speaker, I rise to express the sincere gratitude of the people of northeastern Pennsylvania, of the Commonwealth of Pennsylvania and of our Nation to Dr. John A. Latschar for his dedicated service to the National Park Service. During his tenure as Superintendent of the Steamtown National Historic Site in Scranton, Pennsylvania, Dr. Latschar performed his duties with the most utmost professionalism and a commitment to excellence.

John Latschar was appointed by the National Park Service as Superintendent of the Steamtown National Historic Site in 1988, when the park was in its formative stages. There could have been no finer choice to lead the development of the park. John Latschar brought to Steamtown a wealth of historical knowledge, deft management skills, and a strong faith in the mission to preserve the story of the role of the railroads in America's growth. Throughout his six years at Steamtown he remained willing to go above and beyond the call of duty, doing everything he could to keep the development of the historic site on track and within the budget. He is perhaps the one person most responsible for taking an abandoned site which was once a thriving, working rail yard and restoring it to its former glory, while bringing to it the high standards and visitor accessibility expected of a National Park Service unit.

John Latschar is a 17-year veteran of the National Park Service, serving as a research historian and Chief of the Natural and Cultural Resources at the Denver Service Center prior to his appointment to Steamtown. He and his staff in Denver planned and carried out development projects for 70 parks in the western United States and Alaska. He earned a doctorate in American history from Rutgers University, after earning a bachelor's and master's in history from Kansas State University. He is a veteran of the Vietnam War, serving in action there in the U.S. Army in 1970 and 1971.

When John Latschar came to Scranton in 1988 he faced a daunting task—to breathe life into a dormant industrial site, and to make it historically accurate, educational, and visitor-friendly. John met the challenge, and the Steamtown National Historic Site stands at the brink of completion as we prepare for the grand opening in July, 1995.

I ask my colleagues to join me in commending John Latschar for his outstanding contributions to the National Park Service, and in wishing him our best as he begins his new assignment as Superintendent of the Gettysburg National Military Park and Eisenhower National Historic Site.

PORTALES NATIONAL BANK HELPS THEIR COMMUNITY

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. RICHARDSON. Mr. Speaker, I urge my colleagues to join me in recognizing the efforts of Portales National Bank in New Mexico and Valle del Sol, an organization dedicated to the creation of affordable housing. Portales National Bank and Valle del Sol were chosen by Social Compact in conjunction with the 1993 Outstanding Community Investment Awards competition to be one of sixteen honorees that provided a partnership-based strategy to strengthen disadvantaged neighborhoods.

Portales, New Mexico is a city of more than 10,000. Many Portales residents are renters and in the city there is old and deteriorated rental housing. In response to an inadequate supply of quality housing, Valle del Sol created a homeownership project, with the invaluable help of Portales National Bank. Portales National Bank makes loans to Valle del Sol which equal 100 percent of the purchase price of these rundown houses. Valle del Sol then sells these homes to worthy applicants which makes them homeowners. The actions qualify the families for State and Federal loan programs which cover materials for renovating homes. The family provides the labor. The result of this financing and family sweat-equity is that 54 families who never had a chance at homeownership now own these homes and owe less than half of the renovated property's value.

Again, I want to commend Portales National Bank and Valle del Sol for being chosen as one of 16 honorees in this nationwide competition for helping to provide the citizens of Portales with one of the most essential elements of the American Dream-homeownership.

THE OPENING OF DENVER'S LIGHT RAIL SYSTEM

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mrs. SCHROEDER. Mr. Speaker, today marks a significant milestone in the ongoing efforts of the Denver, CO region to address air pollution, traffic congestion, and quality of life issues which derive in part from our over-burdened transportation network. Growth in our region has far outpaced the capacity of our roads to accommodate resultant increased traffic volume. Douglas County, for example, is among the fastest growing areas in the Nation. Population there has climbed at a rate of over 135 percent over the last decade, with traffic volumes on Santa Fe Drive projected to grow by more than 150 percent by the year 2015.

While I am certainly Denver's biggest advocate as a wonderful place to live and work, we have to make every effort to redress our mounting traffic woes and to lift the metropolitan area our of its "serious" clean air goal non-attainment status. Many governmental agencies, environmental organizations and others are pushing the envelope for creative and aggressive solution to these problems so that our quality of life does not further suffer. I want Denver to continue to be viewed as the Nation's premier place to be.

Among the many jewels we boast in the Denver area is the Regional Transportation District, last year voted the Nation's number one transit provider. Bucking industry trends, RTD has increased its bus ridership for seven consecutive years. It provides safe, clean and reliable service to more than 61 million riders each year, makes a significant contribution to improved public mobility and quality of life. RTD has been a leader in forging new and timely solutions to our pollution and congestion problems.

Just last month, RTD opened the long-awaited Downtown Express, new bus/HOV lanes from I–25 North into Downtown Denver. Already a smashing success, these lanes are providing an attractive alternative to single-occupancy vehicle commutes by saving time and stress. With the opening today of the first 5.3 miles of light rail in Downtown Denver, RTD is helping Denver to move into the next century

with a proven rapid transit option which promises to further reduce pollution by taking cars and buses off the streets, and greatly enhance mobility for the transit dependent, students, downtown commuters, tourists, and others. Among the many business, cultural and governmental facilities which will now be easier to access with light rail are the Auraria Campus, the Broadway Marketplace, the Denver Performing Arts Complex, the Colorado Convention Center, the 16th Street Mall, the Byron White Courthouse, the Department of Motor Vehicles, and numerous restaurants, churches and retail shopping opportunities.

As this light rail system expands in the future, we hope that it will reduce the reliance on cars in our region and provide the key to cleaner air, reduced commute times, and ensure a quality of life for generations to come which has made Denver a proud and attractive city.

COMMONSENSE REMARKS

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. HASTERT. Mr. Speaker, the following remarks were delivered by Carleton H. Sheets at a meeting of the Family Taxpayer's Network in my district in Illinois on September 15, 1994. They reflect a great deal of common sense and I commend them to all my colleagues to read:

ADDRESS BY CARLETON H. SHEETS

Every American can be classified as a tax producer or a tax consumer. One of my personal goals is to assist dedicated individuals in establishing themselves as tax producers rather than recipients of government social welfare; in other words, tax consumers! But, obviously, this effort alone is not the entire answer.

The fight to restore fiscal responsibility to our government is, above all, a fight for the freedom, dignity, and prosperity of all Americans—a fight that compels the utmost support of anyone who cherishes those values.

Almost as if it cannot be helped, our government continues the destruction of an economic system that has brought us the greatest prosperity, the highest standard of living and, most important, the greatest individual freedom in the history of mankind. Personal and political freedoms are inseparable from economic freedom. If our economic freedom disappears, history warns us, our personal and political freedoms will also disappear!

Excessive taxation for the alleged purpose of social welfare confiscates resources from the most productive sector of the economy and transfers them to the least productive. The average American must now work until May of each year to pay Federal, State and local taxes. In effect, our government has forced the privately-employed middle class to finance the growth of a publicly-employed middle class, who's occupation it is to absorb themselves in the bureaucratic redistribution of wealth. Americans are a practical and compassionate people. And while we are willing to pay higher taxes, Americans have become disillusioned with the results. The record of accomplishment for the poor, the elderly, the sick, the disadvantaged, the undereducated is dismal or non-existent in all too many cases.

Government's borrowing to finance spending beyond its tax revenues, usurps the majority of funds in the private financial markets, leaving private enterprise significantly less with which to modernize, increase productivity, create lasting jobs, and discover new technology.

And the Federal Government's excessive printing of money to pay its debts, dilutes the value of the dollar and generates inflation, which in turn encourages individuals to spend and borrow for present consumption at the expense of saving and investing for the future.

Big government is trampling the free enterprise system in other ways too. Such as over-regulation of industries and an educational system which is woefully "out-of-touch" for preparing our young people to enter the work force and to become responsible citizens.

Public wisdom and political courage are our only hope for preserving the values which have enabled America to be the envy of the world. We must make all Americans aware that the fundamental guiding principles of American life have been reversed and that we continue to move with frightening speed toward socialism and away from individual sovereignty and free choice.

We are, as human beings, creatures of volition. Simply put—we have the ability to make choices. And the choices we make will govern the lives we lead and profoundly affect the lives of our children and our grandchildren.

What can we do? We can support efforts to reduce the growth of government spending and taxes, while eliminating unnecessary government regulation and wasteful, ineffective government programs which do not meet their intended objectives.

Tell anyone who will listen that the twin ideas of human liberty and the free market go hand-in-hand. Tell them to stand firm in allowing millions upon millions of individuals to pursue their material interests, with minimal interference from the government, and that this process will unleash an incredible outpouring of inventiveness and wealth. Tell them that tax consumers can become tax producers. Tell them—this is what has made America great!

PAKISTAN'S LINKS WITH FUNDAMENTALISM AND INTERNATIONAL TERRORISM

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. DEUTSCH. Mr. Speaker, I am shocked to see reports detailing the extensive involvement of the Islamic Republic of Pakistan in supporting Islamic fundamentalist terror groups in Afghanistan and India. I have seen Peter Arnett's excellent documentary "Terror Nation? U.S. Creation?" shown on CNN last month. The film provides a graphic account of the links between the Islamic Republic of Pakistan and the fundamentalist regime of Gulbuddin Hekmatyar. I was disturbed to note that some Afghan groups that have had close affiliation with Pakistani Intelligence are believed to have been involved in the New York World Trade Center bombings.

Following an investigation, Peter Arnett reports about the New York bombing, "It happened at this apartment complex. Police at the well-patroled community say the Sheikh's driver, Mahmud Aboubalima was Shalabi's most frequent visitor. Police consider Aboubalima their prime suspect. He is the second person from the Afghan Refuge Center implicated in a U.S. crime. But he has not been charged. Shalabi's family blames Sheikh Rahman for the killing, a charge a cleric denies. With Shalabi gone, Aboubalima takes control of the Afghan Refugee Center. Aboubalima, Sheikh Rahman and Hampton El were bound together not only by the Brooklyn-based Afghan Center, but also by the holy war headquarters in Peshawar, Pakistan, the bustling base of operations for the Afghan resistance. It is in Peshawar that the New York terror campaign takes shape. Peshawar was the headquarters of Sheikh Rahman's international network. Peshawar was also the headquarters of Gulbuddin Hekmatyar's party, which trained four of the key New York suspects. Hekmatyar's links to the New York suspects came as no surprise to pro-Western Afghan officials. They officially warned the U.S. Government about Hekmatyar no fewer than four times. The last warning delivered just days before the Trade Center attack."

Speaking to former CIA Director Robert Gates, about Gulbuddin Hekmatyar, Peter Arnett reports, "The Pakistanis showered Gulbuddin Hekmatyar with U.S. provided weapons and sang his praises to the CIA. They had close ties with Hekmatyar going back to the mid–1970's. Hekmatyar's Islamic fervor played well with the fundamentalist powers of Pakistan."

Mr. Speaker, I have now come across a report in the Washington Post of September 12 from Karachi, Pakistan, which states that: "Pakistan's army chief and head of its intelligence agency proposed a detailed 'blueprint' for selling heroin to pay for the country's covert military operations in early 1991, according to former Prime Minister Nawaz Sharif." The report provides considerable detail on the degree to which Pakistan's military leaders have been involved in their pursuit of an Islamic nuclear bomb and export of fundamentalism into India. It says, "It has been rumored for years that Pakistan's military has been involved in the drug trade. Pakistan's army, and particularly its intelligence agency (the equivalent of the CIA) is immensely powerful and is known for pursuing its own agenda. Over the years, civilian political leaders have accused the military (which has run Pakistan for more than half of its 47 years of independence) of developing the country's nuclear technology and arming insurgents in India and other countries without civilian knowledge or approval and sometimes in direct violation of civilian orders. Historically, the army's chief of staff has been the most powerful person in the country."

The significance of these reports at a time when India's investigative agencies are discovering growing evidence of Pakistani involvement in the heinous bombings in Bombay last March cannot be underestimated. A prime suspect in the bombings has recently been arrested with documents including a passport, driving license and birth certificate provided to him by the same intelligence organization. The use of drug money by the intelligence services

of the Islamic Republic of Pakistan for bringing the destabalizing effects of fundamentalism into Afghanistan and India cannot be condoned. The administration should investigate these reports with full vigor and share its findings with the Members of the House.

The article follows:

[From the Washington Post, Sept. 12, 1994]

HEROIN PLAN BY TOP PAKISTANIS ALLEGED

(By John Ward Anderson)

KARACHI, PAKISTAN—Pakistan's army chief and the head of its intelligence agency proposed a detailed "blueprint" for selling heroin to pay for the country's covert military operations in early 1991, according to former prime minister Nawaz Sharif.

In an interview, Sharif claimed that three months after his election as prime minister in November 1990, Gen. Aslam Beg, then army chief of staff, and Gen. Asad Durani, then head of the military's Inter-Services Intelligence bureau (ISI), told him the armed forces needed more money for covert foreign operations and wanted to raise it through large-scale drug deals.

"General Durrani told me, 'We have a blueprint ready for your approval,'" said Sharif, who lost to Benazir Bhutto in elections last October and is now leader of the opposition in parliament.

"I was totally flabbergasted," Sharif said, adding that he called Beg a few days later to order the army officially not to launch the drug trafficking plan.

Beg, who retired in August 1991, denied Sharif's allegation, saying, "We have never been so irresponsible at any stage. Our politicians, when they're not in office and in the opposition, they say so many things. There's just no truth to it."

Durrani, now Pakistan's ambassador to Germany, said: "This is a preposterous thing for a former prime minister to say. I know nothing about it. We never ever talked on this subject at all."

Brig. Gen. S.M.A. Iqbal, a spokesman for the armed forces, said, "It's inconceivable and highly derogatory; such a thing could not happen."

The interview with Sharif, conducted at his home in Lahore in May, was part of a broad investigation into narcotics trafficking in Pakistan. It marked the first time a senior Pakistani official has publicly accused the country's military of having contingency plans to pay for covert operations through drug smuggling.

Officials with the U.S. State Department and the Drug Enforcement Administration said they have no evidence that Pakistan's military is or ever has been involved in drug trafficking. But U.S. and other officials have often complained about the country's weak efforts to curtail the spread of guns, money laundering, official corruption and other elements of the deep-rooted drug culture in Pakistan, which along with Afghanistan and Iran lies along the so-called Golden Crescent, one of the world's biggest drug-producing regions.

In a scathing report two years ago, a consultant hired by the CIA warned that drug corruption had permeated virtually all segments of Pakistani society and that drug kingpins were closely connected to the country's key institutions of power, including the president and military intelligence agencies.

About 70 tons of heroin is produced annually in Pakistan, a third of which is smuggled abroad, mostly to the West, according to the State Department's 1994 report on international drug trafficking. About 20 percent of all heroin consumed in the United States comes from Pakistan and its northern neighbor, Afghanistan, the second largest opium producer in the world after Burma. The United Nations says that as much as 80 percent of the heroin in Europe comes from the region.

It has been rumored for years that Pakistan's military has been involved in the drug trade. Pakistan's army, and particularly its intelligence agency—the equivalent of the CIA—is immensely powerful and is known for pursuing its own agenda. Over the years, civilian political leaders have accused the military—which has run Pakistan for more than half its 47 years of independence—of developing the country's nuclear technology and arming insurgents in India and other countries without their knowledge or approval and sometimes in direct violation of civilian orders. Historically, the army's chief of staff has been the most powerful person in the country.

According to military sources, the intelligence agency has been pinched for funds since the war in Afghanistan ended in 1989 and foreign governments—chiefly the United States—stopped funneling money and arms through the ISI to Afghan mujaheddin guerrillas fighting the Soviet-backed Kabul government. Without the foreign funds, the sources said, it has been difficult for the agency to continue the same level of operations in other areas, including aiding militants fighting Indian troops across the border in Kashmir. Such operations are increasingly being financed through money raised by such private organizations as the Jamiati-Islami, a leading fundamentalist political party.

A Western diplomat who was based in Islamabad at the time of the purported meeting and who had occasional dealings with Beg and Durrani, said, "It's not inconceivable that they could come up with a plan like this."

"There were constant rumors that ISI was involved in rogue drug operations with the Afghans—not so much for ISI funding, but to help the Afghans raise money for their operations," the diplomat said.

In the interview, Sharif, claimed that the meeting between him and the generals occurred at the prime minister's official residence in Islamabad after Beg called one morning and asked to brief him personally on a sensitive matter.

"Both Beg and Durrani insisted that Pakistan's name would not be cited at any place because the whole operation would be carried out by trustworthy third parties," Sharif said. "Durrani then went on to list a series of covert military operations in desperate need of money."

Sharif, in the interview, would not discuss operational details of the proposal and refused to disclose what covert plans the intelligence agency wanted to fund with the drug money.

Sharif said he had "no sources" to verify that the ISI had obeyed his orders to abandon the plan but that he assumed the agency had complied.

"I told them categorically not to initiate any such operation, and a few days later I called Beg again to tell that I have disapproved the ISI plan to back heroin smuggling."

Embittered that his political enemies cut short his term as prime minister last year and helped engineer the return of Bhutto, Sharif has gone on an intense political offensive to destabilize her 10-month-old government. He claimed recently that Pakistan has a nuclear bomb and said he made the information public to prevent Bhutto from dismantling the program under pressure from the West. The government has denied possessing a nuclear bomb but repeated previous statements that it has the ability to build one.

Calling Sharif a "loose cannon," a second Western diplomatic source said, "I'd have a hard time believing" his allegations about the military's drug trafficking proposal. The official suggested that Sharif's disclosure might be designed to keep Bhutto and Pakistan-India relations off balance. "If anything should bring these two countries together, it is their common war against the drug problem, but this seems to fly in the face of that," he said.

IN HONOR OF THE 50TH ANNIVERSARY OF THE AMERICAN POLISH VETERANS, INC.

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to the American Polish Veterans, Inc., and to congratulate them on their 50th anniversary. The organization was established in April 1944 by Polish-Americans returning early from World War II. The main goal of the organization was to assist the American-Polish veterans in adjusting to civilian life after the war. Walter Sapinski was the first commander in the men's section and Clara Wozniak was president in the woman's section.

The organization was designed to help Polish-American veterans obtain employment and to visit their sick and disabled friends at their homes and hospitals. In order to raise funds, they worked diligently to organize social affairs and fund raisers. These funds were used to help pay death allowances to the families of deceased members, to offer financial assistance to the needy post members, and to sponsor bowling and softball teams, as well as the Boy and Girl Scouts. These are just some of the worthy causes to which the organization has contributed.

The Polish American Veterans, Inc. is an organization committed to helping those in need. In August 1953, the ladies auxiliary began making cancer kits for distribution in a local hospital. At the same time, they conducted a drive for old and used eyeglasses which they donated to institutions for the visually impaired.

The Polish American Veterans, Inc. continues in their efforts to support their community by offering their services at various community patriotic functions in Bayonne. They also demonstrate their support of the educational system by sponsoring an essay contest on patriotic themes for the students of Our Lady of Mt. Carmel School.

I am proud to have such an organization in my district. The members of the Polish American Veterans, Inc. obviously understand the importance of helping those in need. They are kind, generous and caring individuals.

On Sunday, October 9, the organization will celebrate their golden anniversary by holding a dinner dance. I hope their celebration is full of job and happiness. Furthermore, I wish

them continued success in their humanitarian endeavors.

RICHARD "DICK" DeYOUNG CHAMPION OF RETIREE'S CAUSE

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BARCIA of Michigan. Mr. Speaker, I rise today to pay tribute to Mr. Richard "Dick" DeYoung. Mr. DeYoung served with distinction in the U.S. Air Force for over 30 years. His service began during the years of World War II, through the Vietnam war, and concluded in the early 1970's. He served in both of these conflicts, and at duty stations through out the world.

Mr. DeYoung resides in Oscoda, MI, which until June 1993 was the home of Wurtsmith Air Force Base. In the area surrounding the former base a large Air Force retirees population has established itself. They have all felt the impacting of this base closure. Services and privileges they have had come to rely on, and were told they would always have, have been literally revoked because of this closure.

Presently, Mr. DeYoung has embarked on a citizens lobbying campaign. This campaign is centered on regaining what he believes are benefits that were promised to him, and other service members, during their years on duty. Primarily, Mr. DeYoung has been lobbying on the issue of health care for retirees.

Through out his service, Mr. DeYoung was led to believe that he would be provided health care during his retirement. His service, with the many hardships and adversaries it encompasses, was to be his payment for life time health care and other benefits.

Mr. DeYoung has come to Washington to press his case. During his time here, Mr. DeYoung has worked on these issues by meeting congressional leaders and getting the word out through military associations. On his last visit Mr. DeYoung met with Congressman SONNY MONTGOMERY, chairman of the Committee on Veterans, other Members of the House, and staff members of both Senate and House sides of Capitol Hill.

Mr. DeYoung has also worked with the National Association of Uniformed Services to garner signatures from members on a "Statement of Support." In part, this statement of support calls for the protection of "funding and personnel levels for military medical care to keep lifetime medical care promises."

Mr. DeYoung selflessly served his country, and is now serving retirees in his role as an advocate extraordinaire. Mr. Speaker, this type of behavior should be recognized, and lifted up as an example for all America. He is a role model for his fellow citizens.

TAIWAN BENEVOLENT ASSOCIATION: 17TH NATIONAL CONFERENCE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. PALLONE. Mr. Speaker, from Friday, October 21, through Sunday, October 23, 1994, the Taiwan Benevolent Association of New Jersey will hold its 17th Annual Conference at the Hyatt Regency Hotel in New Brunswick, NJ. The theme of this year's conference is "New Opportunities, Challenges and Prospects." This event will be attended by more than 300 community leaders. On Saturday, October 22, I will have the honor of being the featured speaker at this conference.

The panel discussion of Saturday's conference will present many timely and challenging ideas for both Taiwan and for Taiwanese-Americans, who are extremely concerned with promoting strong United States-Taiwan relations, the betterment of their community and an improved quality of life for their children. The first panel will be looking at the question of where Taiwan is heading in this transitional period of history. Economic issues will be addressed in the second panel, as we confront the future of business in the Republic of China in the global marketplace. Finally, the third panel will address cultural issues, including a look at Taiwan's march toward democratization and the ongoing battle to maintain the rich Chinese cultural heritage in changing times.

Mr. Speaker, currently there are approximately 300,000 immigrants residing in all regions of the United States. The main purpose of the Taiwan Benevolent Association of America is to assist the immigrant from Taiwan in adjusting to life in the United States, and to promote broader understanding between the people of Taiwan and America through cultural, educational, economic and scientific programs. Membership in the Association is open to any ethnic Chinese who was born in, resided in, studied or worked in Taiwan, without regard to provincial origin. The Association is concerned with the destiny of the Taiwanese homeland, but does not involve itself in homestead politics. Founded in 1978, the TBAA now has 20,000 members with 12 branches nationwide, in Washington, DC, Philadelphia, New Jersey, New York, New England, Chicago, Seattle, San Francisco, San Jose, Los Angeles, Houston, and Michigan, with more chapters planned. The TBAA sponsors conferences, seminars and discussion groups on a variety of topics, and presents annual awards to people in all walks of life. Many current and former members of the House and the Senate have been recognized by the TBAA.

Mr. Speaker, the Taiwanese community is part of a long tradition of immigrant groups coming to the United States and establishing themselves in their new country while maintaining a strong sense of devotion to their homeland. I am proud to recognize the achievements of the Taiwan Benevolent Association of America, and I look forward to joining them in New Brunswick on October 22.

SUPPORT SOUTH AFRICA AND PRESIDENT MANDELA

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. ENGEL. Mr. Speaker, yesterday morning I was privileged to sit in the House of Representatives during a historic joint session of Congress addressed by President Nelson Mandela. As I submit this statement, I am awed at the transformation that has taken place in South Africa. From being a country where apartheid was an institution, a way of thinking, a way of life; where nonwhites had none of the inalienable rights of all human beings, South Africa has become a young, yet prospering democracy.

South Africa's new President, Nelson Mandela, is a man who suffered for 27 years in prison for acting upon his belief that equality, freedom, and justice must govern his country. Nevertheless, as he explained yesterday to Congress, through years of suffering, Mr. Mandela retained "the ability of the oppressed to forgive and accept a shared destiny with those who had enslaved him."

Now, as a popularly elected president he is showing a breathtaking ability to build coalitions with the former racist establishment. As for the rest of the population, he maintains the support of not only the nonwhite population but is increasingly popular among his former foes. Mr. Mandela is establishing a peaceful, harmonious society in South Africa that can move beyond its past, but never forget it—and always looking towards its future with ever increasing hope.

On October 5, 1994, the House adopted House Resolution 560. With South Africa's history and remarkable progress in mind, this resolution commends the South African people for their commitment to replacing the racism and discrimination which has governed their nation and expresses support for President Mandela as he guides his people into the future. I was proud to cast my vote in favor of this legislation and will continue to do all in my power to see that equality and justice are the new foundations of South African democracy.

TRIBUTE TO IRVIN WOLOCK

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mrs. MORELLA. Mr. Speaker, I rise to pay tribute to the late Irvin Wolock, a past president of the American Society of Plastic Engineers, who died tragically last month, and to bring to your attention a moving eulogy by Rabbi Joel H. Zaiman.

Irvin Wolock, of Silver Spring, MD, died September 23 after being injured in a traffic accident. A researcher at the Naval Research Laboratory, he was a civic leader in Montgomery County, serving at one time as president of the Montgomery County Civic Federation and of the Rosemary Hills Civic Association. In 1964, he received the Washington Star

Newspaper Cup Award for his civic activities. He was a friend who added luster and strength to the phrase "Civic Activist."

Rabbi Zaiman's eulogy is a wonderful tribute to Irv Wolock, and I am taking the liberty of enclosing portions of it. The text of the Eulogy follows:

It is hard to imagine, let alone believe, that Irv Wolock is not alive. It is not so much that he died so suddenly, it is that he was so alive, that it is hard to imagine him any other way. You can't even comfort yourself by pretending that Irv is napping or sleeping and maybe, somehow, miraculously, he will wake up.

Because, you never thought of him napping or sleeping in the first place. No . . . you thought of him being, acting, doing, asserting, insisting.

Tall, thin, his was a commanding presence. you knew he was there. Even when he was quiet. Perhaps, because he was so often silent. those who knew him, knew he would have the last word. Yet, the sense of his commanding presence was felt even by strangers who did not know that Irv would eventually let you know how he felt. To be more accurate, how he thought. Not often did Irv express his deepest feelings. That was hardly his style. It was his thinking that he freely shared.

And, which, with rare exception, carried the day. He was bright, well trained—a PHD in Engineering from Hopkins, ordered, orderly and organized, well read in his chosen field and researched well in whatever he ventured . . . he wanted, he expected his opinions to prevail. And, they did.

Irv was a man who expected. High expectations. Of himself, first. He loved to work. He loved his work. He distinguished himself in that work. With the National Bureau of Standards. Thirty-five years with the Naval Research Lab. He was an expert in composite plastic materials, becoming the President of the Society of Plastic Engineers. He authored numerous scientific articles and received numerous awards. He worked on the Manhattan Project an did field research after the atomic blasts in the Bikini Islands. He really achieved. High expectations. He pushed himself.

Others, too. Particularly, his kids. Five A's and one B. Why the B? demanding. Tough. He was devoted to his children—Janet, Bruce, Joanne. He would do anything for them. He was more than willing to sacrifice for them. And, how fiercely they loved him. Valued him, appreciated him. How hard they tried to please him—and how accomplished they are. He loved them and was proud of them—notwithstanding the fact that it was not Irv's style to verbally profess that love and pride.

That was left for Shirley. She took care of that, and a lot of other things, too. for 43 years . . .

And, in that neighborhood where Irv grew up, and in that home where Irv grew, he acquired another, more significant passion. Social justice. He was not only a chemical engineer. He was, to his everlasting credit, a social engineer—and, the two, do not often go together. He had a keen sense of justice. He had a clear vision of how things should be. He was committed to and worked for a "kinder and gentler society", well before it became a political slogan. . . .

He was active, very active, in the civic life of Montgomery County where Shirley and he lived. President of various civic associations. Chosen as outstanding citizen of Montgomery County. Ran as an independent—fat chance of success—for the Montgomery County Council. But, Irv made his point. And, that is precisely what he wanted to accomplish. On all fronts, he was a man to be reckoned with. In his profession, in his community—as a citizen, and in his family. . . .

So along comes Parkinson's disease to challenge Irv Wolock. A disciplined, health conscious, life affirming man. A fiercely independent soul who could not take from others. . . . Parkinson's. It slows you down. Irv, denied he had it. He continued as though he did not. He loved life. He wanted desperately to live. He had to be in control. And he would be damned if he would allow something like Parkinson's to challenge that control.

It was tough. There is an inexorability to Parkinson's. Since Irv was so active, and since he did so many different things, he was more aware than most of that inexorability—though he denied it throughout. There was nothing he could not fix. Or, did not fix. Parkinson's changed that. It was very hard for Irv and for those who loved him.

He didn't know how to yield. Giving up was not in his nature. Some people go through life accepting and blaming circumstances. Irv, created circumstances. Parkinson's was tough.

And then . . . he took the route that he told Shirley and his children never to take. Undoubtedly, in a crunch, he took it himself before. This time, the mistake was fatal. Yet, he did beat the ravages of Parkinson's.

TRIBUTE TO OUR LADY OF DIVINE PROVIDENCE HONOREES

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. SERRANO. Mr. Speaker, I rise to pay tribute to the Reverend Lawrence J. Quinn, the Honorable Judge Frank Torres, and Ms. Carmen A. Castro, who will be awarded medals this coming November 17 at the ninth annual Friendship Banquet held by the Committee of Our Lady of Divine Providence of the Archdiocese of New York.

These outstanding individuals have all demonstrated an inspiring dedication to the development of our youth. In addition to making wonderful contributions as Pastor of Our Lady of Mercy Church in the Bronx since 1983, the Reverend Quinn cofounded the El Camino youth movement for Hispanics of the New York Archdiocese, has taught moral theology at the Pastoral Institute and the Pastoral Center in the South Bronx, and has directed the Youth Institute of the Northeast Pastoral Center for Hispanics.

Justice Frank Torres, who was appointed to the Family Court in 1980 and was elected a justice of the New York State Supreme Court in 1987, is very actively involved in programs to assist minority students. He serves on the Blue Ribbon Commission to establish the Martin Luther King, Jr. High School Institute of Law and Justice, and is a member of the board of directors of numerous law school-affiliated organizations, including Practicing Attorneys and Law Students [PALS], the CUNY Law School Board of Visitors, and the Alumni Advisory Board of Black and Latino Student Affairs [BALSA] at St. John's University School of Law. He also serves on the board of advisors of the Puerto Rican/Latinos in Criminal Justice Project, the Catholic Interracial Council, and the Puerto Rican Organization to Motivate, Enlighten, and Serve Addicts, Inc. [PROMESA].

Carmen Castro has been involved in the Hispanic youth ministry for over 20 years. She is a founder of Brooklyn's Jornada Movement for Hispanic youth and of the Leadership Training Institute for the Northeast, where she guides the regional youth committee's publication of "Pasqua Juvenil" and "Adviento Juvenil." Currently director of youth projects for the Northeast Hispanic Catholic Center, she served on the advisory committee for the Pope's recent youth summit in Denver, CO.

Mr. Speaker, I ask my colleagues to join me in honoring Ms. Carmen A. Castro, Justice Frank Torres, and the Reverend Lawrence J. Quinn, who will be recognized at the ninth annual Our Lady of Divine Providence Friendship Banquet next month.

FINALIZING THE UNITED STATES-JAPAN AGREEMENT IN PRINCIPLE ON FLAT GLASS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. LANTOS. Mr. Speaker, at this time when so many initiatives are being blocked by divisiveness and partisanship, there is one area where the administration has achieved an important success: On October 1, 1994, the United States concluded a significant trade deal with Japan covering a number of major industries.

Ambassador Kantor and the administration deserve credit for reaching agreements that go beyond earlier trade deals with Japan. Japan has committed to annual evaluations of progress in increasing foreign market share and expanding foreign access. In the telecommunications, medical technology, and insurance sectors, we should be seeing measurable gains in United States sales in Japan. And I am very pleased to report that each of these market-opening agreements are based on most-favored-nation status, thereby benefiting all of Japan's trading partners, not only the United States.

In a fourth market—flat glass—the United States and Japan have reached an agreement in principle and agreed to finalize the details by the end of October. Meeting this 30-day timetable constitutes the first test of the October 1 trade deal. The good will generated by last weekend's agreements should not obscure the fact that much work remains to be done on this major part of the trade pact.

Mr. Speaker, the United States must maintain pressure on the Government of Japan if we are to successfully complete the final phase of glass negotiations before the 30-day deadline expires. To this point, the glass negotiations have followed an all-too-familiar pattern. Progress is made only when United States pressure is taken seriously by the Japanese. After more than a year of unproductive glass negotiations under the framework talks,

Ambassador Kantor and his USTR negotiators succeeded in communicating the likelihood of a section 301 investigation of Japan's glass market. Under this threat, substantial progress was made in the 24 hours leading up to the section 301 deadline, and an agreement in principle was reached.

The same type of pressure is needed to hammer out the details that will determine the ultimate value of a glass agreement. The Government of Japan must be firmly reminded that if a final agreement on glass is not concluded by the end of the month, the administration will initiate a section 301 investigation. Without continued U.S. firmness, I am certain that agreement on the pact's details will elude the United States, the October 31 deadline will be postponed, and we will face further delay and backsliding.

Ambassador Kantor said that in the first year of a flat glass agreement, he expects that three quarters of the 100 largest Japanese wholesales and glaziers would obtain 30 to 40 percent of their flat glass from nontraditional sources, a mixture of both foreign and domestic. This would mark a tremendous victory for U.S. workers and U.S. glass manufacturers. Today, a closed distribution system, dominated by Japan's three largest manufacturers, limits the United States to less than 1 percent of Japan's $4.5 billion glass market.

Mr. Speaker, the month of October will determine whether Japan's glass market will be opened to United States manufacturers. I urge the administration to keep up the pressure on Japan so that a glass agreement can be added to the other trade victories achieved over the past weekend.

A TO Z LIVES

HON. WILLIAM H. ZELIFF, JR.

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. ZELIFF. Mr. Speaker, respect for Congress is at an all time low. Long-term Members including some of the leadership are in difficulty at the polls. Only used car salesmen are rated below Members of Congress in the eyes of the public.

The Orton sense of Congress legislation is one of the many reasons that Congress is held in such low repute. The people of America thought that majority rule prevails in the people's House. This legislation is proof positive of how the House leadership has repeatedly thwarted the will of the majority.

The people of America clearly wanted the Members of the House to cut wasteful Government spending. The Members of this House clearly wanted to cut spending.

In August 1993 ROB ANDREWS a Democrat from New Jersey and I created what we called the A to Z spending cut plan. We sensed that many members of both political parties felt strongly that the President's tax plan did not cut wasteful Federal spending enough.

The President's tax plan raised the debt from $4.7 trillion dollars to $6 trillion dollars in his 5-year plan. Entitlement spending was on automatic pilot. Spending programs were seldom cut. Something had to be done.

We circulated a letter to the Speaker. We simply asked for a 10-day period when any Member could propose a spending cut in any program. The Members would be able to debate each proposal. There would be a rollcall vote on each spending cut proposal. The spending cuts enacted would reduce the deficit. It's called accountability.

It is a common concept in the business world which I come from. It is an alien concept to the leadership of this House. This is why we have a $4.7 trillion dollar debt. That is why we will spend over $200 billion dollars in interest payments this year.

Some 234 Members from both political parties, a majority of this House agreed with us, and co-signed our letter. The leadership ignored this letter from a majority of their Members. Nothing happened.

So in October 1993, ROB ANDREWS and I introduced legislation to implement this A to Z spending cut plan. Some 232 Members from both political parties, a clear majority of this House, cosponsored this legislation.

Again nothing happened. No public hearings. No action by either committee. For the second time a clear majority of the elected membership of the House was ignored by their leadership. Is it any wonder that American people have so little respect for this Congress?

We took the path that the Member from Oklahoma had opened for us. In May 1994, we filed a discharge petition to force this spending cut concept to the floor.

We met with our cosponsors. All agreed to allow more involvement for freshman Members from both sides of the aisle. We agreed to start with entitlement cuts.

Members totaling 204 signed our discharge petition. We were on our way. Real spending cuts were about to happen.

The leadership swung into action. There was no way that the leadership would actually let the elected membership vote on individual spending cuts.

Their pork barrel projects would be in jeopardy. They would not let that happen. Speaker FOLEY claimed that "it would be a three ring circus."

The leadership drew a line in the sand. They stationed sentinels to guard the discharge petition. Members were threatened with the loss of choice committee assignments.

The majority leader promised a deal to a group of Members who had cosponsored A to Z, but had not yet signed the discharge petition.

He told them, if you don't sign the A to Z discharge petition, you will get a vote on entitlement spending cuts, and a vote on the deficit lock box, assuring that a cut is a cut.

Today's entitlement sense of Congress resolution is how the leadership keeps their word. There is no vote on entitlement spending cuts. Not one red cent will be cut by our action today. The gentleman from Utah and his cohorts traded every Member's chance to make real spending cuts for this charade, called a sense of Congress resolution.

The gentleman from Utah should be embarrassed. His deal did not cut even one pork riddled program.

There will be no vote on deficit lock box either.

What a deal the gentleman from Utah got.

The so-called deficit hawks did the leadership's bidding. They killed the A to Z spending cut plan.

The people of America will not be fooled by the leadership's unkept promise, even if the deficit hawks were fooled.

Today we will vote on a clever sense of Congress resolution. On November 8 the authors of this clever ploy to kill the A to Z spending cut plan, will get a sense of the American people message.

It will be loud and clear. The American people want us to cut spending now. The American people are fed up with politics as usual. The American people want Members of Congress to stop spending our children's money. We will return with a new A to Z spending cut plan in January.

You can have your sense of the Congress resolutions. A to Z is the sense of American people. The people's voice will be heard. A to Z will pass next year.

After A to Z passes and the concept is proven we will then use the A to Z process to eliminate oppressive Government regulations; to cut out unfunded mandates; and to wipe out tax loopholes.

A to Z lives, Mr. Speaker, despite the Orton charade that will not cut one red cent from the deficit.

THE FIRST THANKSGIVING PROCLAMATION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. CRANE. We, indeed, have much to be thankful for living in these United States of America, and Thanksgiving Day provides us a moment to reflect on these blessings. Because Congress will adjourn before, and will not reconvene until after Thanksgiving Day, I wanted to take this opportunity to share with my colleagues the first Thanksgiving proclamation issued by our first president, George Washington.

THE FIRST THANKSGIVING PROCLAMATION

(By President George Washington)

Whereas, it is the duty of all nations to acknowledge the providence of Almighty God, to obey His will, to be grateful for His benefits and humbly to implore His protection and favor; and

Whereas, both houses of Congress have, by their joint committee, requested me "to recommend to the people of the United States a day of public thanksgiving and prayer, to be observed by acknowledging with grateful hearts the many and signal favors of Almighty God, especially by affording them an opportunity peaceably to establish a form of government for their safety and happiness.

Now, therefore, do I recommend and assign Thursday, the twenty-sixth day of November next to be devoted by the people of these States to the service of that great and glorious Being who is the beneficent author of all the good that was, that is, or that will be; that we may then all unite in rendering unto Him our service and humble thanks for His kind care and protection of the people of this country previous to their becoming a nation;

for the signal and manifold mercies and the favorable interpositions of His Providence in the course and conclusion of the late war; for the great degree of tranquility, union and plenty which we have since enjoyed; for the civil and religious liberty with which we are blessed, and the means we have of acquiring and diffusing useful knowledge; and, in general, for all the great and various favors which He has been pleased to confer upon us.

And also that we may then unite in most humbly offering our prayer and supplications to the great Lord and Ruler of Nations, and beseech Him to pardon our national and other transgressions, to enable us all, whether in public or private stations, to perform our duties properly and punctually; to render our National Government a blessing to all the people by constantly being a government of wise, just and constitutional laws; discreetly and faithfully executed and obeyed; to promote the knowledge and practice of true religion and virtue and the increase of science among us; and generally, to grant unto all mankind such a degree of temporal prosperity as He alone knows to be best.

Given under my hand, at the city of New York, the third day of October, A.D. 1789 George Washington.

QUESTIONS TO ASK YOUR CONGRESSMAN

HON. RICHARD K. ARMEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. ARMEY. Mr. Speaker, a recent article by Ralph Kinney Bennett, in the August 1994 Reader's Digest, outlines "Questions to Ask Your Congressman About Health Care Reform," of obvious interest to me and my colleagues.

I ask that this important article on health care be included in the RECORD.

The article follows:

[From the Reader's Digest, August 1994]

QUESTIONS TO ASK YOUR CONGRESSMAN ABOUT HEALTH CARE REFORM

(By Ralph Kinney Bennett)

Late last year President Clinton's Health Security Act was introduced with great media fanfare. But as details emerged, public opposition grew. Polls show that about 80 percent of Americans are pleased with their health care; most are wary of compulsory "universal" coverage, especially if this means any loss in quality of care or choice of physician.

Nevertheless, most Congressional Democrats and even some Republicans still accept the premise of the President's plan—that the nation's health care system is in "crisis." With President Clinton apparently willing to sign any bill that creates a universal health entitlement, Congress seems hellbent on increasing government's control of medical care. "We're going to push through health care reform regardless of the views of the American people," says Sen. Jay Rockefeller (D., W.Va.), a leading advocate of the Clinton plan.

As you sort through the sometimes bewildering array of proposals to "fix" health care, here are the central questions to put to your Senators and Representative:

WHO WILL PAY FOR HEALTH CARE REFORM?

President Clinton has ardently maintained that his plan can be paid for by mandatory payments from employers, a higher cigarette tax and budget cuts. "The vast majority of Americans will pay the same or less for health care coverage," he promised.

But the Congressional Budget Office (CBO), which rules on budgetary impact of pending legislation, estimates that within three years of passage, the Clinton plan will be the largest program in the budget—bigger than the Defense budget, bigger than Social Security, bigger than Medicare. Reaching a cost of $740 billion a year within the next decade, the plan "would require a tax increase of more than 27 percent—unprecedented during peacetime," says economist Bruce Bartlett of the Alexis de Tocqueville Institute, a free-market think tank in Arlington, Va.

While still chairman of the House Ways and Means Committee, Dan Rostenkowski (D., Ill.) was one of the few Democrats to admit the huge costs of the Clinton plan. Warning of "broad tax increases," Rostenkowski declared that universal coverage would require "a substantial amount of new revenue."

The White House and many Congressional advocates of Clinton-style reform would like the bulk of revenue to come from forced "contributions" by employers. But calling these disguised taxes something else changes nothing. As CBO director Robert D. Reischauer told Congress, "This is going to be the 800-pound canary in your living room. Whether you call it a mouse or a plant isn't going to trick anyone."

Says former Democratic Sen. George McGovern, "Were I still in business today, I would be frustrated and frightened by the specter of substantial increases in employment costs."

These contributions would, of course, affect workers' paychecks. "Employees pay for health insurance by getting less in cash earnings," notes Carlos Bonilla of the Washington-based Employment Policies Institute.

Herman Cain, president and CEO of Godfather's Pizza, Inc., says his company pays 80 percent of health insurance costs for full-time employees of his 141 corporate-owned outlets. President Clinton's plan would quadruple his costs to $2.2 million a year. Covering such expense would require a 16- to 20-percent increase in sales—a virtual impossibility in the highly competitive fast-food market.

"We would then be put in a position to eliminate jobs or increase prices to the point of being at a competitive disadvantage," Cain wrote the President.

After an extensive study, June and Dave O'Neill of New York City's Baruch College concluded that a Clinton-style employer mandate could cost over three million jobs, with low-skilled, low-wage workers especially hard hit. The restaurant industry alone could lose over 800,000 jobs, retailing over 700,000. Farming, construction and repair services would also be affected.

Despite a rising furor, Congress has labored to keep employer mandates in a health bill. One device is the so-called trigger mandate, which would be hidden in the law and would kick in if a certain percentage of Americans were not covered by a fixed date. Another gambit: a "play or pay" scheme, giving smaller businesses a "choice" between mandated employee insurance or a payroll tax to subsidize the uninsured.

Why is Congress so set on mandates, despite public displeasure? "In general, politicians prefer spending other people's money rather than tax revenues," notes Henry Butler, professor of law and economics at the University of Kansas. "Adverse economic effects are less visible, and political costs lower."

WILL I BE PAYING FOR ONLY THE HEALTH BENEFITS I NEED?

The Clinton plan and its Congressional alternatives promise all Americans a "comprehensive" package of health benefits. Many of these benefits you will pay for but never need. Yet to cover them, millions who already have medical insurance will pay at least $500 a year more in premiums, according to Lewin-VHI, Inc., a health care consulting firm in Fairfax, Va.

What's more, "every year will see pressures to expand the package," says Edward Gillespie, policy director at the House Republican conference. "This new entitlement will grow in the best tradition of federal programs."

The feeding frenzy began last fall as health care interest groups converged on Capitol Hill, demanding their services be included. Big insurance companies spent millions seeking to refashion the Clinton plan to their advantage. Many more groups—from rural health alliances and dental groups to manufacturers of prosthetic devices—have simply sought their "cut" of any new law. Even acupuncturists and biofeedback advocates have lobbied for a piece of the action.

By June, the American Hospital Association had spent $3 million on lobbying; Planned Parenthood, $1.5 million for ads and brochures; the Health Care Reform Project, a coalition backing the Clinton plan, $3.5 million.

Already, results of this kind of pressure have been seen in states where health groups have forced special mandated coverage on insurance buyers. This ranges from mid-wife and optometry services to provision of toupees and protection from "accidental ingestion" of illegal drugs. In 1970 about 30 such mandates were in place. Now there are over a thousand, causing premiums to soar.

HOW WILL COSTS BE CONTROLLED?

The bills before Congress promise to control costs through government "efficiency." But a closer look at those bills indicates the prime method of holding down costs will be government controls.

Under euphemisms such as "global budgeting," "premium caps" or "fee caps," the government would calculate the country's yearly spending limits on medical care. Bureaucrats would decide everything from the "fair" price of a prescription to whether it is "cost efficient" to replace an 80-year-old's hip.

The result is clear in countries where medicine is under state control. Doctors' fees are kept artificially low, creating assembly-line medicine—brief, perfunctory visits with as many patients as possible.

Moreover, government price controls seriously retard development and availability of new drugs because of problems in recovering research costs. In Britain 80 percent of prescribed drugs are at least 20 years old, obsolete by American standards. In Germany, home of some of the world's most renowned drug firms, price fixing has reduced drug innovation. Manfred Schneider, CEO of Bayer AG, fears that "the research-based pharmaceutical industry no longer has a future here."

In Germany, Japan and other countries attempting to offer "universal" care, cost controls mean that medical services are restricted and rationed. In Britain at any one time, a million people are on hospital waiting lists—many for years. In Canada 177,000 await surgery for periods ranging from

months to over a year; almost half report being "in pain." Ironically, about 20 percent of hospital beds in Canada are empty—in wards and rooms closed down to comply with budgetary constraints.

To see rationing at work in the United States, visit a Veterans Administration hospital. Even at the best VA facilities, patients who need special care like heart or orthopedic procedures must wait 60 to 90 days to see a specialist and then months more for surgery or treatment.

Routine care also suffers. Over half such patients, reports the General Accounting Office, wait one to three hours to be seen briefly by a doctor burdened with increasing numbers of patients and piles of government forms.

Little wonder that 90 percent of the nation's 27 million veterans turn to private hospitals rather than the free VA facilities. Comments former VA attorney Robert Bauman, "Imagine what it would be like if all Americans had the choice of only rationed care in a government-run system."

WHAT CHOICES WILL I HAVE IF A HEALTH CARE BILL PASSES?

The most basic choice you might want is to drop out of a government-regulated "managed-care" plan if you don't like the way you are being treated. Under bills now before Congress, that's not an option. If you don't immediately join another approved managed-care plan, the government will assign you to one. Meanwhile, you would still have to pay your monthly "premium."

If you oppose abortions on demand, will you have to pay for them? Under most bills being considered, you will.

If you follow a healthful life-style, will you be able to choose a plan with low premiums reflecting your low health risk? Most plans before Congress do not provide this choice. They specify that insurance premiums will be "community rated"—meaning you subsidize people whose habits place them at higher medical risk. It will not matter, for example, if you don't smoke. Your government-regulated premium must cover those who do.

"Community rating" has been the law in New York State for one year. The result? Premiums have shot up for young and healthy workers, almost doubling in some cases.

Finally, will you be able to choose your doctor? Most bills before Congress claim to preserve your choice, but contain a web of restrictions. They virtually guarantee that a fee-for-service option—where you can choose your doctor and deal directly with him—will not survive the realities of price controls and budget caps.

"Allowing patients to choose any doctor, obtain justifiable medical care and send the bill to the insurer cannot survive without freedom to raise premiums to cover costs," notes John Goodman, an expert on health care economics and president of the National Center for Policy Analysis. "As with everything else in managed care, choice will become a very relative term."

WILL MY HEALTH CARE BE AS GOOD AS IT IS NOW?

Experience elsewhere is not encouraging. In Canada a world-class health care system has been eroding under the steady budget constraints of government-ordained "universal care."

Consider the experience of a 72-year-old woman living in Ontario—Canada's most populous province. In 1992 Lillian Holloway couldn't climb stairs or work in the garden without experiencing trouble breathing. After a year of tests, she returned to her doctor "in desperation" in April 1993. He told her no hospital beds would be available for at least three weeks, and advised her to go to an emergency room and say she was having a heart attack. "Then they will have to admit you."

Holloway suffered an actual heart attack before she could do as he'd suggested. She needed triple-bypass surgery, but under Canada's rationed system few hospitals perform such an operation. Flown 1000 miles to Hamilton, Ontario, she was operated on, then released just five days later, even though bleeding rectally.

Her doctor diagnosed a bleeding stomach ulcer, exacerbated by medication. Within two weeks, she underwent surgery for the ulcer. Sent home despite an infected incision, she suffered recurring heart problems, and she was flown back to Hamilton for an angiogram. In the operating room, she suffered another heart attack. "It was all downhill from there," recalls her brother, George Sterne. "Lil died July 26, 1993."

Sterne, a U.S. citizen living in San Diego, says, "The point is, until her condition was life-threatening, my sister couldn't even get into a hospital. I honestly believe that if she had been covered under a private American health plan and treated in an American hospital, she would be alive today."

In Britain old hospitals, old technology, wasted resources and long waits are the norm. Says Dr. Eamonn Butler of London's Adam Smith Institute, "British citizens are leaving the National Health Service in droves because although the United Kingdom does not spend very much on its health care, neither do we get much for our money." Disillusionment with socialized medicine has fostered the growth of a parallel private practice, complete with private health insurance.

You would have no such choice under the Clinton bill. Someone trying to sell you private insurance would face a $10,000 penalty. If your doctor provided you special care for old time's sake, he would face fines and imprisonment.

Despite the dramatic fall in support for Clinton-style universal coverage, Americans do favor fixing some problems. They want insurance to be cheaper and more readily available to the uninsured, perhaps by allowing everyone to deduct premium payments from his income tax or to put money into a tax-free medical savings account. They also want "portability," or the option of retaining health insurance after a job change.

But, polls say, Americans do not favor a stampede into hasty and radical changes. The last question to ask members of Congress is: Do you understand the vast, dangerous consequences of jeopardizing the best health care system in the world?

CLINTON'S HEALTH PLAN

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. GINGRICH. Mr. Speaker, Ralph Kinney Bennett's article in the March 1994 issue of the Reader's Digest, "Your Risk Under Clinton's Health Plan," explains what the title promises.

I submit the article on the important subject of health care reform.

YOUR RISK UNDER CLINTON'S HEALTH PLAN

When doctors told him he had lymphatic cancer, Donald Porter's only hope was a risky and expensive bone-marrow transplant. Porter, 64 was thankful for the card in his wallet. Issued by the government, it guaranteed his medical care.

Then Porter learned the government deemed him "to old" for a transplant; younger people had a better chance of survival. So Porter sold his house, took out all his savings and went abroad for the operation. His cancer is now in remission.

Donald Porter is Canadian. When his country's "universal" health plan failed him, he came to the United States, the one advanced industrial country that does not have a universal medical plan. But it does have the highest standard of health care in the world.

While Porter's case was being cited in the Ontario legislature as an embarrassing failure, President Bill Clinton was telling Congress last September that American medicine is "to uncertain and too expensive." It is time, he said, to reform the system, "giving every American health security, health care that can never be taken away."

The program outlined in 1342 pages of the President's health Security Act of 1993 is breathtaking in scope and intrusiveness. Everything in the $1 trillion health-care sector-hospitals, pharmaceutical companies, doctors and nurses would be subject to federal supervision and control.

Would Clinton's ambitious plan improve our health-care system—or make it worse? The President challenged the nation to judge his plan by six criteria: "security, simplicity, savings, quality, choice and responsibility." How does it measure up?

1. "Security means providing every American with comprehensive health benefits." Under the act, the government would issue a "health security card" that entitles each citizen to a standard medical-insurance policy covering everything from brain surgery to health-education classes. The insurance could not be terminated "for any reason, including nonpayment of premiums."

To control the expense of covering everyone, a National Health Board would set premiums and establish overall health-care spending limits through so-called "global budgets." These are a standard feature of universal health-care plans, including Canada's.

But as Donald Porter learned, universal medical care is anything but secure. To control the demands on its system, Canada has had to severely ration medical treatments, including state-of-the-art drugs, therapies and surgical procedures. Routinely prescribed antibiotics are often years behind those used in the United States.

Canadians who need emergency treatment generally get it. But a large number face harrowing waits of many months for heart surgery and other procedures. Some patients with treatable tumors have seen their cancer progress to the incurable stage while awaiting radiation therapy. Others have died waiting.

Dr. William Mackillop, local radiation oncologist at Kingston Regional Cancer Center in Ontario, was asked what he would do if he were on the radiation waiting list: "There's no way I'd wait," he answered. "I'd go to the United States."

The Clinton bill specifies heavy criminal penalties (fines, seizure of property, long prison terms) for "bribery and graft in connection with health care." Why would there be bribes? Why such stiff penalties? "There undoubtedly will be shortages and waiting

lists," says civil-law professor Bradley A. Smith of Capital University Law School in Ohio. "Bribery and influence peddling will be the natural result. Rhetoric to the contrary, the Clintons must know this plan will result in rationing."

2. "Simplicity means reducing paper work that wastes countless hours and billions of dollars." The President promises to make things simpler by establishing a single insurance form to replace the hundreds now used by private health plans. And, he says, "we will simplify the government's rules and regulations."

After plowing through the four-pound, eight-ounce Clinton bill, Carol Miller, president of the New Mexico Public Health Association, told Congress, "I don't see any simplification. More than 1000 pages of the Health Security Act create administrative complications, not simplifications."

Key to the Clinton plan would be "Regional Health Alliances"—at least one in each state. All citizens would be forced to enroll in a health plan offered by their alliance or face severe fines. These alliances are the backbone of a vast empire—an estimated 105 new bureaucratic entities, a minimum of 50,000 new public employees—that would reach down through state governments into hospitals physicians' offices, workplaces and homes to control virtually every aspect of health care.

Even Stanford management professor Alain Enthoven, one of the principal architects of the alliance concept, is critical of the plan. Enthoven says President Clinton has "redefined the concept" until "it threatens to be a monopolistic, regulatory government agency that will cause more problems than it solves."

3. "I believe we can achieve large savings." The plan's financial engine, the "employer mandate," requires businesses, large and small, to pay at least 80 percent of the health coverage for all employees. President Clinton says businessmen will achieve savings through "lower premiums," allowing them to hire new workers, or even give out raises.

But many experts believe the mandate would actually increase costs and tax many jobs and businesses out of existence. Economists June and Dave O'Neill of New York City's Baruch College explain that the employer mandate is the equivalent of a $5000 to $6000 wage increase for every worker who is into already under an employer-provided medical plan.

The White House claims the impact on employment will "minimal"—perhaps 600,000 people thrown out of work. Other estimates are much higher. The O'Neill study conducted for the small-business-backed Employment Policies Institute projects the loss of 3.1 million jobs nationwide, with entry-level and relatively low-wage jobs the hardest hit.

Ron Chapman, a boat builder in Chalmette, La., says the mandate "may well upend already overburdened small businesses like mine." when Hillary Rodham Clinton, who headed the task force that produced the plan, was asked what might be done to ease its burden on small businesses, she replied, "I can't go out and save every undercapitalized entrepreneur in America."

Rather than achieving large "savings," the program is likely to send overall costs skyrocketing. The plan projects a lower rate of growth in health-care spending, but the federal government is notoriously poor at such projections. When Congress instituted Medicare in 1965, it estimated the program would cost about $12 billion by 1990. The actual figure is $110 billion, despite years of cost-control efforts. Taxes have been raised again and again to pay for the Medicare program. Professor Enthoven concludes, "The Clinton plan puts the federal budget at enormous risk and will result in huge tax increases."

4. "Quality means improving what is already the highest quality care in the world." For most Americans, quality health care means a personal physician armed with the latest diagnostic technology, access to specialists when needed—and no waiting. "The practice of medicine cannot be managed by a time clock," says Dr. Robert Blee, a general practitioner in Chevy Chase, Md. "The interaction with patients is a very subtle thing, You need time to see the warning signs, compare details with the records of previous visits. And people want to know that you are giving them your attention."

But the Clinton plan would force most Americans into so-called "managed care" programs—health maintenance organizations (HMOs) are the principal type. Businesses with burgeoning employee health-care costs have found HMOs' cost-effectiveness attractive, and many patients like their relatively low premiums. Thus, HMOs have grown explosively—from 10.8 million enrollees in 1980 to 41.4 million by 1992.

But in an effort to hold down costs, managed care alters the doctor-patient relationship. In many HMOs, for instance, primary-care physicians are not paid on the basis of individual transactions with patients. Instead, they receive a flat fee—$6, $8 or $10 per patient per month. "There's a perverse incentive here to have more patients, but see them less," says Dr. Steve Reeder, a Dallas vascular surgeon.

In addition, HMOs often pool a percentage of premiums and hand it out as annual bonuses to doctors who have kept expensive tests, hospitalizations and referrals to specialists to a minimum.

Dr. Blee, who works with several HMOs, says primary-care physicians become "preoccupied with keeping costs down. They may tend to discourage rather than encourage a visit to a specialist."

Last spring a woman came to the office of New York internist Louis Vorhaus II with excruciating stomach pains. He diagnosed acute appendicitis. She needed a surgeon immediately. But her HMO required authorization before contacting one. Vorhaus got on the phone.

It rang several minutes before a recorded message told Vorhaus to wait. Eight minutes later, a woman's voice asked what the problem was. When Vorhaus explained, she said authorization was someone else's responsibility.

The patient waited five hours in intense pain before Dr. Vorhaus could cut through the procedural jungle and get a surgeon to see her: he performed a successful appendectomy. "The patient was needlessly put at risk," says Dr. Vorhaus.

As long as HMOs have to compete with other methods of health-care delivery, patients have some recourse in the marketplace when they are dissatisfied with quality of care. "But the Clinton plan will force people into HMOs and eventually, through regulation and coercion, eliminate any alternatives," says John Goodman, a leading analysis of health-care economics and president of the National Center for Policy Analysis. Adds Dr. Reeder, "If the Clinton plan goes through, quality will be a forgotten concept."

5. "Choice means preserving your right to choose doctors and increasing your choice of health plans." Choice of doctors under the Clinton plan comes down to this: a managed-care physician operating under the plan's restrictions, or a traditional private physician whom you would pay with after-tax dollars on top of your dictated premium.

Even this option—paying for a doctor outside the plan—will be limited by the plan's elaborate web of fee-fixing, budget ceilings and regulations. Professor Melvin Konner of Emory University, who backs a Canadian-style system, nonetheless says of the Clinton plan: "They are taking away our choice of doctor. No amount of rhetoric can conceal that fact. Their proposal will force most of us into managed-care plans."

The plan also dictates a standard benefits package for all Americans. The Administration says this will avoid the "confusion" that would result if Americans were allowed to choose their own benefits. Thus, Americans would be forced to pay for "choices" they may not want or need (such as drug-abuse counseling, abortion) and be deprived of others. For instance, the standard package does not pay for mammograms for women in their 40s and covers women over 50 for only one every two years. Critics wonder what other treatments or diagnoses might be denied or rationed—state-of-the-art blood tests for prostate or colon cancer, or hip replacements for the elderly.

6. "Responsibility starts with those who profit from our current system but carries on to each and every one of us." Under the present system, Americans are largely insulated from responsibility for health-care costs because of the "third party" payment system. For every dollar the average patient pays to a doctor, only 17 cents comes out of his own pocket. The remaining 83 cents comes from a third-party payer—his employer, an insurance company or the government.

But the President's plan only worsens this problem. It takes responsibility away from the individual while vesting more power in the government, all in the name of extending health insurance to those not now covered.

The vast majority of Americans (over 75 percent) are pleased with their health care. Virtually every citizen has access to medical care, and by law no American can be refused treatment for an emergency condition at a hospital. More than 85 percent of Americans have some form of health insurance. Of the roughly 37 million Americans uninsured, the vast majority are only temporarily uninsured; others are uninsured by choice.

There are two reforms, both before Congress, that would truly bring individual responsibility back into the health-care picture and address the fears that people have about losing their health insurance if they change or lose jobs:

Give all citizens the same tax break enjoyed by those in employer-sponsored medical plans. Individuals could purchase the health insurance of their choice with tax-free dollars and keep their plans even when they change jobs.

Allow individuals to purchase "Medical IRAs," in which they could set aside tax-free dollars for out-of-pocket payment of routine medical services. With such medical-savings accounts, people could buy low-cost health-insurance policies for major-illness coverage.

Last Christmas, in an effort to meet budgets, some 100 hospitals in Ontario—Canada's most populous province—shut down wards and surgeries for three weeks with doctors going unpaid and nonemergency patients untreated.

Dr. Walter Bobechko, a world-renowned orthopedic surgeon, left his native Canada several years ago to practice in America. "The

saddest thing to see is the diminished expectations of Canadians," he says. "They are settling for Third World medicine and saying over and over to themselves, 'At least it's free.' People are in pain who shouldn't be. People are dying who shouldn't die."

Americans, however, have great expectations for their medical-care system. The United States produces nearly half of all new drugs. Doctors from around the world come to our teaching hospitals to stay abreast of the expanding frontiers of medicine. American entrepreneurs are constantly inventing and improving methods to deliver better care at lower costs. "Yet," says House Minority Leader Newt Gingrich, "at the very moment when we are on the threshold of even greater strides in medicine, the Clintons are telling us, Let's bureaucratize health."

The U.S. health-care system is far from perfect, but the quality of care is the best in the world. Donald Porter learned this after price controls, global budgets and bureaucratic decision-makers forced him to leave his country for treatment. Where would he have gone if President Clinton's health-care plan had been in force?

FAREWELL TO PENNY CAREY

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. KLEIN. Mr. Speaker, I rise today to join the board of directors of the Mental Health Association in Passaic County in honoring Penny Carey at the ninth annual fall festival dinner dance as she is bid a fond farewell as executive director.

Penny became the executive director of the Mental Health Association soon after joining the staff in 1980. She not only instituted several new programs, but also created support groups and increased the range of services that the organization provided.

During her tenure, the Mental Health Association has become admired because of all of the good it has done in Passaic County. She has encouraged and inspired her staff through her relentless commitment and advocacy skills for families needing assistance with the mental health system. This hard work has given the Mental Health Association a sound network for support.

I am very grateful to have the opportunity to pay tribute to Penny because of her efforts over the past 13 years. I know that she will be missed at the Mental Health Association in Passaic County, but she has undoubtedly left a mark that will continue her tradition.

HONORING THE SOCIETY OF SAN SABINO

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mrs. MALONEY. Mr. Speaker, I rise today to honor the Society of San Sabino, an Italian-American organization located in the Brooklyn portion of my district. This society is well-known in Greenpoint, Brooklyn, for its many civic and charitable activities. It serves as an inspiration to Italian-American's, indeed to all Americans, as a model of community involvement and improvement.

The Society of San Sabino was founded in 1932 and boasts a membership of over 50. It meets on the second Tuesday of every month at its headquarters on 206 Withers Street. The society honors the patron saint of the town of Sanza in the Province of Salerno, Italy. The feast day of San Sabino is March 13 and the society has its parade to honor San Sabino in mid-September of every year.

San Sabino was martyred for his faith in the third or fourth century Anno Domino. Two centuries later the pope sent his forces to Sanza to protect the town and to make San Sabino its patron Saint. The Society of San Sabino is proudly celebrating its 62d anniversary this year.

The officers of the Society of San Sabino for 1994 include: Max Rinaldi, President; Vito Grimaldi, Vice-President; Anthony Giannone, Treasurer; Larry Cirullo, Financial Secretary; Enzo Denaroso, Corresponding Secretary. The Society of San Sabino is a member of the Federation of Italian-American Organizations of Greenpoint/Williamsburg, whose officers for 1994 include: Gerard DePaola, Chairperson; Anthony Pastena, President; Vincenzo Martello, First Vice-President; Marion Ambrosino, Second Vice-President; Enzo Denaroso, Third Vice-President; Rosa Martello, Treasurer; Raffelina Cipriano, Secretary.

HONORING AN ESTEEMED PUBLIC SERVANT

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. ROEMER. Mr. Speaker, I rise today as the session closes on a bittersweet note. One of the most valuable people in my organization will take his leave soon to pursue further professional goals and ideals.

Bernie Toon, my chief of staff, will soon take an important position in the U.S. Senate and will be leaving huge shoes to fill in my Washington office. But he also leaves behind an outstanding record of achievement for the people of the Third District of Indiana, who have come to know, respect, and love him for his administrative talents, legislative skill, and his warm and caring personality.

Bernie Toon is that rate chief of staff who commands not only the respect and admiration of the staff, but also earns their fondness and loyalty as well. He is able to bring out superior performance while always maintaining pleasant demeanor.

In short, he is a leader.

Known as "Ray" to his family, Bernie is a native Hoosier. He served ably before coming to my office as an aide in the Senate, at the Pentagon, and for the House Intelligence Committee. He is remembered fairly and fondly by the many people with whom he has worked.

His personal style and professionalism will be missed, yet I know he will serve in a superior capacity in his new position. It has been my extreme pleasure to have watched him develop and grow in running my operation, and although we will miss him, it is with great pride and admiration that I watch him take on this new and deserved challenge. It is a tribute to my staff that Bernie moves on to continue to serve the public and the country.

Mr. Speaker, my wife Sally and I, along with the entire Roemer organization, wish Bernie and his wife Tracy the very best in the future, and though we are sad to lose such talent, we know we have in Bernard R. Toon the very best kind of friend, for life.

THE U.S. CUSTOMS SERVICE—A GOOD REORGANIZATION

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. PICKLE. Mr. Speaker, I am submitting today for the RECORD a copy of the recent Washington Post article on reorganization of the U.S. Customs Service and a copy of a letter I recently received from Customs Commissioner Weise which describes the agency's plans in more detail.

Briefly, the reorganization plan will eliminate its 7 regional and 45 district/area offices as management layers, and will assign the employees to a nearby port or other Customs facilities. Also, the plan would reduce headquarters staffing by approximately one-third, moving those employees closer to the port level. Customs will not reduce services or personnel at any of its ports of entry. Customs also would reduce the number of Special Agent in Charge [SAC] offices from the existing 27 to 20 and establish 5 Strategic Trade Centers to identify and attack major trade enforcement issues facing the U.S. Customs entered into this plan with the cooperation and support of the Customs employees union. Reorganization of Customs is long overdue and we should all welcome the Commissioner's efforts.

The Ways and Means Oversight Subcommittee has investigated Customs operations for as long as I have been subcommittee chairman, and coordinated our findings with the Subcommittee on Trade.

For decades, Customs operated in a world of "good old boy" networks, ineffective enforcement strategies, and layers of management which stifled efficiency and focus. Allegations of wrongdoing within the agency plagued Customs and little was being done to address the situation. Part of the problem, I believe, was that Customs wasn't accountable to anyone at Treasury or in the Congress.

In 1988, the subcommittee initiated a top to bottom review and investigation of Customs. As a result, the subcommittee issued a report titled, "Abuse and Mismanagement in U.S. Customs Operations." This 1990 report contained 16 findings and 57 administrative recommendations for change. The subcommittee found that: Customs' commercial services had deteriorated and its systems were seriously flawed; management decisions were made without supporting data or analysis; Customs'

accounting controls were in total disarray, including evidence of lost money from duty collections and seized property auctions; and, abuse existed in the handling of employee complaints and management of inspector overtime pay.

Since the subcommittee's report, most of the subcommittee's recommendations were implemented by Customs. Further, legislation adopted by the Congress in NAFTA contained the Customs Modernization Act provisions which allows for electronic processing of Customs transactions, and provides for uniform treatment of imports across ports. All of these administrative and legislative changes were critical to making Customs a first-class agency.

Finally, the critical step required to bring Customs into the 21st century is the action Customs proposes in its reorganization plan. I applaud Commissioner Weise for his tenacity in taking on this tough issue and urge us all to support him.

[From the Washington Post, Oct. 3, 1994]

CUSTOMS SERVICE BEGINS A MAJOR, REORGANIZATION: FIRST RESTRUCTURING IN 30 YEARS SHIFTS 600 JOBS TO FIELD OFFICES

(By Stephen Barr)

The U.S. Customs Service, faulted in past years for failures in enforcing trade laws and curbing illegal imports, has embarked on a reorganization aimed at improving service at 301 ports of entry nationwide.

The restructuring will move 600 headquarters positions to the field and eliminate the agency's seven regional and 45 district offices. Twenty Customs Management Centers will be created to help with internal administration, and five Strategic Trade Centers will be established to address international trade issues.

"We're looking at this as a reinvestment of resources," said Customs Commissioner George J. Weise, who notified Congress last Friday that the agency was ready to overhaul an organizational structure that has been in place for 30 years.

"The basic thrust of the reorganization is that we're going to put more people on the front lines doing customer work and have fewer people in administrative capacities and managerial capacities." Weise said.

The Customs Service is part of the Treasury Department, and in announcing the reorganization, Treasury Secretary Lloyd Bentsen said the department "recognizes the need to adjust our business practices in order to deliver improved services." Vice President Gore, who has supported efforts to streamline federal bureaucracies, said the Customs initiative "serves as a guide for other government agencies to follow."

Established in 1789 to collect tariffs and duties, the Customs Service has always been an important source of revenue for the government. In 1993, it collected $21.5 billion, second only to the Internal Revenue Service.

Besides collecting tariffs and inspecting imports, the Customs Service also processes about 448 million people who arrive in the United States each year by car, ship or plane.

Customs employs about 18,000 people, with a staff of about 1,800 at its Washington headquarters. The headquarters reorganization will begin immediately, with the field restructuring to begin a year from now, said Weise, a former staff director of the House Ways and Means trade subcommittee.

Planning for the reorganization began last year under the direction of Deputy Customs Commissioner Michael H. Lane. Lane's task force included officials from Customs, the Immigration and Naturalization Service and representatives from the National Treasury Employees Union (NTEU). The task force met with groups from trade and shipping industries.

Customs was "not a sick or ailing agency," Weise said, but in need of change. The agency had been criticized in Congress and by the General Accounting Office for poor management practices, including lax handling of seized drugs and weapons, he said. Gore's "reinventing government" report and budget constraints added to the impetus for change, he said.

Larger issues—such as the enactment of the North American Free Trade Agreement (NAFTA) and the conclusion of the Uruguay Round of trade talks under the auspices of the General Agreement on Tariffs and Trade (GATT)—also will provide challenges for the Customs Services, according to the agency's reorganization report, "People, Processes and Partnerships."

To address major trade issues, Weise said Customs would create Strategic Trade Centers in Los Angeles, Dallas-Fort Worth, Chicago, Miami and New York. Miami, for example, would specialize in Caribbean and South American issues, while the Los Angeles office would develop expertise on the new economic powers along the so-called Pacific Rim.

Up to 20 employees with experience in inspection, imports, intelligence and computers will staff each center.

The staff at the trade centers "will step back from our day-to-day work," Weise said. "We have traditionally attempted to deal with trade problems on a case-by-case, transaction-by-transaction basis, as we try to catch violators. What this will do is try to deal with some of our more difficult trade problems * * * [and] come up with a more strategic approach to carrying out more effectively our commercial trade responsibilities."

The trade centers, Weise said, will deal with old issues like trade fraud in textiles and new issues like the protection of intellectual property rights.

But the biggest changes will hit the agency's mid-management and senior ranks, as Customs eliminates regional and district offices, Weise said. Regional commissioners and their deputies will move to new jobs, some with less status or prestige.

When the reorganization is finished in about three years, tentative projections show that 800 to 1,400 positions will be shifted to the Nation's ports.

"The fundamental building block of this is that we are going to maintain and enhance all 300 ports of entry where we serve the public today * * * where people enter the country themselves or bring merchandise through. That's where we want to deliver our service," Weise said.

Under the reorganization, port directors will be granted expanded authority to make decisions. Ten assistant commissioners will provide oversight of Customs operations, with a new assistant commissioner for field operations expected to provide strong leadership in the agency.

The 20 Customs Management Centers—ranging from San Diego to Boston, from San Juan to Detroit—will provide administrative support for the ports, with each center employing only 15 to 20 people. Baltimore has been designated as the home for the mid-Atlantic management center.

"It's a reorganization that has been done right from the beginning," said NTEU President Robert M. Tobias. "It was started without preconceptions and a focus on the mission of the Customs Service * * * I think this conceivably is a win for everybody."

THE COMMISSIONER OF CUSTOMS,
Washington, DC, September 30, 1994.

Hon. J.J. PICKLE,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN PICKLE: Today, I am proud to provide you with the Customs Reorganization Plan Report, "People, Processes and Partnerships." The Treasury Department and the Vice President's National Performance Review have endorsed this plan. I trust that you will also find it to be an excellent concept which embodies the spirit and substance of the Administration's National Performance Review (NPR). It is a plan which will enable Customs to be one of the most effective, efficient and adaptable agencies in the Federal sector and better able to meet the challenges of the 21st century.

Customs proposes to reorganize around its core business processes and to emphasize the needs of its customers. The focal point of the reorganization will be Customs 301 ports of entry—the operational field level. Under this reorganization plan, Customs will not reduce services or personnel at any of its ports of entry. Under this plan, Customs will not consolidate or close any of its ports. Customs will eliminate its 7 regional and 45 district/area offices as management layers, and will assign the employees of those offices to the port operation in the same location or to nearby ports or other Customs facilities. In this reorganization, Customs will do its utmost to keep its field employees in the locations where they are presently working.

Although specific details of our reorganization are provided in the enclosed report, I would like to bring to your attention several key issues and concepts, which relate to our central theme "People, Processes and Partnerships."

Our relationship with the National Treasury Employees Union (NTEU), the legal representative of Customs employees, now also embodies the concepts of the NPR. Representatives of NTEU were members of the reorganization study team, and the union has expressed its support for the recommendations in the report. We believe it is essential that Customs management work together with NTEU to bring about the improvements to our work force that are needed to achieve our vision. I am pleased to advise you that on June 13, 1994, Customs entered into a partnership agreement with NTEU. We will build on this partnership during the implementation of the reorganization to minimize negative impact on our employees and to empower employees to make their maximum contributions to the mission and goals of the Customs Service.

During the reorganization study, every effort was made to involve the trade community, industry, and other Government agencies. Their concerns and needs are incorporated in the report's recommendations. The report's recommendations have also incorporated the wisdom of experts from numerous outside sources whose advice and counsel we actively sought throughout our study process. The Brookings Institution, the Federal Quality Institute (FQI), and the National Academy of Public Administration (NAPA) provided invaluable assistance during the effort.

In order to improve our organizational alignment, we will reduce Headquarters staffing by approximately one-third, moving those employees closer to the port level.

where possible. Headquarters will be restructured to include a Chief Operating Officer and new Assistant Commissioners with a renewed focus on core business processes. Our new organization will have only three levels instead of the existing four levels. This will be accomplished by eliminating the existing 7 regions and 45 district/area offices as management layers. In their place, we will establish 20 Customs Management Centers (CMC)—very small area field management entities, transparent to day-to-day port operations, performing internal oversight and support functions and providing administrative services to the ports. A list of the CMC locations is enclosed for your information.

We will also reduce the number of Special Agent In Charge (SAC) offices from the existing 27 to 20. Where possible, the SAC offices will be collocated with the CMC's. In addition, we will establish five Strategic Trade Centers (STC) to identify and attack major trade enforcement issues facing the United States. A list of the STC locations is also enclosed for your information.

We anticipate that the organizational restructuring contemplated under the reorganization will permit a more effective use of personnel and resources. For example, our strategy calls for the retraining and reallocation of approximately 600–750 positions from central control and administrative type offices to locations where our core services are provided. Of course, any final decisions about reinvestment of resources will be made by the President and the Congress.

To improve the overall management of Customs, we will implement a method of managing the Customs Service through business processes. We will develop a portfolio of management tools and statistically based compliance measurement systems to support this new management approach. We will improve service and performance by identifying customer expectations and establishing customer service standards.

This organization and its people have made vast contributions to almost every aspect of American life over the history of the Nation. The proposed reorganization is intended to ensure the continuation of that proud tradition and to even greater contributions in the future.

Customs is available for briefings to provide further detail on our reorganization and our approach to implementation of process management. I ask your support to help Customs achieve our new vision and organizational realignment.

Sincerely,

GEORGE J. WEISE,
Commissioner.

Enclosures.

CUSTOMS MANAGEMENT CENTERS AND SPECIAL AGENT IN CHARGE

Management area	City
North Atlantic	Boston.
New York	New York.
Mid Atlantic	Baltimore.
South Atlantic	Atlanta.
North Florida	Tampa.
South Florida	Miami.
Puerto Rico/Virgin Islands	San Juan.
Gulf	New Orleans.
East Texas	Houston.
South Texas	Laredo.
West Texas/New Mexico	El Paso.
Arizona	Tucson.
Southern California	San Diego.
South Pacific	Los Angeles.
Mid Pacific	San Francisco.
North Pacific	Seattle.
Great Plains	Denver.
Mid America	Chicago.
West Great Lakes	Detroit.
East Great Lakes	Buffalo.

STRATEGIC TRADE CENTER

Trade area	City
Pacific Rim	Los Angeles.
Mexico/Central America	Dallas/Ft. Worth.
Canada	Chicago.
Caribbean/South America	Miami.
Europe/Africa/Middle East	New York.

WELCOMING THE NEW REPRESENTATIVE FROM THE REPUBLIC OF CHINA

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. ENGEL. Mr. Speaker, I am proud to extend a very warm welcome to Benjamin Lu in his new role as representative of the Taipei Economic and Cultural Representative Office; the unofficial Embassy of the Republic of China on Taiwan. Having served as the director of the economic division of the Coordination Council for North America Affairs [CCNAA] from 1982–88, he is, however, not new to Washington, DC. During his prior assignment here, Mr. Lu was instrumental in forging agreements on intellectual property rights and of great import in promoting excellent trade relations between our two nations. It is of some significance that during Mr. Lu's time as economic director, Taiwan was the only Asian country to reduce its trade deficit. I anticipate, with Representative Lu, continuing the good relations our country shares with the Republic of China on Taiwan [ROC].

Representative Lu is replacing Ambassador Mou Shih Ding, Taiwan's representative since 1988. In every aspect, Ambassador Ding led the ROC toward an ever-improving relationship with the United States. Indeed, during his tenure Taiwan became the world's largest holder of foreign reserves and America's fifth largest trading partner. Moreover, his country's prompt and unconditional support for the relief effort in the former Yugoslavia was a model for all aid efforts. Furthermore, as his country's new National Security Adviser, he will continue his more than 30 years of public service.

Representative Lu's new title comes with a change in office name as well. As part of the administration's recent ROC policy review and to better reflect the growing economic relationship between our two countries, the U.S. office has been renamed the Taipei Economic and Cultural Representative Office. Moreover, of equal significance are the provisions made by the administration for high level talks on trade issues to be held in the near future. In this vein, I hope that during his tenure Taiwan will at long last be afforded representation in international bodies, and in particular the United Nations. Taiwan's 21 million citizens deserve, require, and demand a voice in the world community.

Mr. Speaker, the Republic of China will be celebrating its national independence day on October 10. In 1994, I anticipate this holiday will mark even better United States-ROC relations. I am sure my colleagues join me in welcoming Representative Lu and expressing our desire to make his time in Washington the most productive yet in the history of our two countries.

AFGHANISTAN CONFLICT CONTINUES

HON. MICHAEL J. KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. KOPETSKI. Mr. Speaker, the world revels today over the end of the cold war and the ensuing wave of democracy and market capitalism that has washed over Europe. Latin America, and parts of Asia. Just last week, our President hosted Russian President Boris Yeltsin minus the tension and drama that used to attend such summits. Instead, it was a meeting of friends, of partners in search of even better ways to enhance our cooperative relations on economic and security matters.

However, the epilog of the cold war is still being written in Afghanistan. The United States and particularly the Soviet Union used this country and its people as a surrogate battlefield during the cold war. A surrogate war to us continues to be a war-ravaged land to the people of Afghanistan.

Afghanistan is a small country, slightly smaller than the State of Texas. It has a population of 17.7 million people including 1.4 million refugees living in Pakistan and 2 million refugees living in Iran. A Moslem nation, it has been the centerpiece of South Asian history for decades mainly because of its geographic location. Landlocked and mostly mountains and deserts, it has been the crossroads of trade for thousands of years. It is the gateway to India and to the sea and thus a central force in the quest of the great power games.

Decimated by war, the Afghan economy's GDP is only $3 billion. At least 65 percent of the economy is agriculture based and, of course, it is suffering because of the war. it does possess natural gas, oil, coal, copper, zinc, and other metals which give its economy potential income in a future peace. But no progress can occur until peace arrives. Perhaps its most protected and consistent crop is poppy plants used for heroin production. It is estimated that nearly 20 percent of the heroin in the United States comes from Afghanistan, and most of the heroin filling the streets of Moscow today comes from Afghanistan. But with no government in control of Afghanistan, it is impossible for the United States or Russia to stem the flow of heroin from this country.

Though the moral obligation lies squarely on Russia and the United States to help facilitate peace in that land, a very practical self-interest exists as well: That is to eradicate a major source of drugs in the two respective nations. We will not be able to do this without a government there; a government willing to let our Drug Enforcement Agency and State Department work with them to eradicate this source of illicit drugs and, therefore, crime in Russia and the United States.

Mr. Speaker, at this point I ask unanimous consent that the administration's current position and policy toward Afghanistan as presented by Robin Raphael, Assistant Secretary of State for South Asian Affairs, to the House Foreign Affairs Committee on Asia and the Pacific on August 11, 1994, be made part of the RECORD.

STATEMENT BY ROBIN RAPHAEL

AFGHANISTAN

Mr. Chairman, Afghanistan is the sad exception to a tale of political and economic progress in South Asia. Our primary goal there is a simple one—to help promote peace and security in a country torn by war for almost fifteen years. There are other important issues in Afghanistan, including reconstruction of the economy and infrastructure, repatriation of the refugees, combatting narcotics trafficking, and putting an end to the harboring of radical groups, all of which have important potential for regional stability.

However, significant progress toward these or any other goals is dependent on the end of fighting and the emergence of a government that can assert authority throughout the country. We believe only a broad-based government with a mandate from all Afghans, both at home and abroad, can bring the stability that Afghanistan needs. This political process could include the former king, Zahir Shah, should he so desire.

Afghanistan was the last great battlefield of the Cold War. From 1978 to 1992, over a million Afghans lost their lives in the struggle against a regime imposed and supported by the Soviet Union. Countless others were maimed by mines and other accidents of war. At least five million more became refugees in Pakistan and Iran and two million were internally displaced.

The whole world had hoped that the conflict and the suffering would end with the fall of the regime of President Najibullah. But rivalries among Afghan factions have fuelled continuing warfare, as tens of thousands more have been killed or wounded since 1992. Fighting intensified in Kabul and northern Afghanistan beginning this past January as coalitions aligned with President Rabbani and Prime Minister Hekmatyar struggled for supreme power. Twenty-three thousand more people have become casualties since then and another wave of refugees and displaced persons has been generated.

For the past several years, the United States has worked hard to promote a peaceful political process in Afghanistan that would enable a functioning central government to emerge and reconstruction to begin. Our involvement in Afghanistan is longstanding. When the Afghan people chose to resist the Soviet occupation, we supported them. When the Soviets withdrew, leaving behind an entrenched puppet regime, we worked with mujahidin factions, traditional and Islamic leaders, and the former King to encourage a transition to a workable government. Since the regime's collapse, we have maintained our efforts to help create a broad-based government to oversee the reconstruction of this war-torn country.

Mr. Chairman, the peace so many Afghans desire has not been achieved, in spite of their efforts and those of others, including the United States. Fighting has continued between Afghan factional leaders, who do not appear to have the interests of their country and their people at heart. Despite the history of our long involvement in Afghanistan, we find factional leaders remain intransigent and seemingly oblivious to persuasion or pressure. Our embassy in Kabul has been closed since 1989. Given the ongoing anarchy in the capital, we see no way we can reopen it in the near future.

In the circumstances, we believe the best approach is to support coordinated efforts by the UN and other multilateral organizations to encourage a political process which leads to a government in Kabul acceptable to all Afghans. We also have worked bilaterally to this end, urging all neighbors and other interested states to support peace efforts. We were instrumental in the creation of the Friends of Afghanistan, a group of concerned states at the UN. We worked through the Security Council and the General Assembly for the dispatch of a UN Special Mission to help Afghans resolve their differences peacefully.

In March and April this Mission, led by former Tunisian Foreign Minister Mahmoud Mestiri, went to Afghanistan and the region. The Mission met with Afghan leaders inside and outside the country, including former King Zahir Shah, as well as officials of concerned governments. Mr. Mestiri is now back in the region and we continue to strongly support his Mission.

Afghan factions clearly receive support from abroad. However, we have no conclusive evidence demonstrating exactly what they receive and from which sources. We are working to curb the flow of weapons and materiel to the factions. We have received assurances from Pakistan, Saudi Arabia, India, Tadjikistan, Uzbekistan, and Turkmenistan that they are not providing weapons or materiel. However, given Afghanistan's porous borders, assistance from private groups in these and other countries may well be continuing.

The absence of effective government and limited security in both the capital and the countryside have made it very difficult to conduct development programs in Afghanistan. We recently closed our bilateral assistance program in part because of these circumstances. However, the U.S. continues to provide substantial humanitarian assistance to the Afghan people through UN agencies and non governmental organizations. Their programs support refugees, food for work projects, immunizations, and demining.

Mr. Speaker, I want to take a few moments to present a variety of points about the Afghan situation gleaned from Assistant Secretary Raphael's appearance before the Foreign Affairs Committee.

Afghanistan's civil war intensified at the beginning of 1994 as a result of the defection of key supporter to President Rabbani. General Abdul Rashid Dostam defected to the side of Gulbuddin Hekmatyar and others who seek to dispose President Rabbini. Since this time, more than 30,000 people, mostly civilian noncombatants, have been killed or wounded.

There has been no functioning central authority in Afghanistan since the mujahideen overthrew the Communist regime in 1992.

Large scale human rights violations occur daily in Afghanistan. After 15 years of unrelenting warfare, Afghanistan lacks a constitution, national judicial system or any functioning government.

Afghanistan is second only to Burma in terms of opium production. Last year, the administration estimates Afghanistan produced almost 700 metric tons of opium. Opium is the largest cash crop in Afghanistan. Therefore, drug money ends up supporting the continuation of the civil war.

Since the Soviet invasion in 1979, between 1 and 1.5 million Afghans have been killed. The total of Afghan fatalities is unofficially estimated at six times the Bosnian fatalities.

Afghanistan is the most heavily mined country in the world with an estimated 10 million uncleared land mines. Mine injuries in Afghanistan number as high as 1,500 per year, mostly innocent civilians.

Afghans are the world's largest refugee population. Some 3.4 million Afghans still reside in refugee camps in Pakistan and Iran.

Since 1989, the United States has provided over $300 million in direct bilateral assistance to Afghanistan. The United States recently closed our bilateral aid program to Afghanistan due to unsafe security conditions in Afghanistan and the absence of an effective central government.

Mr. Speaker, there are 18 million stories to be told about the ongoing tragedy that is Afghanistan. One of the best summaries is provided by Mr. John Darnton for the New York Times in a recent article about Afghan families living in a refugee camp. I ask unanimous consent that this story of August 11, 1994 also be made part of the RECORD at this point.

[From the New York Times, International, Thursday, Aug. 11, 1994]

FORGOTTEN BY WORLD, AFGHANS PLUNGE INTO MISERY

(By John Darnton)

JALALABAD, Afghanistan—The Sar Shahi camp for people displaced by the war, a vast checkerboard of tents extending as far as the eye can see, sits on a barren plateau of rocks and gravel and fries in the sweltering Afghan sun like a skillet on a stove.

There is no natural source of water within an hour's walk and scarcely a tree to case a sliver of shade. The temperature hits 105 or 106 degrees these summer days, so hot that people just stay in their tents, almost too listless to swat away the flies.

"Here it's a desert and there is nothing to do, just to sit and wait for rations," said Mohammed Akbar, 35, who lives in the camp with his wife and three children. In his right hand, he toyed with one of his few possessions, a tape measure. "*This is not a life.*"

The camp is home to 118,000 people and is growing by about 30 families a day. Almost all have fled from Kabul, the capital, 70 miles east, where fighting began again on Jan. 1 among the various factions of mujahedeen who expelled the Soviets in 1989 and toppled the Soviet-backed Government in April 1992.

Their own feuding has been more destructive than the Soviet era. In the previous 12 years of guerrilla warfare the capital remained largely intact. Now it is in ruins from rocket attacks and street fighting as the forces of Prime Minister Gulbuddin Hekmatyar and President Burhanuddin Rabbani struggle for control. More than 11,000 people have been killed and 500,000 made homeless in the last seven months.

Five years ago the world was paying attention to what was happening here. Two years ago there was hope that the world's largest concentration of refugees, some six million Afghans in Pakistan, and Iran, would finally return home, and some 2.7 million eventually did. But the fighting has renewed, and now it goes on in international obscurity.

There are still 3.3 million refugees outside Afghanistan—1.5 million in Pakistan and 1.8 million in Iran. The return of refugees ebbed, and the tide started running in the other direction. The huge camps outside Peshawar and Quetta in Pakistan, with ever-expanding numbers of adobe houses, electrical lines and health and educational services, have become like established villages.

The refugees there are integrating ever more deeply into the local economy or even sending their bread-winners flying off to jobs in Arab countries on the Persian Gulf with their families securely settled behind. Aid

officials say that some will probably never go back despite the fact that international aid is scheduled to be cut off next year.

"I have two sons and two grandsons," said Malik Jader, a 70-year-old refugee with a flowing white beard who lives in Nasirbagh camp in Peshawar. "The sons earn 100 rupees a day and the grandsons 50 rupees. So I live like a king."

Like most refugees, he insisted that he would return to his village once the fighting stopped and the land mines were cleared. "Overnight," he said, showing off his seven-room house. "I would even leave the beams of this house." But he admitted that his grandchildren had adjusted to life in Pakistan and had even taken up Pakistani customs like playing cricket.

To try to stem the flow of new arrivals, Pakistan closed the border in mid-January. It is still possible for refugees to slip through along well-worn routes off the main road or to bribe their way past border guards. But for the most part they have stopped going to Pakistan, and many now settle here in the desolate Sar Shahi camp 10 miles outside of Jalalabad.

It is a cruel place to live, a sprawl of tents spread over six square miles of lunar landscape. The site was chosen by the shura, the governing body of local leaders, over the objections of United Nations staff members, apparently because it was far enough out of town to keep problems at bay.

Digging a latrine can take up to a week. A Danish agency has been drilling fruitlessly for water. The latest well, the third, has gone down 260 feet without finding any. Water is trucked in daily by 30 tankers, which can still provide only about 11 quarts of the daily requirement of about 15 per person.

Six people died of heat stroke in a single week recently, and children are dying from diarrhea because some inhabitants, loath to use communal latrines that are not always kept clean and private, have taken to defecating in the open fields.

Most residents seem to have rashes from the bugs and heat, and they say that disease is rife, that the medicine doled out by the clinic seems ineffective and that the rations of wheat flour and cooking oil are not enough.

"The worst thing is the heat," said Ala Gul, who is 55. "That and the scorpions and the snakes. This is not a place to live."

Mir Ata, who lost his son when a rocket struck his house in Kabul, said he wanted to return to the capital but was afraid to. Even his age, 75, would not save him, he said.

"When the Soviets were here, they never killed people like me," he said. "They looked for young people. But now the fighters don't care. Women, children, old men—they'll kill anyone."

Mr. Speaker, I would be remiss if I did not offer some constructive steps for the administration, and therefore our country, to take with respect to the tragedy of Afghanistan.

First, to help the refugees, of which there are approximately 3.5 million, I have written President Clinton a letter. In this letter, I ask the President to direct the Department of Defense and the State Department to work together to continue refugee assistance under the McCollum program. This program provides excess—excess—Defense articles to refugees, articles such as blankets, tents, cots, and medical supplies to help families and children caught in this personal horror. Because the United States Agency for International Development office in Islamabad is closing, the continuation of the McCollum Program for Afghan refugees is in jeopardy. The President can ensure continuation by a simple directive. I ask unanimous consent that my October 4, 1994, letter to President Clinton be placed in the RECORD at this point.

HOUSE OF REPRESENTATIVES,
CONGRESS OF THE UNITED STATES,
Washington, DC, October 4, 1994.

President BILL CLINTON,
The White House, Washington, DC.

DEAR PRESIDENT CLINTON: I am writing to direct your attention to an important United States relief program for refugees from Afghanistan's civil war. The McCollum Program has provided excess Department of Defense articles to Afghan refugees since 1986.

The articles provided by the McCollum Program to Afghan refugees are all humanitarian in nature, including medical supplies. The McCollum Program does not provide assistance to any of the armed factions engaged in Afghanistan's civil war. I have visited with Afghanistan refugees in Pakistan and I can attest personally to the need for continuation of the McCollum Program.

The United States Agency for International Development office in Islamabad, Pakistan has orchestrated the distribution of McCollum Program assistance. Unfortunately, USAID Islamabad mission is closing, thus endangering the continuation of the McCollum Program. I respectfully request that you direct the Department of Defense and the Department of State to work cooperatively to continue this vital refugee assistance program. The United States, while supporting efforts to end fifteen years of war in Afghanistan, must not abandon innocent Afghans where the U.S. has the capability to save lives.

With the demise of the Soviet Union, Afghanistan's importance to the United States has diminished. However, the United States cannot abandon completely Afghanistan. If we abandon Afghanistan, we doom the Afghan population to a longer period of civil war and the further destruction of that nation. I recognize the U.S. provides aid to Afghanistan through the United Nations. This is also worthy and must continue. However, I believe strongly in the importance of the McCollum Program and I urge you to support its continuance.

Thank you.

Sincerely,

MIKE KOPETSKI,
Member of Congress.

Second, I have written the President, also on October 4, 1994, to request that the United States seek to convene high level meetings with all the nations involved in this unholy war including but not limited to Egypt, India, Iran, Pakistan, Russia, Saudi Arabia, Uzbekistan, Tajikistan, and Turkey. I believe these nations have the wherewithal to convince the leaders of the 10 factions within Afghanistan that it is time for peace. I ask unanimous consent that this letter also be made part of the RECORD at this point.

HOUSE OF REPRESENTATIVES,
CONGRESS OF THE UNITED STATES,
Washington, DC, October 4, 1994.

President BILL CLINTON,
The White House, Washington, DC.

DEAR PRESIDENT CLINTON: I write to implore your Administration to address the ongoing crisis situation in Afghanistan. The International Committee of the Red Cross warned recently, "As winter approaches, the ICRC fears that a large-scale human disaster may be impossible to avert (in Afghanistan)."

Afghanistan continues to suffer as a result of the Cold War. Some 3.3 million refugees still reside in refugee camps in Pakistan and Iran unable to return home despite the withdrawal of Soviet forces. Factional fighting, a civil war, rages on killing thousands of children and other innocent civilians, often in regions untouched by the Soviet conflict. More than 12 million Afghans have been killed during the civil war. In Kabul, more than 30,000 have been killed or wounded this year.

Afghanistan is awash with weapons including ballistic missiles, stingers and other weaponry provided to the rebels forces during the Soviet conflict. Additionally, weapons continue to flow into Afghanistan from neighboring states allied with different factions in the Afghanistan civil war. Of equal concern to the United States is the explosive growth in the opium trade originating in Afghanistan. It has been reported that Afghanistan may produce as much as 695 tons of opium annually for heroin production. As much as 20 percent of heroin available in the United States more than likely comes from Afghanistan opium.

I believe firmly the United States has a moral responsibility to seek a peaceful resolution of Afghanistan's civil war. I recognize the United Nations and a number of respected international organizations have committed time and resources to Afghanistan. Unfortunately, these worthy efforts have failed and no solution to the violence in Afghanistan is in sight. Therefore, I recommend strongly that the Administration convene high level meetings with all the nations involved in the Afghanistan conflict including Egypt, India, Iran, Pakistan, Russia, Saudi Arabia, Turkey and other relevant parties.

Mr. President, I do not pretend to offer this alternative as a quick and easy solution to the Afghanistan problem. Until the combatants themselves desire peace, all of our efforts may not be successful. However, I believe the United States and Russia bear significant responsibility to increase efforts to bring peace for Afghanistan. With your leadership, I am hopeful peace in Afghanistan can be achieved.

Thank you.

Sincerely,

MIKE KOPETSKI,
Member of Congress.

Mr. Speaker, the United States and Russia have both a moral responsibility and a practical reason to elevate the importance of peace in Afghanistan. First the moral reason: we had a hand as an adversary in the cold war against the Soviet Union. Russia clearly has a responsibility also. We should not walk away. I don't point a finger of blame. I lay the hand of responsibility on the United States and Russia. As world powers, we have the obligation to help stop the suffering and deaths of innocent people.

Second, the practical motive for seeking to bring peace to Afghanistan: If we want to eradicate a significant source of drugs in America we must have a government, a stable government, in Afghanistan with which to work. There is none today. This situation affects every American today directly in the form of drug abuse and crime-related activity.

Mr. Speaker, the harsh reality is peace can't come to Afghanistan until the 10 warring factions desire peace. Perhaps if nations involved

with Afghanistan today come together and begin a dialog, pressure could be brought on Afghan leaders to come to the peace table. The people of Afghanistan want peace. It is time to end this tragedy.

FLOW CONTROL IS PRO-ENVIRONMENT

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. WALSH. Mr. Speaker, tonight the House of Representatives works feverishly toward passage of flow control legislation with unanimous, bipartisan support. I expect this legislation will pass and it will protect Onondaga County's right to control the flow of municipal solid waste for financing their waste-to-energy plant and integrated waste program. Without such an agreement, which had been put at risk by a recent Supreme Court ruling, the county would have been without sufficient cash flow to repay $180 million in bonds which produced the funding for the plant.

This legislation is very important for central New York and important news for taxpayers in Onondaga County. Without the legislation, the county's credit rating could have been negatively affected for future bonding.

Flow control is pro-environment. If every municipality adopted a comprehensive solid waste program, they could handle their waste locally and not ship their garbage to other States. Our county's recycling program has received national recognition and awards for recycling over one-third our waste stream. The community will also benefit from the sale of electricity produced by the waste-to-energy facility.

Working closely with Onondaga County officials and my colleagues in the New York delegation, we were able to develop an excellent bill. This is the kind of cooperation involving local and Federal Government that helps communities solve problems.

ADMIRAL ROBERT C. J. KRASNER, OUR ATTENDING PHYSICIAN, RETIRES

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BROOKS. Mr. Speaker, I rise today to pay tribute to Admiral Robert C. J. Krasner, the attending physician to Congress. In 1989, I came very close to losing my life with a severe case of ideopathic pancreatitis. From the inception of the attack, Admiral Krasner was at my side and remained in constant supervision throughout the month I remained in ICU and during recuperation at Bethesda Naval Hospital. His steady and effective counsel, advice and oversight during my medical ordeal were a major reason I pulled through and I owe him a great debt of gratitude—if not my life.

Admiral Robert Krasner has provided outstanding service during his years in the attending physician's office. He served as staff physician from 1980 to 1982. Following another assignment, he returned in 1986, as a Captain in the Navy, to the U.S. Capitol as director of clinical services and was appointed the attending physician and promoted to rear admiral in May 1990.

Having devoted most of his life—from 1971 to the present—to the field of medicine, Admiral Krasner has decided to retire at the end of December and go to work for the Holding Company McAndrews and Forbes in New York.

Admiral Krasner's whole life has been given to the health and welfare of individuals in all parts of the world: Ethiopia, Eritrea, Sardinia, London, Panama, Jakarta, Indonesia; California, Baltimore and Washington, DC.

During his distinguished medical career with the United States Navy, Admiral Krasner has always exemplified the highest qualities of professionalism and integrity. He will be deeply missed by the Members of the United States Congress and by me personally, who has come to know him as a very good friend.

I wish for him, his lovely wife Leslie, their daughter Jessica and their son Justin a wonderful future. I know that he will be successful in his new venture and I only hope he receives the best life has to offer—he deserves it.

LITHUANIAN RECOGNITION OF WAR CRIMES AGAINST JEWS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. GILMAN. Mr. Speaker, for the first time since the end of the Second World War, an important public statement has been made by a leading member of the government of Lithuania acknowledging crimes committed against Lithuanian Jews during the Nazi German occupation of that country.

In a television appearance on September 22, Lithuanian Prime Minister Adolfas Slezevicius called on all Lithuanians to acknowledge the deaths of over 200,000 Lithuanian Jews at the hands of Nazis and to repent the involvement of Lithuanians in that criminal massacre.

Prime Minister Slezevicius stated his hope for the forgiveness of the Jewish people for the suffering inflicted on the Lithuanian Jews in World War II. He also ordered that black crepe should be flown in mourning next to the Lithuanian flag at all official buildings on September 30th, the 51st anniversary of the Nazi-led liquidation of the Vilnius ghetto.

Mr. Speaker, Prime Minister Slezevicius stated that his government will assume responsibility for the prosecution of individuals who participated in the murders of Lithuanian Jews. I welcome those words and urge the Lithuanian government to do its very best to find those responsible and bring them to justice.

In closing, Mr. Speaker, I want to commend Mr. Slezevicius for his public statement. Hopefully, the recognition of and atonement for such atrocities will guarantee they never occur again. The horrors of World War II must never be forgotten, but such memorial efforts greatly enhance the long process of recovery.

THE TRUTH ABOUT TOBACCO REGULATION

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BOEHNER. Mr. Speaker, I am submitting for the RECORD the following article that dispels the myth that tobacco products are under regulated. Tobacco is a perfect example of the excessive burden government regulations have on businesses. In addition, it helps dispel the myth that some people have advanced in their effort to have Congress step in and place more stringent new regulatory controls on this industry. This article clearly shows that the claim that tobacco are underregulated is unjustified.

TOBACCO PRODUCTS AND THE MYTH OF "UNDERREGULATION"

A favorite claim of the antitobacco lobby is that tobacco products are virtually unregulated and accordingly should be subject to stringent new regulatory controls. This claim has been advanced by the antismoking lobby as well as by their supporters in Congress. The Director of the Office on Smoking and Health and the Chairwoman of the Consumer Product Safety Commission were quoted to this effect in a July 4 news story by Reuters, "Government Tobacco Regulation—Burden or Free Ride." In fact, the claim that tobacco products are underregulated is untenable.

At every level of government—federal, state and local—there is extensive regulation of tobacco products. Perhaps no other product is regulated in so many ways, or by so many agencies, as tobacco products. Moreover, while federal agencies typically regulate consumer product labeling, advertising and promotion, Congress itself has stepped in to regulate the tobacco industry directly in these areas, and over the past 30 years Congress has held frequent hearings to consider whether additional regulation may be warranted. From seed-bed to sales-counter, from how the product is produced to where and when it may be used, tobacco products are among the most highly regulated products in the nation. And beyond these more direct forms of regulation, tobacco is subject to exceptionally heavy regulation by taxation.

The true aim of the antitobacco lobby is not to ensure that tobacco products are adequately regulated but to put the tobacco industry out of business and eliminate a product that fifty million American adults use and enjoy. Any system of regulation that fails to guarantee these results will be decried by the antitobacco lobby as "underregulation." But no additional regulation is warranted. Indeed, Secretary of Health and Human Services Louis W. Sullivan himself told Congress in 1990 that legislation giving HHS additional regulatory authority would not add measurably to the agency's current or planned efforts and was therefore "unnecessary."[1]

FEDERAL REGULATION

1. *Congress as Regulator.* To a unique degree, and far more so than any other

Footnotes at end of article.

consumer product, cigarettes historically have been subject to direct regulation by Congress. Principally through the Federal Cigarette Labeling and Advertising Act in 1965, the Public Health Cigarette Smoking Act of 1969 and the Comprehensive Smoking Education Act of 1984, Congress has imposed an extensive and detailed regime of controls over cigarettes. It is and has long been "the clear mandate of the Congress that the basic regulation of tobacco and tobacco products is governed by the legislation dealing with the subject, * * * and that any further regulation in this sensitive and complex area must be reserved for specific Congressional action."[2] Congressional bodies hold hearings with extraordinary frequency to review and reconsider existing federal policy in this area.

2. *Production.* Federal regulation of tobacco begins with the setting of production quotas and price levels for tobacco leaf by the Agricultural Stabilization and Conservation Service and the Commodity Credit Corporation of the United States Department of Agriculture.[3] In addition, USDA's Agricultural Marketing Service employs graders who determine the categorization of individual lots of tobacco for auction purposes in accordance with federal regulations.[4] All pesticides used on tobacco are registered by the Environmental Protection Agency. USDA also inspects tobacco imported into the United States[5] and regulates the use of pesticides on tobacco in cooperation with the EPA.[6] Congress itself has specified the percentage of domestic tobacco that must be used in cigarettes.[7]

3. *Labeling and Advertising.* The Federal Cigarette Labeling and Advertising Act bans cigarette advertising on television and radio and other electronic media, and requires cigarette packages and advertising to carry specified health warnings.[8] The Department of Justice, in consultation with the Federal Communications Commission, ensures compliance with the ban on advertising in the electronic media,[9] while the Federal Trade Commission ensures compliance with the provisions of the Act regarding the format and rotation of the specified health warnings.[10] Information concerning "tar" and nicotine is included in cigarette advertising pursuant to a 1970 agreement between the FTC and the major United States cigarette manufacturers,[11] and the Commission oversees testing of "tar" and nicotine yields under a 1987 agreement with the manufacturers.[12]

The Federal Cigarette Labeling and Advertising Act also directs the FTC to submit annually to Congress a report concerning cigarette advertising and promotion, along with any agency recommendations for legislation.[13] To meet those obligations, the Commission has for many years required the cigarette manufacturers to submit annually detailed information concerning cigarette advertising and promotional expenditures. The Commission has authority to address assertedly unfair or deceptive cigarette advertising under the Federal Trade Commission Act,[14] and the agency has exercised that authority.[15]

The Bureau of Alcohol, Tobacco and Firearms regulates still other aspects of the packaging of tobacco products. BATF's regulations include provisions requiring the disclosure of certain information on every tobacco product carton or package.[16] Other BATF regulations govern the type of packaging in which tobacco products can be marketed and prohibit certain promotional practices.[17]

4. *Product Regulation.* Ingredients. The ingredients used in cigarettes are monitored by the Office on Smoking and Health in the Department of Health and Human Services.[18] Under this regulatory system, cigarette manufacturers are required to submit annually to HHS a complete list of all ingredients added to tobacco in the manufacture of cigarettes, and they have submitted additional ingredient information at the request of HHS as well. Congress considered this reporting system to be adequate to "permit the federal government to initiate the toxicologic research necessary to measure any health risk posed by the addition of additives and other ingredients to cigarettes during the manufacturing process."[19] HHS is required, in turn, to submit to Congress reports advising Congress of any information pertaining to any such ingredient "which in the judgement of the Secretary poses a health risk to cigarette smokers."[20]

Constituents. Pursuant to a voluntary agreement with the FTC, the major cigarette manufacturers, monitored closely by an on-site representative of the Commission, operate the Tobacco Institute Testing Laboratory (TITL), which measures the "tar," nicotine and carbon monoxide levels of cigarettes sold in the United States, and the Commission annually publishes these ratings.[21] Testing is conducted according to a standardized test method prescribed by the Commission in 1967.[22] The Commission has stated that the ratings produced by this test method provide "valid standards for making comparisons among different cigarettes."[23] A representative of the Oak Ridge National Laboratory (ORNL) told Congress in 1988, based on research conducted by ORNL, that testing for other constituents would not affect the relative ranking of cigarettes as determined by "tar" and nicotine or provide information that would affect a smoker's choice among the different brands of cigarettes that are available.[24]

The Commission told Congress in 1987 that it was satisfied that its arrangement with TITL enables it to ensure the accuracy of the "tar," nicotine and carbon monoxide figures.[25] More recently, however, the Commission has asked the National Cancer Institute to assist it in assessing "possible alternatives to, or modifications of," the current cigarette testing methodology and rating system.[26] The Commission's views on "tar" and nicotine have changed over the years. It severely restricted "tar" and nicotine claims in cigarette advertising in 1955[27] and prohibited such claims altogether in 1960, but it subsequently lifted the ban on "tar" and nicotine claims in cigarette advertising in 1966[28] and acted to require "tar" and nicotine ratings to be disclosed in all cigarette advertising in 1970.[29] The cigarette manufacturers have complied with all of the Commission's directives.

Food and Drug Administration. Notwithstanding claims by some antismoking advocates that tobacco is "exempt" from regulation by the Food and Drug Administration, FDA in fact has asserted jurisdiction over cigarettes as a "drug" when health claims were made by vendors or manufacturers, and the courts have sustained the agency's assertions of jurisdiction.[30] FDA traditionally has taken the position that in the absence of such health claims cigarettes are not a "drug" within the meaning of the Federal Food, Drug, and Cosmetic Act, and the U.S. Court of Appeals for the District of Columbia Circuit has upheld FDA's position.[31] Cigarettes have been treated no differently from other products in this regard. At the behest of anti-smoking groups, FDA considered regulation of the "Premier" cigarette before that product was withdrawn from the market.

Fire Safety. Congress has twice passed legislation establishing research programs to investigate the technological and commercial feasibility of a cigarette with "reduced ignition propensity." Under the Cigarette Safety Act of 1984, an Interagency Committee was given authority to direct, oversee and review the efforts of a Technical Study Group (TSG) focusing on ways to alter cigarettes and little cigars to reduce their ignition propensity. The Interagency Committee transmitted to Congress the conclusion of the TSG that it is technically feasible and may be commercially feasible to develop a reduced ignition propensity cigarette.

Congress subsequently passed the Fire Safe Cigarette Act of 1990, directing further research into issues left open by the Technical Study Group. In August 1993, the Consumer Product Safety Commission submitted to Congress a report summarizing the results of research conducted under the 1990 Act. Among other things, the report concluded that it may be possible to develop a standard for a reduced ignition propensity cigarette but questioned whether it would affect the number of careless smoking fires. The report made no recommendation that Congress enact further legislation.

5. *When and Where the Product Can Be Used.* Following several years of study, the EPA in January 1993 released a report classifying environmental tobacco smoke ("ETS") as a Group A (known human) carcinogen, largely based on studies of reported exposure to ETS in residential settings.[32] Industry groups have challenged EPA's report and classification in a lawsuit filed in federal court, and the court recently agreed with the plaintiffs that the report and classification were intended to have, and have had, a regulatory impact with "direct practical effects."[33] EPA's report and classification have been cited by proponents of sweeping smoking ban legislation in California and New York City, to name just two jurisdictions.

The agency's report and classification played a key role in recent decisions by state regulatory authorities in Maryland and Washington to ban smoking in places of employment. EPA's action also was a central factor in the decision by the U.S. Occupational Safety and Health Administration to propose an indoor air quality rule that, unless modified, would drastically restrict smoking in all places of employment.[34] Prior to the issuance of EPA's report, OSHA had considered but rejected repeated calls by anti-smoking groups to issue regulations that would ban or severely restrict smoking in the workplace, on the ground that the available data did not permit the agency to quantify sufficiently the degree of risk associated with workplace exposure to ETS.[35]

Congress, of course, has banned smoking on domestic flights.[36] This ban is enforced by the Department of Transportation.[37] Congress also has required WIC programs to ban smoking as a condition of receiving continued federal funding.[38] Earlier this year, Congress additionally banned smoking in schools and other facilities that provide children's services using federal funds.[39] Meanwhile, smoking in most federal buildings is severely restricted under regulations issued by the General Services Administration.[40] The Department of Defense and other federal agencies have banned smoking or taken other additional action.[41] The Postal Service has banned smoking in its facilities and Amtrak

has banned smoking on its trains. The House of Representatives recently adopted rules restricting smoking in its buildings.

6. *Research and Public Education.* HHS is required by statute to conduct and support research and to inform the public concerning any relationship between tobacco products and health.[42] In addition, HHS must submit an annual report to Congress on tobacco and health issues, together with any recommendations for legislation or administrative action.[43] HHS has submitted to Congress more than two dozen reports of the Surgeon General concerning smoking and health—reports which powerfully influence the legislative and regulatory climate. The Surgeon General's 1964 report, of course, played a significant role in the enactment of the Federal Cigarette Labeling and Advertising Act in 1965,[44] and his 1986 report on environmental tobacco smoke[45] and his 1988 report on "nicotine addiction"[46] have helped to stimulate significant legislative and regulatory activity.

In the Comprehensive Smoking Education Act of 1984, Congress took the further step of establishing the Interagency Committee on Smoking and Health, whose members are appointed by the Secretary of HHS or, in some case, by the heads of other federal departments or agencies.[47] Representatives of a number of federal agencies and departments—including HHS, the Federal Trade Commission, the Department of Labor and the Department of Education—serve on the Interagency Committee. The Interagency Committee's primary functions are to review on an ongoing basis both public and private sector initiatives with respect to smoking and to recommend to Congress any policy initiatives that are thought to be appropriate.[48] In 1990, HHS launched a seven-year, $165 million antismoking program known as "ASSIST" to fund antismoking campaigns in 17 states, and the Centers for Disease Control has made funds available for similar activities.

TAXATION

Because it has the potential to influence production and demand, taxation is a powerful, albeit indirect, form of regulation. No other consumer product is as heavily taxed as tobacco. In fiscal year 1993, tobacco products generated nearly $12 billion in federal, state and local excise taxes—a figure representing $47 for every man, woman and child in the United States—and an additional $2 billion in state and local sales taxes. Cigarette taxes were levied in FY 1993 by 50 states and the District of Columbia, along with more than 440 cities, towns and counties across the nation and federal and state excise taxes accounted for 31.4 percent of the retail price of cigarettes.[49]

STATE AND LOCAL REGULATION

Nearly every state—and more than 1,500 localities—have enacted numerous laws restricting or even banning smoking in places of employment and various public settings. All states prohibit the sale or distribution of tobacco products to persons under the age of 18. Legislation passed by Congress in 1990 requires that states, as a condition of receiving federal substance abuse prevention and treatment block grant funding, to enforce these prohibitions conscientiously.[50] In addition, 30 states and more than 250 localities have adopted restrictions on the sale of cigarettes through vending machines, while 11 states and more than 105 localities have limited the distribution of tobacco product samples. Approximately 45 local governments restrict or prohibit displays of tobacco products that permit customer access without the assistance of a clerk. California requires health warnings regarding environmental tobacco smoke to be posted in businesses that permit smoking,[51] and both California and Massachusetts have imposed special sales taxes on tobacco products to finance high-visibility anti-smoking campaigns.[52]

OTHER FEDERAL STATUTES

Antitobacco advocates complain that cigarettes are not subject to regulation under the Federal Hazardous Substances Act, the Toxic Substances Control Act or the Controlled Substances Act. Cigarettes in fact either do not fit within the classes of products and substances addressed by these statutes or the agencies responsible for administering them lack the expertise and resources to regulate cigarettes.

CONCLUSION

For the reasons given above, no additional regulation of tobacco products is warranted.

NOTES

1. Tobacco Product Education and Health Protection Act of 1990: Hearing on S. 1883 before the Senate Comm. on Labor and Human Resources, 101st Cong., 2d Sess. 23 (1990).

2. S. Rep. No. 251, 94th Cong., 1st Sess. 43 (1975) (statement of Senators Hartke, Hollings, Ford, Stevens and Beall).

3. 7 U.S.C. 1281 et seq.; 7 U.S.C. 1421 et seq.

4. 29 C.F.R. Part 29.

5. 7 U.S.C. 511r.

6. 7 U.S.C. 136 et seq.; 7 U.S.C. 511r(e); 7 C.F.R. 1464.7(b)(2), 1464.8(e) (2)–(3).

7. Pub. L. No. 103–66, Title I, §1106(a), 107 Stat. 318 (1993).

8. 15 U.S.C. 1331 et seq.

9. 15 U.S.C. 1335, 1339. *See Action for Children's Television* v. *FCC*, 999 F.2d 19 (1st Cir. 1993). *See also Marketing Technologies Group, Inc.*, 4 F.C.C.R. 2694 (1984); *J. Brian DeBoice, Esquire*, 1 F.C.C.R. 28 (1986); *Fonawin Corporation*, 62 F.C.C. 2d 432 (1976); *Stuart Scheftel*, 37 F.C.C. 2d 621 (1972). A series of letters setting forth the Justice Department's views regarding the scope of the advertising ban was sent to lawyers for R.J. Reynolds Tobacco Co., Philip Morris Incorporated and media outlets in 1982. These letters are reprinted in 8.3 Tob. Prod. Liab. Rptr. 8.39.

10. 15 U.S.C. 1334(c). *See* H.R. Rep. No. 805, 98th Cong., 2d Sess. 17–19 (1984).

11. *See* 35 Fed. Reg. 12,671 (1970) (proposing rule); Letter dated October 23, 1970, from cigarette manufacturers to Federal Trade Commission (agreeing to disclose "tar" and nicotine ratings in all cigarette advertising).

12. *See* FTC Nicotine Program: Hearing before the Subcomm. on Transportation, Tourism, and Hazardous Materials of the House Com. on Energy and Commerce, 100th Cong., 1st Sess. (1987).

13. 15 U.S.C. 1337(b).

14. 15 U.S.C. 45.

15. *E.g., In the Matter of R.J. Reynolds Tobacco Company, Inc.*, Docket No. 9206, 55 Fed. Reg. 25,885 (June 15, 1990); *FTC* v. *Brown & Williamson Tobacco Corp.*, 580 F. Supp. 981 (D.D.C. 1983), *aff'd in relevant part*, 778 F.2d 35 (D.C. Cir. 1985); *FTC* v. *Carter*, 636 F.2d 781 (D.C. Cir. 1980); *FTC* v. *Lorillard Co.*, 80 F.T.C. 455 (1972); *FTC* v. *American Brands, Inc.*, 79 F.T.C. 255 (1971); 37 Fed. Reg. 9108 (1972). *See also In the Matter of the Pinkerton Tobacco Co.*, File No. 902–3006, 56 Fed. Reg. 57,009 (Nov. 7, 1991) (alleged violation of Comprehensive Smokeless Tobacco Health Education Act of 1986).

16. *E.g.*, 27 C.F.R. 295.42.

17. *E.g.*, 27 C.F.R. 295.41.

18. 15 U.S.C. 1335a.

19. H.R. Rep. No. 805, 98th Cong., 2d Sess. 21 (1984).

20. 15 U.S.C. 1335a(b)(1)(B).

21. *See e.g.*, Federal Trade Commission, Report of Tar, Nicotine, and Carbon Monoxide Content of 475 Varieties of Domestic Cigarettes, 56 Fed. Reg. 8196–202 (Feb. 27, 1991).

22. *See* 31 Fed. Reg. 14,278 (1966); 32 Fed. Reg. 11,178 (1967).

23. 43 Fed. Reg. 11,856 (1978).

24. Cigarettes—Advertising, Testing, and Liability: Hearings on H.R. 4543 before the Subcomm. on Transportation, Tourism, and Hazardous Materials of the House Com. on Energy and Commerce, 100th Cong., 2d Sess. 204 (1988) (statement of Michael D. Guerin).

25. FTC Nicotine Program: Hearing before the Subcomm. on Transportation, Tourism, and Hazardous Materials of the House Com. on Energy and Commerce, 100th Cong., 1st Sess. 5–6 (1987) (statement of the Federal Trade Commission); *id.* at 10–11, 47 (testimony of William C. MacCleod, Director, Bureau of Consumer Protection, FTC); *id.* at 13, 47 (testimony of Daniel Oliver, Chairman, FTC).

26. Letter dated July 20, 1994 from Janet D. Steiger, Chairman, Federal Trade Commission, to Samuel Boder, M.D., Director, National Cancer Institute.

27. *See* 6 Trade Reg. Rep. (CCH), p. 41,602, ¶39,012.2.

28. 6 Trade Reg. Rep. (CCH), p. 41,602, ¶39012.70.

29. *See* 35 Fed. Reg. 12,671 (1970) (proposing rule); Letter dated October 23, 1970, from cigarette manufacturers to Federal Trade Commission (agreeing to disclose "tar" and nicotine ratings in all cigarette advertising).

30. *See United States* v. *46 Cartons, More or Less, Containing Fairfax Cigarettes*, 113 F. Supp. 336 (D.N.J. 1953); *United States* v. *354 Bulk Cartons * * * Trim Reducing—Aid Cigarettes*, 178 F. Supp. 847 (E.N.J. 1959); *see also FTC* v. *Liggett & Myers Tobacco Co.*, 108 F. Supp. 573 (S.D.N.Y. 1952), *aff'd*, 203 F.2d 955 (2d Cir. 1953).

31. *Action on Smoking and Health* v. *Harris*, 655 F.2d 236 (D.C. Cir. 1980).

32. EPA, *Respiratory Health Effects of Passive Smoking: Lung Cancer and Other Disorders* (Dec. 1992).

33. Memorandum Opinion, July 20, 1994, pp. 9–14, *Flue-Cured Tobacco Cooperative Stabilization Corporation, et al.*, v. *U.S. Environmental Protection Agency, et al.*, Civ. No. 6:93CV00370 (M.D.N.C.).

34. 59 Fed. Reg. 15,968 (April 5, 1994).

35. Letter from OSHA to Action on Smoking and Health (ASH), Sept. 1, 1989 (denying request for an emergency temporary standard on ETS in the workplace), *aff'd*, *ASH* v. *OSHA*, No. 89–1656 (D.C. Cir. May 10, 1991); *ASH* v. *OSHA*, Nos. 91–1037, 91–1038 (D.C. Cir. Jan. 29, 1992) (dismissing ASH's request for a writ of mandamus to compel promulgation of a permanent standard controlling workplace smoking).

36. 49 App. U.S.C.A. 1374(d)(1)(A).

37. *Id.* 1374(d)(1)(B).

38. Pub. L. No. 103–111, Title IV, 107 Stat. 1046, 1072 (1993).

39. Pub. L. No. 103–227, Title X, Part C, 108 Stat. 125, 271 (1994).

40. 41 C.F.R. 101–20.109–10; 51 Fed. Reg. 44258 (1986).

41. *E.g.*, 41 C.F.R. 101–20.109–10(a) note; "Military Gets Smoking Ban Order," *Washington Post*, March 9, 1994, p. A20.

42. 15 U.S.C. 1341, 4407(a).

43. 15 U.S.C. 1337(a), 4407(a).

44. *Smoking and Health—Report of the Advisory Committee to the Surgeon General* (1964).

45. *The Health Consequences of Involuntary Smoking—A Report of the Surgeon General* (1986). *See also* National Research Council, *Environmental Tobacco Smoke: Measuring Exposures and Assessing Health Effects* (1986).

46. *The Health Consequences of Smoking: Nicotine Addiction—A Report of the Surgeon General* (1988).

47. 15 U.S.C. 1341(b).

48. 15 U.S.C. 1341(a).

49. The Tobacco Institute, *The Tax Burden on Tobacco*, Volume 28 (1993).

50. ADAMHA Reorganization Act of 1992, Pub. L. No. 102–331, 106 Stat. 394 (1992).

51. *See* Safe Drinking Water and Toxic Enforcement Act of 1986, Cal. Health & Safety Code §25249.6.

52. *See* Cal. Rev. & Tax Code §30121 et seq.; Mass. Ann. Code c. 64C §7, c. 29 §2T.

DR. LORI R. IPPOLITO

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. KLEIN. Mr. Speaker, I rise today to pay tribute to Dr. Lori R. Ippolito, a lifelong resident of Belleville, NJ. I am delighted to join the citizens of Belleville in honoring Dr. Ippolito as Belleville's Grand Marshall of the 12th annual Belleville-Nutley Columbus Day Parade.

Through both personal and professional commitments, Dr. Ippolito has demonstrated her extraordinary devotion to the community of

Belleville. After graduating with honors from Belleville High School in 1976, Dr. Ippolito went on to graduate from Montclair State College. Shortly thereafter, she attended William Paterson College where she received her M.D. Dr. Ippolito's dedication to helping children who suffer from severe emotional problems led her to seek and receive M.S.W. and Ph.D. degrees from Rutgers University.

In 1983, Dr. Ippolito successfully cofounded The Philmore Associates, a leading tutoring and counseling center. She also initiated a scholarship program for handicapped graduates of her alma mater, Belleville High School. Moreover, while teaching at Rutgers University Graduate School, she participated in a statewide research project concerning social services for children. Dr. Ippolito was honored in "Who's Who Among Human Service Professionals" for her inspiring work.

It is with great pleasure that I ask my colleagues to join me in recognizing the tremendous efforts of this accomplished woman. I wish Dr. Ippolito a great day as Belleville's Grand Marshall of the Belleville-Nutley Columbus Day Parade.

IN HONOR OF THE 325TH ANNIVERSARY OF WESTERLY, RI

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. REED. Mr. Speaker, I rise today in honor of the 325th anniversary of Westerly, Rhode Island.

The town of Westerly was settled in 1661 and incorporated on May 14, 1669. Westerly is located on the Southwestern most portion of Rhode Island where it boasts some of the most beautiful coastlines and beaches that Rhode Island has to offer.

Of particular interest in Westerly is Watch Hill. Watch Hill has long been famous for fine dining, hotels, and magnificent scenery, which includes a panoramic view of the Atlantic Ocean and the many bays which Rhode Island is home to.

These beautiful coastlines also provided Westerly with water power sources that served Rhode Island and all of New England well in the pursuit of economic development. Textiles and printing were among the major industries that benefited the state and the region.

The beautiful waters of Westerly are but one of this towns many rich resources. The magnificent white, blue, and red granite from Westerly's quarries have been used in many notable monuments, and serve as a timeless memorial to the picturesque community itself.

Westerly is a unique town in Rhode Island, filled with history and points of interest which attract people of all ages. With great pride, I congratulate the town of Westerly on its 325th anniversary and honor Westerly and its citizens.

HISTORIC REHABILITATION TAX CREDIT FOR PERSONAL RESIDENCES

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. ANDREWS of Texas. Mr. Speaker, as we travel across our great land, we experience first hand the breadth and diversity of its history by seeing Quincy Hall in Boston, Union Station in St. Louis, Tivioli Union brewery in Denver, Ghiradelli Square in San Francisco, Main Street in Brenham, TX, and the Victorian district in Savannah. Many of these landmark structures have been preserved through the use of a series of Federal tax incentives which have encouraged nearly $12 billion of private investment in the rehabilitation of historic buildings nationwide. These rehabilitated historic structures, which were the businesses of yesterday, did not then and could not now exist without the individuals who patronize them. The residences in the area surrounding these historic structures are not only an integral part of an area's successful economy but also a part of the history of the neighborhoods. The fabric of our history can be found in the cultural diversity of our older urban neighborhoods and towns. The New York brownstones, the Philadelphia rowhouses, the Midwest farmhouses, the Western victorians, the Southwestern adobes, and the Southern antebellum homes are in many instances in danger of being demolished to make way for new modular or high rise housing.

The abandonment by owners of entire neighborhoods contributes to the erosion of the sense of community that is so desperately needed in our urban areas and towns. The lack of effective communication and sense of community among our constituents has contributed to some of the problems confronting us now. Moreover, the fiscal woes of America's cities are exacerbated by loss of tax revenues and the inability to put these abandoned residences in the hands of homeowners.

To ease this burden, I rise today to introduce a bill to provide incentives to preserve our Nation's cultural and historic communities. This bill provides a tax credit of 20 percent of the qualified rehabilitation expenditures to an eligible building that is used as a personal residence. Eligible buildings would be those that meet the criteria of the National Register or National Register districts. The credit would be available to single as well as multifamily residences. Even in mixed use properties, that portion of the qualifying expenses attributable to the owner's principle residence is eligible for the credit. If property is rehabilitated by a developer for sale to a homeowner, the credit would be passed through to the homeowner. More affordable condos and co-ops could be available through the conversion of office buildings, lofts, factories, and warehouses, and the rehabilitation of older apartment buildings.

Any effort to revitalize decaying neighborhoods would have to provide incentives to lower-income homebuyers who may not have a substantial income tax liability. My bill also provides a historic rehabilitation mortgage credit certificate. Instead of a tax credit, a qualifying low-income homebuyer would receive a certificate which could be transferred to a mortgage lender in exchange for a lower interest rate on the mortgage loan.

Mr. Speaker, I am pleased to introduce this measure, not only because this bill will be an incentive to revitalize decaying communities and neighborhoods, but also it provides cities a way to attract people back to disinvested areas, to increase their tax revenues and to offer lower income homebuyers a chance to own historic rehabilitated homes. Not only will construction jobs be created with this bill but permanent jobs will be created as a result of the revitalized communities and neighborhoods.

INTRODUCTION OF THE NATIVE AMERICAN FINANCIAL SERVICES ORGANIZATION ACT OF 1994

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. RICHARDSON. Mr. Speaker, today Representative FURSE and I are introducing the Native American Financial Services Organization Act of 1994. This bill has been drafted by the Department of Housing and Urban Development and we are introducing it at the request of Secretary Henry Cisneros.

Attached is a summary of the bill which I am hoping we will act on in the 104th Congress:

NATIVE AMERICAN FINANCIAL SERVICES ORGANIZATION ACT OF 1994

Based upon the findings of the Commission on American Indian, Alaska Native and Native Hawaiian Housing, the Native American Financial Services Organization Act of 1994 is an attempt to address the need for private financing of home ownership and economic development on and near reservation lands.

While most federally-sponsored housing and related programs target low- and moderate-income recipients, the housing that would be developed as a result of financing through the proposed legislation would be directed more toward moderate to middle income Native Americans.

This legislation would establish a limited government chartered corporation to be known as the Native American Financial Services Organization ("NAFSO"). A Federal grant would capitalize the federally-chartered, for-profit NAFSO, whose charter would cease to exist upon a designated date, at which time it would become a private corporation. It is anticipated that tribal contributions would assist the NAFSO in becoming self-sufficient over time.

The governance of the NAFSO would be vested in a Board of Directors that would be representative of the Native American community. Shares would be equitably distributed among federally-recognized tribes; the Board could elect to distribute additional shares on an investment basis. Several members of the initial Board would be appointed by the President. The Board would have to establish an Advisory Council, consisting of representatives from each of the 12 districts established by the BIA, as well as Hawaii.

It is the purpose of this Act—First, to help serve the mortgage and other lending needs of Native Americans by providing technical

assistance to establish and organize Native American community lending institutions that would be called Native American Financial Institutions (NAFIs); NAFIs would be any type of financial institution, including community banks, credit unions and savings banks, and therefore could provide a wide range of financial services;

Second, to develop and provide financial expertise and technical assistance to NAFIs, including methods of underwriting, securing, servicing, packaging, and selling mortgage and small commercial and consumer loans;

Third, to develop and provide specialized technical assistance on how to overcome barriers to primary mortgage lending on Native American lands, including issues related to trust, lands, discrimination, and inapplicability of standard underwriting criteria;

Fourth, to assist in providing mortgage underwriting assistance (but not originate loans) under contract to NAFIs;

Fifth, to work with Fannie Mae and Freddie Mac, and other participants in the secondary market for residential mortgages in identifying and eliminating barriers to purchase of Native American loans.

The act would provide new purchase goals for the Government-sponsored housing enterprises, Fannie Mae and Freddie Mac. The consequence of failure to meet a combined goal would be the NAFSO could then purchase and deal in residential mortgage loans originated by NAFIs.

This legislation would authorize to be appropriated a total of $30 million to establish and operate the NAFSO. Funding would be made available from the CDFI fund, however, this $30 million is in addition to the $328 million previously authorized for the CDFI fund. NAFIs are not eligible for additional funding under CDFI if the NAFI elects to receive funding under this Act. The Secretary of Housing and Urban Development would be authorized to provide up to $10 million for the funding of a cooperative agreement for technical assistance and other services to be provided by the NAFSO to NAFIs. In addition, there would be authorized, without fiscal year limitation, $20 million to provide financial assistance through the NAFSO to NAFIs.

The Office of Federal Housing Enterprise Oversight would regulate matters pertaining to the safety and soundness of the NAFSO and the Department of Housing and Urban Development would have general regulatory authority.

PAT RISSLER: A CAREER DEDICATED TO CONGRESS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. FORD of Michigan. Mr. Speaker, as the 103d Congress comes to a close, not only will my Congressional career end but also that of my long-time and trusted friend and advisor, the Staff Director of the Education and Labor Committee, Patricia Rissler. During the past few days, much attention has been focused on departing Members, including me, but very little has been said about some of the most able and longstanding public servants in this body who, like Pat Rissler, will be departing.

I rise today to join other colleagues in paying tribute to Ms. Rissler, whose professional career has encompassed three decades of service to Members of the Michigan delegation in both Chambers of the Congress. Pat has been with me for over twenty of those years, beginning with her position as administrative clerk of the first Subcommittee I chaired and ending this year as the highly respected and admired Staff Director of the Committee on Education and Labor. With Pat I have accomplished a lot; without her I am not certain that we could have accomplished all that we did.

Pat was born in Charles Town, West Virginia in an area and during an era in which no young girl could have dreamed of achieving what Pat has accomplished. She came to Washington, DC following business school with a determined and disciplined mind, an inherent wisdom and a quiet self confidence. With these qualities she worked her way up from an entry-level position on the staff of our former colleague, Neil Staebler (D–MI), to one of the highest positions in the Congress today. Before joining me in 1973, she also worked for the late Senators Pat McNamara and Philip A. Hart.

Mr. Speaker, it is my recollection that Pat's career began to flourish during the early 70's while she was administrative clerk to the Subcommittee on Agricultural Labor which I chaired. In this position she began to undertake increasing numbers of legislative and substantive assignments in addition to her administrative duties. Her first legislation achievement was the enactment of the Farm Labor Contractor Registration Act of 1974, legislation which provided migrant farm workers with much needed protection on their jobs and in their labor camps.

It was during this same time that Pat took a personal interest in the HEP/CAMP programs which had been shifted to the Department of Labor from the old Office of Economic Opportunity. These programs helped migrant farm workers by providing their children with the opportunity to obtain high school and college educations. The Nixon Administration tried many times to eliminate these programs, but the Nixon team was no match for Pat. She foiled their every attempt and, because of her efforts, there are literally thousands of sons and daughters of migrant farm workers that today have college educations and professional careers.

Mr. Speaker, my next Subcommittee chairmanship was the Subcommittee on Postsecondary Education, and Pat served me ably as the Deputy Staff Director. She continued her work on legislation to provide educational opportunities for all Americans and in this capacity she helped me draft and pass the Middle Income Student Assistance Act, a program which extended Federal student aid programs to the children of middle-class families.

When I became Chairman of the Committee on Post Office and Civil Service, Pat was Deputy Staff Director and later Staff Director. In fact, she was one of the first women to serve as Staff Director of a Congressional Committee. During her tenure at the Post Office and Civil Service Committee, she helped formulate and pass milestone programs such as the Federal Employees Retirement System which for the first time integrated Federal pensions with Social Security benefits. She also oversaw a comprehensive study of the Federal Employees Health Benefits Program in anticipation of the need to confront a major issue, the reform of our health care system. During her period as Staff Director of the Committee, Pat also played a major role in our successful efforts to reform the Federal pay system.

In 1991, I had the great fortune and privilege to become Chairman of the Committee on Education and Labor. There was never a moment's hesitation about whom I would choose to fill the crucial position of Staff Director. As my colleagues know, this is a tremendously complex and demanding job. The Staff Director manages a budget of over $7 million and supervises a staff of about ninety, including many experienced and highly trained professionals, counsels and subcommittee staff directors. This position also requires one to be a quick and thorough study on a penumbra of complicated and politically difficult issues such as our labor laws, our pension laws, health care reform, our education programs and our civil rights laws.

In addition to being a great administrator, Pat has been a valued advisor and wise counsel to the Committee Members and to me. She understands the complexities of the substantive issues as well as the legislative and political interplay. These qualities were immeasurably helpful to me in setting and fulfilling the Committee's agenda. Committee Members from both sides of the aisle have told me that appointing Pat as Staff Director may have been the smartest thing I did during my tenure as Chairman of the Education and Labor Committee.

The first two years, which coincided with last two years of the Bush Administration, were frustrating ones, but these past two years will be remembered by both Pat and me not only as our final years of Congressional service, but as two of the most rewarding. During the first two years of the Clinton Administration, she worked with the President and his White House staff, as well as Cabinet Secretaries and their staffs, in formulating such Presidential initiatives as the Family and Medical Leave Act, reauthorization of the Higher Education Act and the Elementary and Secondary Education Act, Goals 2000, the National and Community Service Act and health care reform.

In addition to her service to the Committee, Pat was, primarily because of her intelligence and integrity, appointed by you, Mr. Speaker, to serve on the Fair Employment Practices Review Panel. This year, she was also elected to the Board of Governors of the National Democratic Club.

I have mentioned Pat's accomplishments and her talent and skills. I would also like to talk about what she has meant to me on a more personal basis. Pat has been a trusted counselor, assistant and friend through more good and bad times than I can possibly count. I have relied on her wisdom, her quiet confidence, her grace and, yes, her wit, for many years. Pat has been a wise counsel and has never hesitated to speak her mind to me even when she knew what she was saying was not necessarily what I wanted to hear.

Pat Rissler is the epitome of what we want when we appoint someone to a position of trust, responsibility and authority. Pat has always been responsible, loyal and fair, always

79–059 O—97 Vol. 140 (Pt. 21) 21

done what was right, and has always held the public interest above her own.

Mr. Speaker, I consider myself extremely fortunate to have had Pat as both a Staff Director and friend for the major portion of my Congressional career. I will miss her; we will all miss her. On behalf of this body, I want to thank you, Pat. We are grateful for your service and we wish you much luck and happiness.

TRIBUTE TO DOUG APPLEGATE

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Ms. KAPTUR. Mr. Speaker, I rise today to honor one of our most respected colleagues, from the Buckeye State, my friend and longtime associate DOUG APPLEGATE from the 18th District of Ohio. I have had the honor of working with DOUG for the past twelve years. He will be sorely missed as he retires from Congress this year. We have served together as members of the Coal Caucus, the Steel Caucus, and the Veteran's Affairs Committee. No finer orator in his own right, when DOUG APPLEGATE takes to the floor in debate, Members listen.

DOUG APPLEGATE has had an outstanding career in both Ohio and the United States Congress. He was a member of the Ohio House of Representatives from 1961 until 1969, when he was elected to the Ohio Senate. He remained there until 1976, when he was first elected to the U.S. House of Representatives.

In the House of Representatives he has worked diligently on the Veterans Affairs Committee where I had the pleasure of serving with him for several years. He also serves with distinction on the Public Works and Transportation Committee, where he rose to Chair of the Subcommittee on Water Resources and rose to chair the Subcommittee on Pensions and Compensation.

Doug's career has been dedicated to service for his fellow Ohioans and Americans. In his legislative career one theme has been constant and that is his concern for his constituents. His district, dominated by coal and steel industries, has suffered economic hardships as a result of the transformations of these industries and unfair foreign competition. DOUG has consistently worked for programs that will help people in his district who have been hit hard by unemployment and health problems due to the nature of their jobs.

While in Congress, DOUG has been a strong voice for people who had no voice and made himself accessible to any constituent that wanted to see him. Throughout our State of Ohio, DOUG has a reputation for not only being accessible to his constituents but also for the assistance and advocacy he provides.

Another theme of DOUG's legislative career has been championing America's veterans. No Member fought harder for our vetrans. Throughout his tenure on the Veteran's Affairs Committee he worked steadfastly to improve the lives of the people who worked and fought for our country. He has steadily opposed any attempts to decrease benefits for our veterans, has supported decent COLA adjustments, and has supported responsible management of the Department of Veterans Affairs.

Mr. Speaker, the people of Ohio have been well served by DOUG APPLEGATE for the last eighteen years. He and his talented wife Betty, will be missed by our entire delegation, by the people of Ohio, by the Veterans of America, and by all people of good will. Those who follow will have very large shoes to fill. His tradition of representation that will be tough to match.

TIME FOR A CHANGE

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. PACKARD. Mr. Speaker, the American people have suffered enough. Big government teases the people with their big, empty promises. The public no longer trusts Congress to get the job done. We must end this cycle of disgrace and restore lost confidence.

The Republican Contract With America is a coordinated effort to do away with political games and restore those policies which ushered in prosperity for this country. The contract emphasizes less government, less spending and less taxes—it delivers within the first 100 days what the other party only pledges.

The Republican national agenda focuses on real issues that concern the American people. It offers what the liberal leadership neglects—legitimate legislative votes, not gimmicks and games.

The Republican leadership breaks away from the ever growing Federal bureaucracy, taxes, and regulation. It brings America back into the hands of the citizens by considering legislation that will concentrate on tax cuts for the middle class, welfare reform, and balancing the Federal budget. It is an agenda, that works for the American family.

Americans want and deserve a Congress that practices what they preach and one which holds itself accountable for its actions. The contract I signed with the American people offers a blueprint for what the American people can expect from a Republican Congress. No games are involved, everything has been laid on the table for all to see.

Mr. Speaker, Republicans will work for real change that ushers in real results. The days of liberal rhetoric are gone, it is time for a change—action is the cornerstone of the Republican agenda.

TAIWAN'S NATIONAL DAY

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. HILLIARD. Mr. Speaker, October 10, 1994, will be the 83d National Day of the Republic of China, and I wish to express my congratulations and best wishes to President Lee Teng-Hui. I am pleased to note that for during the last 6 years, the Republic of China on Taiwan, under the leadership of former Ambassador Mou-Shih Ding, has maintained good relations with Capitol Hill. I am confident that my colleagues and I will work closely with Ambassador Ding's successor, Ambassador Benjamin Lu. Ambassador Lu is a veteran diplomat who was the R.O.C.'s Ambassador to Belgium. Between 1982 and 1988, he was the Director of the Economic Division of the Coordinating Council for North American Affairs in Washington, DC.

I trust that all of us who serve in the Congress will take the time to meet with Ambassador Lu, and hear his reasons of why the Republic of China deserves a seat in the United Nations, as well as why restoring diplomatic relations between our two great nations is important.

LET US NOT FORGET THE UNACCOUNTED

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mrs. BENTLEY. Mr. Speaker, my fellow colleagues, I rise today to recognize the continued efforts of those outstanding and patriotic individuals who have worked so diligently to get a full accounting for those classified as POW–MIA's in Southeast Asia. I am proud to commend them for their hard work and dedication to keeping our country aware of this issue.

The Live P.O.W. Lobby of America has fought long and hard to obtain a full accounting of our service soldiers missing since the end of the Vietnam war. Recently, The Live P.O.W. Lobby of America circulated to all Members of Congress, "The 1994 Proclamation To Laos", which calls for the return of all captured prisoners of the Vietnam war. I wholeheartedly lend my support to this endeavor and join in their call for the return of all prisoners. Although the numbers vary slightly, we know that over 2,250 servicemen did not return home, and I agree that we must demand the return of all prisoners captured during the Vietnam war or at least receive a full accounting.

The proclamation appeals to the Laotian people for their cooperation in resolving these cases of captivity. I also would like to implore that anyone who knows the whereabouts of living or dead prisoners make this information known. We owe the men and women who have fought and died for this country our utmost respect and admiration. At the very least, we owe their families a full accounting.

Throughout my tenure in Congress, I have been a strong supporter of Radio Free Asia, and it is my hope we can return freedom and democracy to that region. The Vietnam war is not over for the MIA–POW's and their families. I hope and pray that we can bring closure to this issue for the families and their loved ones.

Mr. Speaker, my fellow colleagues, I ask that you join me in lending your support to the Live P.O.W. Lobby of America and "The 1994 Proclamation To Laos". Shall we never forget

the sacrifices made by our service men and women and shall we never forget the families left behind. May God bless these individuals and our country.

IN HONOR OF THE 100TH ANNIVERSARY OF THE CROATIAN FRATERNAL UNION OF AMERICA

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. KLECZKA. Mr. Speaker, I rise today to pay tribute to the Croatian Fraternal Union of America in celebration of its 100th anniversary.

The Croatian Fraternal Union [CFU] was founded in 1894 by a small handful of Croatian-Americans in Pittsburgh. That number has grown significantly over the years from over 8,000 at the turn of the century to its current membership level of 90,000. With over 769 local groups in the United States and Canada, the CFU has a significant presence in North America.

As a fraternal organization, the main function of the CFU is providing affordable, yet quality, insurance. In fact, this group was a leader among fraternal benefit societies in establishing the practices commonly used today in every life insurance certificate. They now offer plans on various levels from $1,000 to $1 million. In fact, the CFU is the 19th largest fraternal insurance group operating in Wisconsin today.

However, the CFU has gone far beyond its initial purpose of providing life insurance. It has enriched the lives of not only its members, but of many other Americans and Croatians. The history of its commitment to helping others is rich with examples from as far back as World War I, when it invested over one-half of its assets in war bonds. In 1918, the Children's Home of the Croatian Fraternal Union was born, and it served hundreds of orphans of deceased union members until it closed in 1967.

In addition to these examples, the CFU has been extremely active in providing relief to its war-weary homeland. It established the CFU Croatia Humanitarian Aid Fund, which has donated more than $150 million in aid to the needy citizens of Croatia. Furthermore, the CFU Scholarship Foundation has awarded over $800,000 in scholarships to deserving students.

It is with great pride that I stand to honor the first 100 successful years of the Croatian Fraternal Union and extend my best wishes for another 100 years of commitment to helping others.

TRIBUTE TO THE NEW LEADERSHIP OF THE VARIETY CLUB IN PHILADELPHIA

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. FOGLIETTA. Mr. Speaker, I rise to pay tribute to the incoming leadership of the world renowned Variety Club of Philadelphia. The Variety Club will be meeting on October 14 in Philadephia to approve their 1994–95 slate of leaders. The Variety Club is non-profit volunteer organization dedicated to improving the lives of the Delaware Valley's disabled children. Variety Club supports a wide range of programs which address the physical, social, medical, educational, and recreational needs of thousands of disabled children in the Philadelphia area without regard to their economic status, race, creed, sex or type of disability. Variety Club programs include "Variety at Work" Children's Outings, the Variety Club/Children's Seashore House Therapeutic Pool, the Sunshine Coach transportation program, the Variety Club Camp and Developmental Center, the "Direct Care for Kids" medical equipment distribution program, and many other special projects.

Variety Club volunteers are a special breed, giving of themselves for the sake of others and spreading the selfless ideals of charity throughout the Delaware Valley. Mr. Speaker, I stand to salute my good friend and future president of the Variety Club, Dr. Ronald Pennock, and the rest of the 1994–95 leadership nominees: 1st vice president: Edward McBride, 2d vice president: Tom Vento, secretary/treasurer: Adele Miller, chairman of the board: Tod A. Gordon, and board of directors: Louis Applebaum, Barbara Blumenthal, Stu Bykofsky, John Dougherty, Richard Elkman, Ann D Feiner, Sharla Feldscher, Harvey Fischer, Charles Fogel, Cecil Forster, Patricia Getty, Susan Green, Kathy Hilty, Patrick J. Hoyer, Thomas Kane, Jack Lawlor, William Lotz, Stephen Miller, Lloyd Z. Remick, Soloman "Kal" Rudman, Gregory B. Shreaves, Dan Storey, Tina Thatcher, Marci Weitz, Marvin Welsch.

COMMENDING THE SONOMA COUNTY SHERIFF'S DEPARTMENT

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. WOOLSEY. Mr. Speaker, I rise today to recognize and extend my congratulations to Sonoma County Sheriff Mark Ihde and the officers and volunteers who developed and implemented an award winning crime prevention initiative, the Farm Watch Program. Competing against many other fine crime prevention programs throughout the state, Sonoma County's Farm Watch Program was recently chosen as the top crime prevention program in California by the California Crime Prevention Officer's Association.

The Farm Watch Program began in 1985 with the skills and leadership of Community Services Officer Patricia Moffitt, Deputy Rick Krout, and Deputy Spence Martin. They recognized the need for a coordinated crime prevention effort in our rural areas and responded by creating this exemplary program. As interest in the program grew, so did the need for information and services. Soon, the Farm Watch Program earned a nationwide reputation as a state-of-the-art program with highly qualified practitioners of rural crime prevention and investigation.

Mr. Speaker, I would like to share with my colleagues some information about this multifaceted program, and cite a few of its accomplishments. Over the past year, Farm Watch meetings increased from a average of 10 per year to an average of 3 per month. At these meetings, concerned citizens in the area were recruited and trained to become valuable resources for crime prevention—doing everything from hosting meetings to becoming actual conduits of information from their rural neighborhoods to the Sheriff's Department and the Rural Crime Detail.

Two booklets were created and distributed to enhance the work of the Farm Watch Program, and have subsequently been circulated to other Sheriff Departments across the Nation who now use the Sonoma County Farm Watch program as a model. The Citizen Citation provides a written format for obtaining important information on suspicious vehicles in their area. This citation is both left on the vehicle and sent to a Farm Watch officer. What began as a criminal intelligence tool has evolved into an excellent aid in prosecuting trespassers. In fact, over 100 trespassing prosecutions have been made since the program began.

In addition, the Farm Watch booklet is distributed at every Farm Watch meeting. This manual explains simple home and ranch crime prevention activities, as well as their long-term benefits.

The Youth Interaction/Owner-Applied Program, a property identification component of Farm Watch, has dramatically increased contacts with rural youth by involving the Sheriff's Department Explorer Post and local 4–H groups in crime prevention activities. These youngsters give hundreds of hours of their free time to mark property for private homes and businesses throughout the county. The involvement of youth in crime prevention activities today is truly a wise investment in building safe communities for tomorrow.

The Farm Watch officers are also active and visible in the community, and at least one Farm Watch officer attends each meeting, hearing and following up on complaints and concerns from Farm Watch members. In addition, the officers plan an annual communication dinner where members of the judicial system, law enforcement agencies, representatives from the Sonoma County Farm Bureau, and other members of the agricultural community meet over dinner to discuss common concerns, to address problems and miscommunications between the various parts of the justice system, and to find win-win strategies to address these problems. This is community policing at its best.

Due to the exceptional quality of this innovative crime prevention program, it is no surprise to me that the three officers, Patricia Moffitt, Rick Krout, and Spence Martin, have become lecturers at meetings and conventions locally and across the Nation. They are regular contributors to the Sonoma-Marin Farm News, and are active in the California Farm Bureau's Rural Crime Prevention Task Force and the North Coast Livestock Protective Association. As recognized experts in their field, these officers have also had agencies such as the Texas Rangers, various law enforcement agencies from Maine to Florida, and the Navajo Nations in Arizona request information

about their programs so that they could emulate them in their communities. In response to the growing national demand for rural crime prevention information, these officers also developed the 40-hour Livestock Theft/Rural Crime School, the only seminar of its kind in the Nation. Students from all over the country attend this bi-annual educational institute.

Mr. Speaker, I am proud to recognize the Sonoma County Sheriff's Department for their work on their outstanding crime prevention program, as well as all the volunteers and community residents who have made this program a success. Farm Watch is not only making a significant contribution in rural areas in Sonoma County, but also across the Nation. As concerns about crime are growing, it is heartening to know that there are many concerned citizens who are making a difference by developing solutions that fit their community's needs.

IN HONOR OF CHIEF WALLACE F. LEES' RETIREMENT

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. MACHTLEY. I am honored in paying special tribute to Wallace F. Lees retirement as chief of the Burrillville Police Department. I congratulate him for the many significant contributions he has made to the community.

For over 30 years, Chief Lees has admirably served the town by consistently demonstrating his commitment and dedication to fighting crime and creating a safe environment for all Burrillville residents. Chief Lees has distinguished himself as a prominent leader who goes above and beyond the call of duty for the betterment of mankind, he has instituted a myriad of safety, public service, substance abuse prevention, and crime fighting programs which have had a positive impact on the community.

Throughout his entire law enforcement career, beginning with his appointment as patrolman in 1963, sargeant in 1969, and as chief in 1988, Chief Lees has been an inspirational presence on the force, whose service will be greatly missed and long remembered.

Again, I am honored to pay special tribute to Chief Wallace F. Lees. I wish to congratulate him on his outstanding service to the citizens of the town of Burrillville. I wish him the best in all of his future endeavors.

MARIO PAVONE

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. KLEIN. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to Mario Pavone, an admired member of the Nutley Italian-American Civic Association. On October 9, Mr. Pavone will be honored as Nutley's Grand Marshall in the 12th Annual Belleville-Nutley Columbus Day Festivities.

Mr. Pavone was born in Acri, Italy in 1926. Since the moment he arrived in 1954, Mr. Pavone has continually proven himself to be a caring and compassionate individual.

He started his barber shop in 1960 and developed close ties in Nutley through the Sons of Italy organization. In 1973, Mr. Pavone became a founding member of the Italian-American Civic Association, and currently serves as the organization's treasurer.

The 1987 recipient of the Dr. Matia Outstanding Citizen Award, Mr. Pavone's philanthropic nature is well-known throughout the community. He has over and over expressed compassion and selflessness through numerous donations to charities.

I ask my colleagues to join me in congratulating Mr. Mario Pavone as Nutley's Grand Marshall for this year's parade. I would also like to join the citizens of Nutley in noting his years of service to the community.

TRIBUTE TO GREGORY F. COUPE AND THOMAS A. GUILBAULT

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. REED. Mr. Speaker, I rise today to salute two distinguished young men from Rhode Island who have attained the rank of Eagle Scout in the Boy Scouts of America. They are Gregory F. Coupe and Thomas A. Guilbault of Troop 44 in Glocester, Rhode Island and they are honored this week for their noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 Merit Badges, eleven of which are required from areas such as Citizenship in the Community, Citizenship in the Nation, Citizenship in the World, Safety, Environmental Science, and First Aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. These young men have distinguished themselves in accordance with these criteria.

For their Eagle Scout project, Gregory made and cleared a trail through the Sprague Farm Land Trust and Thomas marked the new trail with appropriate signs.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scouts Gregory F. Coupe and Thomas A. Guilbault. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 84 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that Gregory F. Coupe and Thomas A. Guilbault will continue their public service and in so doing will further distinguish themselves and consequently better their community. I join friends, colleagues, and family who this week salute them.

A SPECIAL ANNIVERSARY FOR MR. AND MRS. FITCH

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. McDADE. Mr. Speaker, I would like to call to the attention of my colleagues a very special anniversary for a wonderful couple, Robert and Florence Fitch of Canton, Pennsylvania, in my district. Mr. and Mrs. Fitch will celebrate their 80th Wedding Anniversary on December 5.

Robert and Florence Fitch raised seven fine children, and are the grandparents of 19, great-grandparents of 15, and great-great-grandparents of two. They have lived in their current home for the past 67 years, and are known as good neighbors to people of Canton and Bradford County.

Robert Fitch will celebrate his 100th birthday in January, 1995, and Florence Fitch is presently 96. Their marriage of eight decades serves as an example to all of the strong bond between wife and husband. The love they share is an inspiration to the four generations of the Fitch family and to their community.

I ask my colleagues to join me in extending our best wishes for good health and happiness to Robert and Florence Fitch and their loved ones on the occasion of their 80th anniversary.

A VICTORY FOR HISTORIC PRESERVATION

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. ANDREWS of Texas. Mr. Speaker, last week the Walt Disney Co. announced its intention to withdraw its proposal for a $650 million theme park and real estate development adjacent to the Manassas National Battlefield Park. I am extremely pleased with Disney's decision, for I believe it shows great responsibility and respect for the historic northern Piedmont area of Virginia, and I commend the company on its courage to make the right choice.

Mr. Speaker, I also want to take this time to applaud the efforts of the many individuals and organizations who participated in the effort to persuade Disney to find a more appropriate location, one that will not destroy lands of such historical significance.

I also want to reiterate that my efforts to oppose the location of the proposed theme park were never anti-Disney. It is certainly Disney's right to construct an American history park. The battle I fought was to preserve historic lands. There is more American history in the northern Piedmont area than any other place in the United States. It is also home to two of

the gems of our National Park System, Manassas National Battlefield Park and Shenandoah National Park. It simply would have been a travesty to locate such a massive development in this area.

Today, Mr. Speaker, our forefathers that settled this area and made history there—great figures like George Washington, James Madison, James Monroe, Robert E. Lee and Stonewall Jackson—would find the heart of Virginia much as they left it. Although the area has seen development, for the most part it has been thoughtfully progressive and mindful of the historic and aesthetic significance of the region. It is a special place that includes 38 historic districts and 32 Civil War battlefields. This is an area where our Nation was forged from the early days of the American Revolution through the Civil War.

It is also home to two of the most precious gems of our National Park System: Manassas National Battlefield Park and Shenandoah National Park. The impact to these parks under Disney's proposal would have been devastating.

The Manassas National Battlefield Park and Shenandoah National Park are the property of all Americans, not solely for the people of Virginia; no more than Mount Rushmore belongs only to the people of South Dakota or the Grand Canyon to the citizens of Arizona. They are public lands that belong to all Americans. That is why I felt the Federal Government, and the U.S. Congress, has an important role to play in this matter, and that is why I introduced a concurrent resolution opposing the proposed site of the development and calling for an alternative site to be chosen.

This victory is one for all Americans. Our Nation's history is a full and proud one which has served to strengthen our democratic ideals. The significant struggles that mark our history remind us of what others have endured to preserve and maintain those ideals, and they charge us with the same task. Once National Parks and historic lands are destroyed, they cannot be rebuilt. To turn a blind eye to devastation of such lands would have been to turn a blind eye on the history of our great country.

Mr. Speaker, this battle was won because of the tremendous groundswell of support for the cause of preservation. During the past few months, almost every major newspaper and well-known columnist has written on this issue. I believe that the following piece, from The New York Times, provides an appropriate final opinion on the fight to preserve the historic Piedmont area, and I ask unanimous consent that it be placed in the RECORD immediately following my statement.

[From the New York Times, Sept. 30, 1994]

DISNEY RETREATS AT BULL RUN

Historians, writers and ordinary citizens won a victory for the national heritage on Wednesday. The Walt Disney Company abandoned the most irresponsible idea ever hatched in the Magic Kingdom and decided not to build a theme park near the Manassas Battlefield in Prince William County, Virginia.

More than the fate of the battlefields of Manassas, or Bull Run, was involved. "Disney's America" would have flooded one of America's most historic and scenic regions, including the nearby Shenandoah National Park, with traffic and tacky development. In response to the threat to these national treasures, a large, articulate coalition defeated one of the country's richest corporations and its boosters in Virginia's Statehouse and Legislature.

The Walt Disney Company had recently won two important battles. The county's planning board had agreed to the necessary rezoning for the project, and the regional transportation panel had approved $130 million in road improvements. But the company concluded that the outrage generated by the proposed project would mar Disney's image. It was a wise decision, but a tardy one, given the scale and stature of the opposition.

There may have been other factors. Power struggles at the top of the company have dented its confidence. EuroDisney, its Paris project, has been a huge miscalculation. The last thing Disney needed was a bruising and protracted public relations battle against the nation's most respected writers and thinkers on the Civil War.

Disney did not expect such a struggle. Gov. George Allen was on their side and a mindlessly generous Legislature was willing to pay millions in development expenses. What they did not reckon with was the passionate nationwide outcry that carried a clear message. The Manassas country-side is not Virginia's to sell. It belongs to the nation.

Congress now needs to pass legislation designating a new kind of preservation area—the National Historic Region—that would enable it to control development in areas that are precious to the nation.

Along with proving the power of organized, articulate opposition to a bad idea, the intellectuals, environmentalists, preservationists and ordinary citizens who fought the project proved something else. Michael Eisner, Disney's chairman, argued that Americans were ignorant about their history and needed Disney-style fun to teach them. As the historian David McCullough has pointed out, this episode has shown that Americans do know their history and care about ground made sacred by what occurred there.

TRIBUTE TO KEN BURNS

HON. WILLIAM H. ZELIFF, JR.

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. ZELIFF. Mr. Speaker, there is nothing in this world that can compare to an autumn in New Hampshire. The warmth of summer has begun to fade and a cool brisk wind whistles through the clear New England sky reminding all that winter is surely on its way. But before the leaves fall and the first snow blankets the countryside, one eagerly anticipated event must occur—the World Series. Like the fall itself, baseball's World Series comes and passes each year, invoking the glorious memories of seasons past. However, for the first time in this century, the national pastime's greatest series will not arrive with the cool winds and changing foliage.

While the cancellation of the fall classic has darkened the spirits of the entire country, one man has restored in the Nation a sense of nostalgia and hope for the future. Ken Burns' most recent accomplishment, "Baseball" is a tribute to not only the game of baseball, but also to the people of America. "Baseball" traces the evolution of the game, from its early roots in the 19th century, through the depression and World War II, culminating with the 1980's and a glimpse towards the future. All the while, "Baseball" demonstrates the remarkable relationship between a game and its country.

However, I did not rise today to only pay tribute to a documentary. I rise to recognize Ken Burns. A resident of Walpole, NH, Ken Burns has written, produced, and directed two historic television series, "Baseball" and "The Civil War." These landmark documentaries are ranked among the most watched events in PBS' history and are a testament to the talents of their author.

Ken Burns has been honored with more than 40 major film and television awards, including two Emmy Awards, two Grammy Awards, and the Lincoln Prize. Also listed among his accomplishments are two Oscar nominations. I am certain that this list will continue to grow.

Baseball may be gone for the year, but Ken Burns has helped resurrect the spirit that accompanies the waning days of the year when the boys of summer fight for the opportunity to pay the fall classic.

On behalf of New Hampshire and the Nation, I want to thank Ken Burns for his efforts and wish him all the best in his future endeavors.

CODE OF CONDUCT FOR UNITED STATES BUSINESSES IN CHINA: NEW LEGISLATION INTRODUCED

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. LANTOS. Mr. Speaker, with President Clinton's decision last May to renew MFN for China and to cease the linkage between China's human rights performance and United States trade benefits, a turbulent issue in United States foreign policy has supposedly been laid to rest. I suggest to you, however, that it has merely been side-tracked. It will come back to haunt us because the Chinese regime has no intention of tolerating any independent political activity and continues to suppress brutally all attempts at freedom of expression, assembly, or worship. Indeed, in recent months both Human Rights Watch and Amnesty International have offered ample documentation of deteriorating human rights conditions in China.

Yet opponents of the linkage policy insist that trade provides an avenue for constructive engagement with repressive regimes. They cite the Asian miracle as proof that over the long run, China's economic development will foster political liberalization. In China, however, the long run appears to be very long. Thus, the country with the world's fastest growing GNP, also runs a massive forced labor camp system, in comparison to which the Soviet Gulag pales. Change will come eventually, but can that allow us to be complacent in the face of enormous agony and suffering today and for the foreseeable future?

Mr. Speaker, let's be honest about the trade-as-the-vehicle-of-change argument, and acknowledge that it lacks credibility in the

case of China. More persuasive is the pragmatic concern raised by the business community: since the Europeans and Japanese are unwilling to condition trade with China on human rights, why should the United States disadvantage itself by doing so unilaterally?

This is a serious issue, and it ultimately swayed the President. But I disagree with the President because I don't think that helping the PLA to modernize its weaponry and to boost its arms sales to rogue regimes is in the interest of the United States. It seems to me that we have allowed short-term commercial gain to blind us to long-term, fundamental security concerns.

But, as Secretary Brown's trip demonstrated, the United States business community is eager to pursue promising opportunities in China, and enhanced United States-Chinese commercial relations will no doubt greatly benefit both countries. However, in the mad dash to get a piece of the action, let's at least ensure that U.S. companies do not inadvertently contribute to the maintenance of the status quo.

Mr. Speaker, many United States companies seem to believe it is axiomatic that the presence of Western business in China will help to usher in reform, but I have my doubts. The Western business community's ultimate value comes from their example, not their mere presence. They must adhere to internationally-recognized standards of labor law in order to be a catalyst for progress.

But China's refusal to honor international labor standards plays a large part in creating the very environment that foreign business finds so attractive. For example, many Western companies are interested in transferring production to China because of its cheap labor costs. One reason labor costs are so low is the lack of OSHA protections. So, I wonder whether Western business will really want to uphold the health and safety regulations mandated by their own countries, as this would significantly raise the cost of doing business in China.

Another reason for low wages is the absence of collective bargaining rights for workers. Of course, there are no rights in the Chinese workplace. Hence, although I applaud the American Chamber of Commerce in Hong Kong for its recent endorsement of a general code of business principles, I find it disturbing that this code is silent on freedom of association and expression in the workplace. Without these two fundamental guarantees, any attempt to ensure fair treatment of workers is meaningless.

Mr. Speaker, I, therefore, am introducing legislation with my distinguished colleagues JOLENE UNSOELD of Washington and NANCY PELOSI of California that would require United States businesses operating in China to follow internationally recognized labor standards. This Code of Conduct is not burdensome or unreasonable. It would require United States businesses to ensure that their Chinese contractors maintain reasonable working hours, ensure safe working conditions, pay fair wages, treat all workers equally, and allow worker organizations and assemblies. There would be no direct oversight of their compliance; rather, the companies would annually report to the Secretary of State on their adherence to the principles.

If United States business truly wants to promote positive change in China, then adherence to this Code of Conduct offers a tangible way to implement that agenda without in any way harming United States competitiveness in the marketplace. Demonstrating that the United States corporate community really does believe that good ethics and good business go hand-in-hand would send an unmistakable signal to the Chinese Government and provide powerful support to Chinese workers.

Mr. Speaker, I ask that the text of our legislation be placed in the RECORD.

H.R.—

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STATEMENT OF PRINCIPLES.

(a) PURPOSE.—It is the purpose of this Act to create principles governing the conduct of United States economic cooperation projects in the People's Republic of China and Tibet.

(b) PRINCIPLES.—It is the sense of the Congress that any United States economic cooperation project in the People's Republic of China or Tibet should adhere to the following principles:

(1) Suspend the use of all goods, wares, articles, and merchandise that are mined, produced, or manufactured, in whole or in part, by convict labor or forced labor if there is reason to believe that the material or product is produced or manufactured by such convict or forced labor, and refuse to use forced labor in the project.

(2) Seek to ensure that political or religious views, sex, ethnic or national background, involvement in political or labor activities or nonviolent demonstrations, or association with suspected or known dissidents will not prohibit hiring, lead to harassment, demotion, or dismissal, or in any way affect the status or terms of employment in the project. The United States parent company of the United States economic cooperation project should not discriminate in terms or conditions of employment in the project against persons with past records of arrests or internal exile for nonviolent protest or membership in unofficial organizations committed to nonviolence.

(3) Ensure that methods of production used in the project to do not pose an unnecessary physical danger to workers and neighboring populations and property and that the project does not unnecessarily risk harm to the surrounding environment, and consult with community leaders regarding environmental protection with respect to the project.

(4) Strive to use business enterprises that are not controlled by the Government of the People's Republic of China or its authorized agents and departments as potential partners in the project.

(5) Prohibit any military presence on the premises of the project.

(6) Undertake to promote freedom of association and assembly among the employees of the project. The United States economic cooperation project should protest any infringement by the Government of the People's Republic of China of these freedoms to the appropriate authorities of that Government and to the International Labor Organization, which has an office in Beijing.

(7) Use every possible channel of communication with the Government of the People's Republic of China to urge that Government to disclose publicly a complete list of all those individuals arrested since March 1989, to end incommunicado detention and torture, and to provide international observers access to all places of detention in the People's Republic of China and Tibet and to trials of prisoners arrested in connection with the pro-democracy events of April through June of 1989 and the pro-democracy demonstrations which have taken place in Tibet since 1787.

(8) Discourage or undertake to prevent compulsory political indoctrination programs from taking place on the premises of the operations of the project.

(9) Promote freedom of expression, including the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media. To this end, the United States economic cooperation project should raise with appropriate authorities of the Government of People's Republic of China concerns about restrictions on importation of foreign publications.

(c) PROMOTION OF PRINCIPLES BY OTHER NATIONS.—The Secretary shall forward a copy of the principles set forth in subsection (b) to the member nations of the Organization for Economic Cooperation and Development and encourage them to promote principles similar to these principles.

SEC. 2 REGISTRATION REQUIREMENT.

(a) IN GENERAL.—Each United States parent company conducting a United States economic cooperation project in the People's Republic of China or Tibet shall register with the Secretary and indicate whether such company agrees to implement the principles set forth in section 1(b). No fee shall be required for registration under this subsection.

(b) EFFECTIVE DATE.—The registration requirement of subsection (a) shall take effect 6 months after the date of the enactment of this Act.

SEC. 3. REPORTING REQUIREMENTS.

(a) REPORT.—Each United States parent company conducting a United States economic cooperation project in the People's Republic of China or Tibet shall report to the Secretary describing such company's adherence to the principles. Such company shall submit a completed reporting form furnished by the Secretary. The first report shall be submitted not later than 1 year after the date on which the national registers under section 2 and not later than the end of each 1-year period occurring thereafter.

(b) REVIEW OF REPORT.—The Secretary shall review each report submitted under subsection (a) and determine whether the United States parent company submitting the report is adhering to the principles. The Secretary may request additional information from the United States parent company and other sources to verify the information contained in the report submitted by the company.

(c) ANNUAL REPORT.—The Secretary shall submit a report to the Congress and to the Secretariat of the Organization for Economic Cooperation and Development describing the level of adherence to the principles by United States parent companies subject to the reporting requirement of subsection (a). This report shall be submitted not later than 2 years after the date of the enactment of this Act and not later than the end of each 1-year period occurring thereafter.

SEC. 4. EXPORT MARKETING SUPPORT.

(a) SUPPORT.—A Federal agency may intercede with a foreign government or foreign national regarding export marketing activity in the People's Republic of China or Tibet on behalf of a United States parent

company subject to the reporting requirements of section 3(a) only if that company adheres to the principles.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect 2 years after the date of enactment of this Act.

SEC. 5. DEFINITIONS.

For purposes of this Act—

(1) the terms "adhere to the principles", "adhering to the principles" and "adherence to the principles" mean—

(A) agreeing to implement the principles set forth in section 1(b);

(B) implementing those principles by taking good faith measures with respect to each such principle; and

(C) reporting accurately to the Secretary on the measures taken to implement those principles;

(2) the term "intercede with a foreign government or foreign national" includes any contact by an officer or employee of the United States with officials of any foreign government or foreign national involving or contemplating any effort to assist in selling a good, service, or technology in the People's Republic of China or Tibet, except that such term does not include multilateral or bilateral government-to-government trade negotiations intended to resolve trade issues which may affect United States parent companies who do not adhere to the principles;

(3) the term "organized under the laws of the United States" means organized under the laws of the United States, any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States;

(4) the term "Secretary" means the Secretary of State;

(5) the term "United States economic cooperation project" means—

(A) an equity joint venture, a cooperative joint venture, or a wholly foreign-owned enterprise established under the laws of the People's Republic of China, in which—

(i) a corporation, partnership, wholly-owned subsidiary, or other business association organized under the laws of the United States is an investor, or

(ii) a corporation, partnership, or other business association organized under the laws of a country other than the United States or under the laws of a territory or possession of a country other than the United States, which is wholly owned by a corporation, partnership, or other business association organized under the laws of the United States, is an investor,

and which employs more than 50 individuals in the People's Republic of China or Tibet; or

(B) a branch office or representative office—

(i) of a corporation, partnership, wholly-owned subsidiary, or other business association organized under the laws of the United States, or

(ii) of a corporation, partnership or other business association organized under the laws of a country other than the United States or under the laws of a territory or possession of a country other than the United States, which is wholly owned by a corporation, partnership, or other business association organized under the laws of the United States,

which employs more than 25 employees in the People's Republic of China or Tibet; and

(6) the term "United States parent company" means a corporation, partnership, or other business association organized under the laws of the United States which is—

(A) the direct investor in a United States economic corporation project as described in paragraph (5)(A)(i), or the sole owner of the investor in a United States economic cooperation project as described in paragraph (5)(A)(ii); or

(B) the registrant in the People's Republic of China of a branch office or a representative office as described in paragraph (5)(B)(i), or the sole owner of the registrant of a branch office or representative office as described in paragraph (5)(B)(ii).

AID ASSOCIATION FOR LUTHERANS: NEIGHBOR HELPING NEIGHBOR

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BARCIA of Michigan. Mr. Speaker, in this time of budgetary difficulty that limits what assistance the Federal Government can provide to people in need, it is both encouraging and heart warming to learn of organizations like the Aid Association for Lutherans. This 92-year-old organization through its nearly 8,600 branches and 1.6 million members, in its own words, concentrates on a wide range of charitable, educational, social, benevolent, fraternal, and patriotic programs.

With over 112,000 members in Michigan, the AAL is one of the most important support groups in our State. Its efforts on behalf of the victims of the terrible flood that moved through the Midwest last year were vital to their sense of survival. The $3.5 million provided through AAL's Helping Hands program provided much more than its mere monetary value—it provided hope and reassurance to people who saw their lives being shredded by nature's fury. The work performed by the AAL volunteers who came to the flooded communities demonstrated that hands-on assistance is so very meaningful to people in their time of need.

Similar assistance was also provided to the victims of Hurricane Andrew, who were the beneficiaries of the opportunities for friendship created by that natural disaster.

Mr. Speaker, according to reports prepared by the Aid Association for Lutherans, over 3.5 million hours of work was provided by AAL members and their friends on behalf of the many projects that were undertaken. Helping people pay their bills, get to the grocery store, building a wheelchair ramp at the church, landscaping and other seemingly simple but vitally important acts of kindness were performed by AAL members.

People constantly ask what has happened to the American spirit. Whatever happened to neighbor helping neighbor? Doesn't anyone care enough to lend a hand? All of these questions are so fully, graciously, and beautifully answered by the work done by the Aid Association for Lutherans. It will be my privilege to be with many Michigan members later this month at their annual dinner. It is my hope that I can come away with a portion of the inspiration that guides these wonderful people in acts that we should each take more time to perform. Our world can be a better place if we emulate people who care, people who give of themselves, and people who know how to give thanks through their own deeds—the members of the Aid Association for Lutherans.

IN RECOGNITION OF U.S. REPRESENTATIVE HELEN DELICH BENTLEY

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. WOLF. Mr. Speaker, it is a pleasure for me to join with my colleagues in recognizing the outstanding service to Congress and our nation of my friend and colleague, HELEN DELICH BENTLEY.

For the last 10 years, HELEN has been the beloved representative for Maryland's 2nd District, which stretches all the way from southeastern Baltimore County, near the port of Baltimore, to the northern borders of Maryland, near the Delaware and Pennsylvania borders. Needles to say, her constituency is diverse and varied; nevertheless HELEN has earned the respect and admiration of her constituents, who have re-elected her the last three times impressively with over 65 percent of the vote.

As a Representative from the neighboring State of Virginia, in addition to being a friend of HELEN's, I know first-hand how hard HELEN has worked on behalf of her district and our Nation. She came to the House in 1984 following her service as the chairwoman of the Federal Maritime Commission, which at that time made her the highest-ranking woman in the Federal Government. As many of you know, the city of Baltimore is a dynamic and exciting city, ranging from the Inner Harbor to Oriole Park at Camden yards; from Little Italy to Fells Point. One of Baltimore's biggest industries and landmarks, however, is the Port of Baltimore, and HELEN has worked tirelessly to promote this port and protect its workers. This has included her work for dredging at the Port of Baltimore to accommodate more ships and helping to settle labor-management disputes at the port. Her expertise and dedication on this issue will be missed.

Everyone in this body who knows HELEN, more importantly, knows of HELEN's integrity and steadfastness. HELEN will never quit in the face of adversity; HELEN will never run for cover when she believes she is right on an issue. Of course, this is different that the art of compromise. HELEN has had great success working in a bipartisan manner to reach objectives helpful to her district and the country. However, HELEN is as committed a Member of this House as you will find. HELEN and I may not have agreed on every issue, although we certainly agree on most. However, I have the greatest respect for Helen's honesty and devotion—when HELEN BENTLEY says she will work on something for you, she will be by your side through good and bad. Her presence and ability will be greatly missed, and it is a pleasure for me in wishing HELEN, her husband William and her family all the best as she begins her retirement.

IN HONOR OF REPRESENTATIVE HELEN BENTLEY

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. STEARNS. Mr. Speaker, I rise today in honor of our colleague, the Honorable HELEN DELICH BENTLEY, who will be leaving the House after many fine years of service. I know that many of her colleagues are joining me in honoring HELEN BENTLEY for the outstanding job she has done in representing the people of Maryland's Second Congressional District.

Indeed, HELEN has been a tireless advocate for the people of the Baltimore area. She has always had the best interests of the working-class people of her district at heart. HELEN BENTLEY has never backed down from a challenge. She has been a selfless, hard-working defender for the people of Maryland and indeed, America and her workers.

HELEN BENTLEY is as tough as nails, but I know she has a heart of gold. She is forceful and passionate, but caring and thoughtful. You always know where she stands.

She has been, and I am sure, will continue to be a leader on issues important to all working Americans. HELEN BENTLEY will be sorely missed in the people's House, and I want her to know that her shoes will be very tough to fill.

Mr. Speaker, I ask all of my colleagues to join me in praising HELEN DELICH BENTLEY for her years of outstanding service to the House of Representatives, and in wishing her the best in the years that lie ahead.

TRIBUTE TO HELEN BENTLEY

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Ms. MOLINARI. Mr. Speaker, I rise to say farewell and pay tribute to our colleague, HELEN BENTLEY. I had the honor of serving with her on the Public Works and Transportation Committee for 2 years.

HELEN used her position on the committee to focus on and improve the infrastructure of her district. There, as well as on the Merchant Marine and Fisheries and Appropriations Committee, she has pushed tirelessly to improve Baltimore's port and to strengthen America's merchant marine fleet.

As a representative of a maritime district very similar to HELEN's, I have deep respect for her fervor in defending manufacturing and maritime industries—industries that are suffering due to years of neglect.

We will all miss HELEN and the causes she so ably supported will need a new champion. Though another champion like HELEN will be hard to come by, I think 50 or 60 of us might be able to try and compensate for her departure.

TRIBUTE TO HELEN BENTLEY

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Ms. KAPTUR. Mr. Speaker, at the end of the 103d Congress, the House of Representatives will lose an extraordinary colleague, a remarkable woman and a very treasured friend, Congresswoman HELEN DELICH BENTLEY.

I rise in tribute to this distinguished Congresswoman, a Congresswoman known for her independent thinking and fierce dedication to the representation of the people—the people of her 2d congressional district, the people of Maryland and the people of the United States of America.

A woman who for years was ahead of her time, Mrs. BENTLEY started her career as a newspaper reporter, a field that in 1945 was dominated by men. As a reporter on the Baltimore Sun the waterfront was one of her primary beats, an area that was rarely frequented by women. But, the lack of a female presence in her field did not prove an obstacle to Mrs. BENTLEY. Fearlessly and relentlessly, she faced the challenge and ultimately earned the title of "expert" in the field of maritime issues.

In recognition of her expertise, in 1969, Mrs. BENTLEY was bestowed the extraordinary honor of being the first woman to be appointed by a President to head a regulatory agency as well as the honor of being the first woman to hold the position of chairman of the Maritime Commission.

As chair of the Maritime Commission, Mrs. BENTLEY protected the American shipping fleet and the interests of the American people and economy while simultaneously earning the respect and admiration of the international maritime community—which by no means was an easy feat.

Mrs. BENTLEY's many successes are attributable to her courage in the face of criticism, her keen intelligence, her ability to think clearly on her feet, her contagious enthusiasm and her boundless amount of energy. These same attributes have served her well in her five terms as Congresswoman for the Second Congressional District of Maryland.

Mrs. BENTLEY, known endearingly as the "Fighting Lady," a straight shooter, a doer, has spent her entire congressional career fighting for the working people of our Nation. She has been a tireless advocate on behalf of fair trade and has fought to keep high paying jobs from moving offshore.

Mrs. BENTLEY has been quoted as saying that "I am a great believer that God looks over you." May God continue to look over Mrs. BENTLEY as she begins the next exciting chapter of her life—one which will surely include helping the working people of our Nation.

A TRIBUTE TO HELEN BENTLEY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. GILMAN. Mr. Speaker, it is my privilege to join our colleagues in paying tribute to the gentlelady from Maryland, Mrs. HELEN DELICH BENTLEY.

I remember Mrs. BENTLEY's first election to the Congress in 1984, because her reputation preceded her: a reputation as a no-nonsense, get things done individual, which was earned during her numerous careers as a successful businesswoman, newspaper reporter and editor, and chairman of the Federal Maritime Commission.

HELEN BENTLEY's mark on this Chamber will not be soon forgotten. Her service on the Appropriations Committee, especially on the Subcommittee on Labor, Health & Human Services, and Education, as well as on the Subcommittee on Military Construction, established her reputation as an easily accessible as well as a highly knowledgeable colleague.

Quite often, when a Member of Congress retires, we are hard pressed to find a suitable way to memorialize that Member. This is not the case with HELEN DELICH BENTLEY: her memorial is and remains the harbor in the city of Baltimore. Once, HELEN told an interviewer, "I feel like the mother of modern Baltimore." This was an entirely apt self-description: even before coming to the Congress, HELEN was working hard to modernize and dredge the harbor. Today, Baltimore Harbor is not only one of the busiest ports anywhere in the world, it is also now recognized as a major tourist and business attraction. This development owes more to HELEN DELICH BENTLEY than to anyone else.

Mr. Speaker, I invite all of our colleagues to join me in saluting HELEN DELICH BENTLEY, and extending our best wishes to her and her husband William, with hopes for a long, healthy, happy and productive retirement.

TRIBUTE TO REPRESENTATIVE HELEN BENTLEY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. MAZZOLI. Mr. Speaker, I would like to join my fellow colleagues in honoring Representative HELEN BENTLEY.

As a "retiree" myself, HELEN and I are experiencing the same happy-sad reaction to the end of the session and to the end of our careers as Members of Congress. Although I have been here for a few years longer than HELEN, the effects of leaving will be the same for both of us.

HELEN BENTLEY has served the great people of Maryland's Second Congressional District with devotion and integrity. She has been a tireless voice for the maritime and shipping industries of Maryland. As chairman of the Federal Maritime Commission, HELEN led the way to increasing the U.S. merchant marine fleet and expanding the Port of Baltimore. She has continued her dedication to maritime issues through her work on the House Committee on Merchant Marine and Fisheries.

HELEN BENTLEY has also championed efforts to reduce U.S. dependability of foreign goods through aggressive "Buy American" campaigns, sponsoring legislation requiring the Federal Government to purchase goods from U.S. companies.

As we both start this new phase of life away from Congress, I wish for HELEN all the happiness life has to offer.

A TRIBUTE TO THE HONORABLE HELEN DELICH BENTLEY

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. LIPINSKI. Mr. Speaker, I have had the privilege of serving with HELEN BENTLEY for the past 10 years as a fellow Member of the House of Representatives and the past 2 years we have served together as colleagues on the Subcommittee on Merchant Marine.

I can confidently say that HELEN is the strongest advocate for the maritime industry I have met in my tenure as the chairman of the Subcommittee on Merchant Marine. She has dedicated her life to the support of maritime issues, from her days as a maritime reporter for the Baltimore Sun, as chairman of the Federal Maritime Commission—the highest ranking woman in the Federal Government at that time—and as an active member of the Merchant Marine and Fisheries Committee.

HELEN has been a great mentor to me. I admire her hard hitting questioning of witnesses, her expertise and her commonsense approach to government. I hope HELEN will remain a part of the Maritime community. Her unwavering dedication to the U.S. Merchant Marine is unparalleled. She truly has been the conscience of Merchant Marine Committee—she will be missed.

TRIBUTE TO HELEN BENTLEY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. CRANE. Mr. Speaker, a number of Members of this House of Representatives of the 103d Congress, for various reasons, will not be with us in the 104th Congress. And of that group, one who will be sorely missed is our colleague from Maryland, HELEN BENTLEY.

HELEN will have spent a decade in this Chamber when she casts her final vote this year. She will leave behind her a distinguished career, highlighted by her efforts as a member of the House Committee on Merchant Marine and Fisheries and the House Appropriations Committee. Her knowledge of maritime issues paid big dividends for her constituents in the port city of Baltimore.

She will always be remembered as a fighter. Once she decided a cause was just, she dug in and did battle with the best of her colleagues—and more times than not she was the victor.

She was internationally known as one of this Nation's leading experts on the maritime industry when she arrived in the House of Representatives. Her knowledge in the field led to her appointment as Chairman of the Federal Maritime Commission by President Richard Nixon. In the House, she earned a fine reputation not only on maritime issues, but also on fair trade practices and a strong national defense.

This daughter of Serbian immigrant parents began her collegiate studies in her native State at the University of Nevada at Reno, continued it at night here in Washington at George Washington University, and completed her studies for a degree in journalism at the University of Missouri, graduating the same day her mother became a citizen of the United States almost 1,000 miles away in Ely, Nevada. Her determination to gain an education was often reflected in later years in her determination to fight for a just cause and to fight for her Maryland constituents.

The congressional contributions and the friendship of HELEN BENTLEY will long be remembered.

TRIBUTE TO CONGRESSWOMAN HELEN BENTLEY

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. QUILLEN. Mr. Speaker, of all of my colleagues who are leaving the House at the end of this Congress, I will miss none more than HELEN BENTLEY, my good friend and distinguished Member of Congress from Maryland. Her dedication and patriotism are models that we can all strive to emulate, and her tenacity in the pursuit of what she believes to be right is second to none.

I first knew of HELEN when she chaired the Federal Maritime Commission under President Nixon. She gave the Commission strong leadership that it had not previously known. I remember vividly when HELEN took the tanker *Manhattan* on a voyage through the Northwest Passage to prove that the icy waters were passable. Her passionate commitment to revitalizing the American maritime industry was evident then, as it has been evident ever since.

Since her arrival in Congress in 1984, HELEN BENTLEY has been a defender of American interests, American jobs, and America's place in the world. Many remember her use of a sledgehammer on a Japanese television to protest one company's hostile trading practices, and this is indicative of the zeal with which HELEN pursues her goals. I have worked with her on maritime issues over the years, and she has been of invaluable help in getting things done.

Her crusade against NAFTA, although unsuccessful, opened many eyes and made a lot of people think. With NAFTA then, just as with GATT now, HELEN has turned her journalistic eye towards the issues and made us realize what the effect of these mammoth agreements might be on the working men and women of her district—and of others.

The House will miss HELEN BENTLEY's presence a great deal, but she will not be far away. I hope to continue to consult with her on maritime issues and other areas of concern, and I know that new opportunities will continue to come her way. HELEN, please keep in touch, and thanks again for your service and your friendship.

TRIBUTE TO HELEN DELICH BENTLEY

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mrs. VUCANOVICH. Mr. Speaker, it is an honor for me to speak in recognition of my good friend and colleague who has been my friend for many years. This woman, HELEN DELICH BENTLEY, has represented her district, the Second District of Maryland, with energy and enthusiasm.

HELEN is not a typical Republican in many ways. She has battled for the American worker and is fiercely protectionist. She will long be remembered for smashing a sledgehammer on a T.V. set made by Toshiba, a company which exported secret products to the Soviets, as well as her Buy America slogans.

HELEN grew up in a Nevada mining town and has never forgotten her roots. Nevada still considers HELEN one of her own. She is tough but tender; cares about her friends and family; and will be sorely missed by all of us in the 103d Congress. I know we have not heard the last from HELEN BENTLEY. I hope not.

TRIBUTE TO THE HONORABLE HELEN DELICH BENTLEY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. FIELDS of Texas. Mr. Speaker, I rise today to pay tribute to one of the most energetic, tenacious, and delightful Members of Congress, my good friend, HELEN BENTLEY.

Since coming to the House in 1984, HELEN has been the most outspoken advocate of the United States merchant marine since Wesley Jones, the father of the maritime Jones Act, served in Congress at the beginning of this Century. This House has benefitted immensely from her knowledge of America's maritime history and her efforts to preserve our merchant marine.

HELEN BENTLEY has been a staunch defender of our cargo preference laws—laws that were passed to support our commercial fleets. This diminutive lady from Baltimore has struck fear in the hearts of many Federal officials, including a few admirals and generals, who had failed to honor the letter and spirit of those laws.

She has proven herself a very able, and persuasive legislator for America's maritime industries. More than once, HELEN has marched across the aisle or across the Capitol to "discuss" issues with a Member or Senator who had a slightly different view of an issue than she did. Quite often after these "discussions", legislation proceeded representing the views of the gentlelady from Maryland.

I will personally miss seeing her in action at a Committee meeting or on the floor of the House in defense of the merchant marine. That spirit—that level of understanding of our Federal laws—that energy will be impossible to replace.

Mr. Speaker, this House is losing one of its most capable legislators. Fortunately, HELEN has promised she will not be far away.

I appreciate this opportunity to salute my dear friend and to commend her on a truly outstanding legislative career. I wish her God speed.

IN HONOR OF ACADEMIC HIGH SCHOOL, RANKED AMONG NEW JERSEY'S BEST

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. MENENDEZ. Mr. Speaker, I rise today before the House of Representatives to pay tribute to Academic High School. This high school has continually been ranked one of the best public schools in the State of New Jersey, and recently has been ranked one of the top 21 best high schools in the State of New Jersey by New Jersey Monthly magazine.

Academic High School was established in 1976 as a college preparatory public school for highly motivated students. Academic maintains an ethnically diverse population of 30 percent African-American, 30 percent Caucasian, 30 percent Hispanic and 10 percent of other ethnicities. Prospective students must undergo a highly selective screening process. This process is based on the student's elementary school performance, standardized tests, recommendations, attendance and participation in extracurricular activities. With a student-teacher ratio of 15:1, every student's individual academic needs can be addressed. The faculty shows a great deal of dedication to their work. This is exemplified by the fact that 51.9 percent of the teachers hold master's degrees, which is well above the State average. Academic High School has also gone out of their way to become accredited by the Middle States Association, which is an accomplishment worthy of being recognized.

The students of Academic High School have consistently dominated the Hudson County Science Fair and in 1993 they were awarded five of the eight gold medals. Academic students have won trips to the International Science Fair in six of its seven annual competitions. Academic students have distinguished themselves by qualifying as National Merit Semifinalists as well as attending the Governor's Schools and St. Peter's College Summer Scholars Program. Students have also been recognized by receiving the New York Times Young Citizen Award and placing first in the Kiwanis/Key Club Essay Contest. With achievements such as these it is not surprising that 96.9 percent of the graduates go on to attend 4-year colleges, including the most competitive colleges, such as Harvard, Yale, MIT, and Cornell.

Urban education has reached a time of crisis and Academic High School has proven that public schools can overcome this and achieve great success. I am proud to have a school in my district that can be looked upon as a model for other schools to follow in the hopes that they too can achieve the level of excellence that Academic High School has worked so hard to maintain.

TRIBUTE TO RON DE LUGO

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. FALEOMAVAEGA. Mr. Speaker, earlier this year, Congressman RON DE LUGO, chairman of Natural Resources Subcommittee on Insular Affairs, announced his retirement from the House of Representatives. I have known RON for 20 years, and have worked closely with him for 6 years now as a Member of Congress.

I want to give my highest praise to this Member for his work in support of the U.S. Virgin Islands, all U.S. territories, and in fact, for all of the United States as well.

Chairman DE LUGO's career in public service spans 40 years. Among the highlights of his career are:

In 1956, he was elected as the youngest member of the Virgin Islands Legislature.

He was elected to be the first seated delegate from the Virgin Islands to the U.S. House of Representatives in 1972, and has held that position in every Congress since then, except one.

He was elected by his Democratic colleagues as a subcommittee chairman in 1987, and has been reelected to that position in every Congress since that time.

Mr. Speaker, RON often mentions the difference in the consideration he is afforded now as opposed to when he first came to this Chamber in 1968. He rightfully attributes the acknowledgement he now receives to the other Members of this body, for unlike the Representatives from the States, whose rights and obligations are defined by the U.S. Constitution, we delegates exist by authority of Federal law, and the privileges to which we are entitled are determined by the Rules of the House. What RON is too modest to say, but I will say for him, is that if the Members of this body did not find the delegates worthy of the responsibilities they have afforded us, we would not be where we are today. As the senior delegate from the territories, he is the only delegate who has been here to fight for the rights and privileges we currently enjoy, and a great deal of the credit for the successes the delegates and the territories have achieved over the past 20 years should be given to RON DE LUGO.

Mr. Speaker, much has happened to the benefit of the U.S. territories since the time RON DE LUGO began his tenure in Congress. He has played an active role in all those changes, and I want to take this opportunity to publicly thank and commend him for his lifetime of service to the United States and the U.S. territories.

GROUNDBREAKING CEREMONY OF BETH CHAVERIM, VIRGINIA BEACH, VA

HON. OWEN B. PICKETT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. PICKETT. Mr. Speaker, it is with great pleasure I share with my distinguished colleagues the comments of Rabbi Israel Zoberman at the Groundbreaking Ceremony of Beth Chaverim, the Reform Jewish Congregation of Virginia Beach, VA, held September 18, 1994.

Our God, Our Guide, Our Glory, Cherished Friends and Distinguished Guests, "Indeed, this is the beautiful day the Lord has made for us, let us rejoice in it." Our cup of joy runneth over as we have gathered at this sacred season on our land of promise, this field of dreams, to give thanks for having reached a historic milestone.

This significant celebration has been made possible through the heroic spirit of our beloved Beth Chaverim that has grown from a few visionary and courageous souls, 12 years ago, to a proud congregation of about 250 family units. We are here due to the steadfast and zealous labor of love of its members along with the extraordinary welcome and generosity of the remarkable Church of the Ascension that has been our loving home for the past 9 years, allowing us to flourish.

The unique and incredible interfaith drama which since 1986 is the only such between Catholics and Jews anywhere, has received local, national, and international attention, adding to the noble cause of shalom in a changing world. I remain the grateful rabbi of 1,300 Catholic families, an increase of 500 since our arrival.

Father Bill Dale watched over us so very devotedly all this time and Father Jim Parke, who replaced him recently, continues so tenderly to befriend us. Thank you Bishop Sullivan, who wanted but could not be with us today, for all you have meant to us. What an understanding landlord we have in you. We pledge not to forget a kindness that comes from deep within the heart. Together we shall build upon our common bond, allies in the divine pursuit to create a better world, offering the gift of healing, wholeness and harmony.

Standing before you in awe and trembling is the son of the saved remnant of European Jewry, born in Kazakhstan to Polish Holocaust survivors, living his tender years in a German Displaced Persons Camp and proudly raised in the State of Israel, our Zion restored. I confess to my profound conviction that the God of our martyred people led met to be the founding rabbi of a new synagogue in a generation that has witnessed both our people's demise and rebirth.

Beth Chaverim was led into the heart of our beloved city of Virginia Beach to grow with it on these precious American shores of freedom and hope for humanity. It is good to be in a friendly neighborhood. All we seek is to be a blessing; unto ourselves and unto the gracious Jewish and general community of Hampton Roads.

Without Jennifer, my faithful helpmate for 25 years, and our children Rachel and Harel, I wouldn't have come thus far.

"We praise You O Lord our God, master of the universe, who has kept us alive, has sustained and enabled us to reach this miraculous occasion." Let us say Amen.

WHAT REALLY KILLED HEALTH CARE REFORM THIS YEAR?

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. CRANE. Mr. Speaker, history may remember the 103d Congress for the attention that was given to the issue of health care reform. Despite all of the debate that took place, however, health care reform legislation will not be brought to the House floor for consideration before adjournment. As my colleagues consider the reasons for the downfall of health care reform this year and prepare to revisit the issue in the next Congress, I urge them to read the following editorial which recently appeared in a newspaper that circulates in my district in Illinois The News-Sun. I agree with the editorial's observation about the public's rejection of President Clinton's big government approach to health care reform and urge my colleagues to take a closer look at the free market alternatives that have been proposed.

LESSONS IN FAILURE

At Issue: The failed exercise in health reform should show the way to President Clinton and Democratic congressional leaders.

George Mitchell's bitter pronouncement that there will be no health reform this year illustrates one reason that the effort to remake one-seventh of the U.S. economy was doomed from the start: He made a partisan issue of it.

Health reform died, the Senate majority leader declared, because the Republicans killed it. This flies in the face of political reality.

Democrats enjoy a 56–44 majority in the Senate and a lopsided 256–178 edge in the House. If Democrats had fallen in line behind either President Clinton's health reform plan or Mitchell's scaled-down plan or Rep. Richard Gephardt's alternative plan, they could have passed a health bill this year.

Mitchell claims Republicans have an effective veto in the Senate, even though they constitute a minority. Yet, while it is true the Democrats would have had to muster 60 votes to overcome a Republican filibuster, Mitchell could not raise even 51 votes for his or any other plan.

Senate Minority Leader Bob Dole was quite right when he said, "The Republicans didn't kill health care. The American people did."

Poll after poll after poll showed that, after a thorough public debate, most Americans did not look favorably upon the reforms put forward by either the White House or Democratic leaders in Congress.

They didn't like the idea of the government injecting itself into the health care system. They were understandably wary of any plan that would put the government between them and their doctors.

And that's precisely what the Clinton-Gephardt-Mitchell plans would have done. All would have limited a patient's choices in doctors and hospitals. All would have imposed a one-size-fits-all basic health plan. And all would have required massive new taxes.

The Democratic approach gave short shrift to the fact that 85 percent of Americans had health insurance. Instead their proposals, which placed a priority on universal coverage were directed primarily toward the 15 percent of Americans who lack health insurance for some period or another.

The White House also ignored the fact that 80 percent of Americans are satisfied with the medical coverage provided by their insurance. Instead, the administration, decided to depict the insurance industry as greedy concerns that brought the health care system, in Hillary Clinton's words, "to the brink of bankruptcy."

Finally, Clinton-Gephardt-Mitchell conveniently overlooked the fact that 75 percent of Americans are happy with the quality of care they receive.

The death of health reform is a textbook example of how misbegotten public policy can go awry in the face of popular opposition.

If President Clinton and Democratic congressional leaders have learned anything from this failed exercise, perhaps they will work with Republicans next year to craft a far less intrusive health reform plan that most Americans can support.

ACTION NEEDED IN KASHMIR

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BILBRAY. Mr. Speaker, I rise today to bring to my fellow Members' attention, a matter of grave international concern that has unfortunately gone largely unnoticed as we tangle with the thorny issues of Haiti and Bosnia. I speak of the continued conflict between Pakistan and India over Kashmir.

For too long the people of Kashmir have continued to be deprived the right to self determination. Through occupation and intimidation, the region has been denied the most basic right to determine its own future and destiny. This conflict has not only hurt the people of Kasmir, but has also led to a particularly delicate and dangerous standoff between India and Pakistan. This conflict has not only disastrous possibilities for these two countries, but could destabilize a region that is becoming more intricately economically connected to the United States' national interest.

Because of other ongoing situations, the Kashmir conflict has become largely forgotten, although it remains as heated and as dangerous as any in the world. It is imperative that the leaders of Pakistan and India show the moral courage necessary to settle this conflict and to restabilize not only the lives of the people of Kashmir but of the whole region. In order to encourage this outcome, I call on Chairman ACKERMAN's Foreign Affairs Subcommittee to hold hearings on this issue, exploring both the views of India and Pakistan and possible resolutions to the conflict. In addition, it is imperative that the United Nations show the kind of leadership necessary to steer toward a peaceful outcome of the Kashmir questions.

I encourage all my colleagues to join me in bringing attention to Kashmir and in supporting a peaceful and equitable resolution to the conflict.

SACRAMENTO LOCAL CONSERVATION CORPS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. MATSUI. Mr. Speaker, it gives me great pleasure to rise today in recognition of the Sacramento Local Conservation Corps. This month marks the Corps' 10th year of outstanding service to our community. On October 6, 1994, friends of the corps will gather at the Mather Regional Park site to celebrate the positive impact that they have had on both the youth and the environment in Sacramento.

The Sacramento Local Conservation Corps was created in 1984 by the city of Sacramento Chamber of Commerce in order to provide employment for youth who are non-high school graduates. However, shortly after its initiation, the corps set out as a private nonprofit corporation under the guidance and training support of the California Conservation Corps.

Today, the Sacramento Local Conservation Corps operates with a mission to provide a youth development program that integrates education, job skills training and experience through conservation projects and service opportunities that benefit the community.

During the past 10 years, the corps has worked in all areas of conservation and more recently, has developed work projects in the area of recycling. Some of the corps' major projects include: work with the State of California for the preservation and restoration of the river delta; work with the city of Sacramento for their weed and litter abatement programs; and work to clear and clean vacant lots and deserted homes throughout the city. In addition, corpsmembers have been a part of roadway restoration effort under the training guidance of city personnel; and for the past 4 years, the county of Sacramento has contracted with the corps for the purpose of clearing and maintaining the 103 miles of creeks and channels which run throughout Sacramento County, Folsom, and the city of Galt.

Over 800 young adults have participated in the Corps' program in the past 10 years. Many of these young adults have gone on to attain a high school diploma or equivalency certificate and are currently either seeking higher education or are holding gainful employment within the community.

Because of its history of effective program administration, the Sacramento Local Conservation Corps was one of the first Urban Corps to be awarded a grant from the Corporation for National and Community Service. The grant provides funding for the Mather Regional Park project which involves the creation of a 1400 acre park on the former Air Force Base. The grant will employ 51 corps members who will benefit not only from the corps' education and job skills training programs but by a post-service educational award of $2,500.

The Sacramento Local Conservation Corps is truly a priceless community resource. With countless statistics pointing to young adults as most in need of assistance, this corps has been proactive in sculpting a program which meets almost all of their development needs.

I salute the outstanding record this organization has made for itself in such a short period of time.

I ask my colleagues to join me in paying tribute to the Sacramento Local Conservation Corps on the occasion of their 10th anniversary of service to our community. May this period of success be multiplied in the coming decades.

MATERNAL AND FAMILY HEALTH SERVICES CELEBRATES 20TH ANNIVERSARY OF WIC

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. KANJORSKI. Mr. Speaker, I rise today to join the Maternal and Family Health Services, Inc. in celebrating the 20th birthday of the Supplemental Food Program for Women, Infants, and Children [WIC], and the 5th birthday of the Farmers' Market Nutrition Program.

The MFHS WIC Program serves an average of 53,500 eligible residents of Northeastern and Central Pennsylvania each month.

The Farmers' Market Nutrition Program began as a pilot project in 1989 and has successfully been integrated with the WIC Program. This program provides vouchers for Pennsylvania-grown fresh fruits and vegetables for children, pregnant women, and other WIC participants. These vouchers are used at participating Farmers Markets in Northeastern and Central Pennsylvania from July to November.

It is a proven fact that healthy babies are happy babies who grow up strong. It is estimated that for every dollar invested in the WIC Program, $3 in health care costs are saved.

Mr. Speaker, because the WIC Program is such a successful program, I wanted to pay my compliments to the Maternal and Family Health Services for a job well done, and join in birthday celebrations this October 14.

70TH ANNIVERSARY OF THE BLOOMFIELD PUBLIC LIBRARY

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. KLEIN. Mr. Speaker, I rise to mark the 70th Anniversary of the Bloomfield Public Library.

Beginning with its conception in 1923 with a donation of money, books, and equipment to the township of Bloomfield from James N. Jarvie, the library sought to promote more open access to resources and reference materials. In 1924, the first free public library was opened from the help of a newly-formed Board of Trustees and enthusiastic townspeople.

The library has used some innovative approaches over the years. Starting with a bookmobile established in 1950, later in 1981 the Library joined the county of Essex Cooperating Libraries System, a reciprocal borrowing program. Moreover, the public access catalog was created in 1993 which replaced a card catalog to assist readers in finding materials. These examples of creativity demonstrate how the library accommodated the needs of the public. In addition, activities such as lectures, plays, and the building of a Young People's room encouraged many new patrons. By opening vast new worlds, the Library has enhanced the informational, educational, recreational, and cultural lives of the community.

For 70 years the Bloomfield Public Library has given Bloomfield residents a wonderful service. It has offered boundless knowledge to the entire community, and it is my great pleasure in wishing the library many wonderful years of continued success.

I am delighted to congratulate Director Dorothy E. Johnson and the entire staff at the Bloomfield Public Library.

A TRIBUTE TO JAMIE WHITTEN

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. PICKLE. Mr. Speaker, when JAMIE WHITTEN retires from Congress, we will lose one of the all-time great Members of Congress. For over 50 years, JAMIE has been a stalwart leader in the House of Representatives, a legend, and a national treasure.

It seems like he's been here forever, and it seems that he has been the chairman of the Committee on Appropriations and the dean of Mississippi and the dean of the House forever. In all these years, nothing but praise has been given for JAMIE and his service. Not once has any question of impropriety or misconduct been aimed at him. To the contrary, he has been the model of conduct and accomplishment in the House.

I was privileged to attend the ceremony unveiling the portrait of Chairman WHITTEN in September 1984. This was a happy and jolly occasion participated in by Congressman WHITTEN, Mrs. Whitten, former Member Edward Boland, Chaplain James Ford, then majority leader Jim Wright, Minority Leader BOB MICHEL, the late chairman, William Natcher, the late Congressman Member Silvio Conte, former Member Will Hickman, and the late former Speaker Tip O'Neill.

Mr. Speaker, it was obvious that all those people in attendance hastened to pay JAMIE the highest compliment because he is a genuine southern gentleman and a great American. I want to recall some of their remarks.

Congressman BOB MICHEL said he received most of his tutelage from Chairman WHITTEN. "JAMIE taught me what to do and what not to do," he said. "JAMIE WHITTEN is what they call 'a first among equals' in the House, and that is one of the highest honors we can pay to any fellow Member."

Congressman MICHEL went on to add, "the old saying, 'The Buck Stops Here,' does not apply to the Committee on Appropriations; to the contrary, this is where the buck starts in terms of what happens to Federal expenditures. The Committee on Appropriations is where all the crosscurrents meet and come together to make policy work in this institution. So in honoring JAMIE, we pay tribute not only to a great leader, but I think to the House itself."

At the unveiling, Speaker TOM FOLEY pointed out that while JAMIE was criticized by some for doing too much for his district, he had no apologies; in fact, he was proud of it. As a congressional leader who has worked effectively and diligently for our country, JAMIE reminded us all of this important truth: Fighting for your district does not make you provincial, and fighting for your country does not mean you have forgotten the folks back home.

Our beloved late Chairman Bill Natcher said that when he and the late Congressman Silvio Conte were in charge of the Agriculture Appropriations Subcommittee, they had always found JAMIE WHITTEN to be more than cooperative, and willing to work with them on their bills. When the markup would take place, Natcher recalled, JAMIE WHITTEN would come in and say, "I am with the subcommittee."

Chairman Natcher recalled that James A. Garfield had served on the Committee on Appropriations for 18 years until he was elected President of the United States in 1880. Mr. Natcher said there were times when senior members on the committee would beg Chairman WHITTEN to stay until he too was elected President. Chairman WHITTEN would remind those members to "remember what happened to Mr. Garfield!"—who was one of four Presidents who was assassinated. "Let me say this to you," he would add. "I appreciate the honor, but I think I will just stay right where I am."

The day of the unveiling, Congressman Silvio Conte remarked, "JAMIE has had a very long and successful career in the House, and it is truly fitting that his many years of service to the American people be honored by us today. It has been said that in the making of a perfect portrait, the artist should capture how each observer sees the subject. In viewing JAMIE's portrait, some will see a solid man of the people who has served the State of Mississippi with great distinction for 44 years. Others will see an architect, a foreman of the New Deal, who has contributed greatly to the Nation's industrial and economic health in the past nearly half a century. Still others will see an able and a fair chairman who has presided over the House Committee on Appropriations during one of the most turbulent and difficult times in our history. But those of us who know JAMIE will see all these visages and more. In a building that is filled with likenesses and artifacts, we will have in the Committee on Appropriations office the image of a friend. Regardless of anyone's regional or political affiliation, JAMIE always has an open ear and a friendly handshake. These great qualities combined with his virtually invaluable expertise have made him a real statesman, a chairman under whom Members on both sides of the aisle are honored to serve."

Mr. Speaker, at the ceremony, Chairman WHITTEN made some observations of his own about some of the Members in attendance. "I recall that when my predecessor, George Mahon, had his portrait hung right here years ago, President Ford spoke at that time," he said, "and I was Master of Ceremonies, being next to him. It was a great occasion, but George sent me a copy of the picture taken

while he was here, and his eyes were completely closed. Under it he said, "JAMIE, I had so much confidence in you that I closed my eyes." Well, Chairman WHITTEN wrote back to George Mahon and said, "Mr. Chairman, I am glad you explained it. I thought you were praying."

Mr. Speaker, in closing I wish to let it be known how loved and admired this great man is, and that he will be remembered and revered forever. I am glad to have this opportunity to join with the other Members of this body in tribute to our leader, colleague, and friend, Congressman JAMIE WHITTEN.

THE LESSONS OF JOHN LINDSAY

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mrs. MALONEY. Mr. Speaker, I rise to honor a former member of this body, who was a pioneer in breaking down barriers between whites and blacks, between Democrats and Republicans, and between elected officials and the people they represent, who too often get separated by the buffer zones of power.

I have one enduring image of former mayor and former Congressman John V. Lindsay. During the riots in Los Angeles, Detroit, and Washington, DC in the 1960's, I remember him walking through Harlem with his sleeves rolled up and no security detail.

He was traversing a bridge of his own making—a bridge of racial unity and civil rights. And he was setting an example of unprecedented accessibility for a man of his stature. New Yorkers loved John Lindsay then, and they love him still.

Three weeks ago, I had the good fortune to chat with Mr. Lindsay at his law office. I noticed a framed, handwritten letter in his office from President Clinton, written on August 22, 1994, when the first version of the crime bill was meeting unexpected defeat.

President Clinton put it perfectly when he wrote:

> Yesterday when we were waiting for the vote in Congress on the Crime Bill, we lamented the absence in Congress of thoughtful members on both sides who would come together and help the country come together. You were mentioned as the most outstanding example of what we have had and need more of today.
>
> I just wanted to say this and to say I'm thinking of you. Signed, Bill Clinton.

John told me that he considers the Kerner Commission Report to be an important achievement of his career. He served as vice chair of the U.S. Commission on Civil Disorders appointed by President Johnson, which produced the report.

The report revealed that there were two Americas, separate and unequal, one white, one black. He recalled being in Washington when there were sandbags and troops armed with machineguns surrounding the Capitol due to civil unrest.

But the report condemned equipping police departments with the weapons of mass destruction. He was a peace-loving man who was inspired to go into public service when he served his country in World War II. He witnessed the carnage of his fellow men as he earned five battle stars as a gunnery officer on the U.S.S. *Swanson,* narrowly skirting death as barrages of Kamikaze planes swooped in and crashed all around the *Swanson.* After living through war, John Lindsay devoted his life to peace, both domestic and international.

A graduate of Yale University and Law School, Mr. Lindsay went to work as executive assistant to the Attorney General in Washington from 1955 through 1957, where he argued three constitutional cases before the U.S. Supreme Court. He also represented the Attorney General and the United States in Vienna during the Hungarian revolt, and set up machinery to admit 30,000 Hungarians into the United States.

In 1958, he was elected to the U.S. Congress, where he served for 8 years as a member of the Judiciary Committee. He was also a delegate to the NATO Parliamentarians Conference in Paris from 1964 to 1966, and served as chair of the political committee of the Conference from 1965 to 1966.

John Lindsay was a Republican at the time. His now-famous independence and reform-minded spirit emerged as he fought the status quo and expanded the Rules Committee. He aspired to serve on the Foreign Affairs Committee, but his successful effort to shake up the way Congress did business wrought the ire of guardians of the status quo. As a result, he never made the Foreign Affairs Committee.

But all's well that ends well. One day during John's fourth term, Senator Jacob Javits pulled him aside and said, "John, why don't you run for Mayor?"

Mr. Lindsay, who had aspirations for higher political office, promptly replied, "Why don't *you* run for Mayor?"

Senator Javits replied, "Because the job would kill me."

"Thanks a lot," John replied.

So John Lindsay ran. And John Lindsay won. And for the next 8 years, he devoted himself to solving urban social problems and expanding civil rights for all New Yorkers and all Americans, serving on the Kerner Commission and as chair of the Urban Action Committee of the U.S. Conference of Mayors.

For all his work on progressive causes, New York City Republicans rewarded Mr. Lindsay by spurning him as their candidate in 1969. John Marchi defeated him in the Republican primary.

Then, John made history. He ran—and won—as an independent. Now and forever more, the very word "independence" in politics is synonymous with John Lindsay.

During his 8 years in office, Mayor Lindsay confronted enormous economic and demographic pressures. As Mayor Lindsay's corporation counsel Norman Redlich wrote after Mayor Lindsay left office in 1973,

> John Lindsay was Mayor at a time when three of the most massive population movements in this country's history engulfed the northern cities, particularly New York. There was a movement of the rural poor, primarily black, from the farms to the cities, lured not by the promise of welfare but by the need to survive. At the same time there was the movement of the urban middle and upper classes, spurred by federal housing and transportation policies, out of the cities to the suburbs. Finally, there was the movement of people and business from the Northeast to the Sunbelt.

This demographic sea change brought New York City's financial health under siege. Onerous Federal laws forced New York City to pick up 25 percent of all welfare payments, a burden not borne by any other city.

That, and the enormous financial pressures of maintaining the City University and the municipal hospitals created a severe fiscal crisis.

> As Norman Redlich wrote, "Lindsay dealt with the explosive problems of race in the areas of education, police-community relations, housing and jobs. He tried, with enormous political and personal courage, to resolve in this City the moral dilemma that has faced this country from the day the first black person set foot on these shores three and a half centuries ago.

In short, John Lindsay was a man—and a Mayor—of principle. President Clinton's recent letter to him in August is a profound statement about the lessons that John taught us.

After leaving the Mayor's office, John Lindsay went to Europe for a sabbatical. While there, he contributed articles to such publications as Harper's, Atlantic Monthly and the New York Times Magazine.

John Lindsay was an accomplished writer both in and out of office, authoring three books, including a novel, published in 1975. He was also a contributing editor for many years to Channel 13 and ABC News.

And, John never really left politics. Following his tenure in City Hall, he became President of the Association of Former Members of Congress, of which he is still a member.

He also took an active interest in the arts, serving as chairman of the board of the Lincoln Center Theatre and board member of Lincoln Center for the Performing Arts.

His interests are numerous, as evidenced by the organizations on which he serves as a board member: the Police Foundation, the Association for a Better New York, and former director of the Lincoln Savings Bank.

Mr. Lindsay made his living both before and after serving in office as a lawyer, and a fine one. He was a partner for 36 years at Webster and Sheffield. Today, he is Of Counsel to Mudge Rose Guthrie Alexander & Ferdon.

The success and influence of your life can be measured in part by how many people compare themselves to you. And seemingly all candidates in New York politics bills themselves as "the next John Lindsay."

But there will never truly be "a next John Lindsay," for the simple reason that John Lindsay is one of a kind.

Mr. Speaker, I never took a class from John Lindsay, but I consider him one of my teachers. And it is a profound honor to call him my friend.

PARCA'S RAJI HOUSE: A QUALITY CHILDREN'S RESPITE HOUSE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. LANTOS. Mr. Speaker, I rise today in recognition of the efforts of the organization

known as PARCA, or the Peninsula Association for Retarded Children and Adults. For years, PARCA has been a vital and integral part of the community of the San Francisco Bay area.

Now, with a generous donation from Umang and Ruth Gupta, the group home located at 1401 Palm Drive in Burlingame, CA, is undergoing extensive renovations and is due to open October 14. Once completed, this facility will be the first of its kind in operation in San Mateo County.

The Raji House will provide respite care on the weekends for developmentally disabled children. Twenty-four hour weekend care will be provided, offering three to thirteen children to one counselor—supervision and quality care. Their intention is to eventually expand operations to 7 days a week.

Raji House aims to provide a structured yet relaxed, nonpressured, social atmosphere offering children an enjoyable supervised experience. It will provide indoor and outdoor therapeutic recreational, social, leisure, and educational activities. Indoor activities will be geared toward providing opportunities for individual play and group interaction. Outdoor activities will provide children with exercise, community integration, and opportunities for social interaction.

Community outings and local community resources are an important part of the Raji House respite program, and will be a regular part of the children's stay at Raji House. Depending on the age and developmental level of the children, they will be integrated into the community at large on each weekday, and activities will be provided in a natural setting.

Raji House owes a great deal to Umang and Ruth Gupta who donated $1 million for its renovation and operational expenses for the next 20 years.

Umang and Ruth Gupta were parents of a developmentally delayed child, Rajan Frances Gupta (Raji), for whom the house was named. Raji was born on October 24,1984, with profound mental retardation and severe infantile spasms—seizures. He lived for 2½ years until March 17, 1987, and brought a great deal of love and joy into the Gupta family. The Gupta family persevered through this difficult period with the help of various community organization. One such organization was PARCA, whose Board of Directors Umang later joined. The Guptas feel a profound gratitude to the community which helped support them and the needs of other developmentally delayed children and their families.

In PARCA's annual community surveys, a quality respite home scores on the top of the list of community needs. The people of the county of San Mateo are indebted to the generosity of the Guptas for setting up Raji House. The Guptas serve as an inspiration to all who seek to increase the quality of life of the communities in which they live.

A GOOD FIRST STEP TOWARD MEANINGFUL HEALTH CARE REFORM IN THE 104TH CONGRESS

HON. TERRY EVERETT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. EVERETT. Mr. Speaker, to be certain, health care reform is dead for the 103d Congress. Although I have withheld my official support for H.R. 3955, the original Rowland-Bilirakis health care plan, I feel compelled to cosponsor this legislation before we adjourn. I do this with the hope that this bill will serve as the focus for the health care debate in the next Congress. I believe that H.R. 3955 is a good first step toward meaningful health care reform for the American people.

With its focus on key elements that include the portability of benefits, the removal of preexisting condition exceptions, other insurance reforms, malpractice reform, and antitrust reform, H.R. 3955 would make significant positive improvements to our current health care system, which I feel that most Americans would agree is the best in the world. I am especially pleased to support this bill in light of the Congressional Budget Office's favorable assessment of the bipartisan health care compromise unveiled in August, which has many provisions similar to H.R. 3955. The CBO concluded that the bill, which is free from new Government bureaucracies and job-killing employer mandates, would result in $65 billion in deficit reduction and would extend coverage to 92 percent of Americans.

The CBO findings further confirm my firm belief that we can improve our health care system without skyrocketing our Federal deficit or putting Federal bureaucrats in between patients and physicians. When the 104th Congress convenes in January, I would encourage my colleagues to take a close look at H.R. 3955 as a sound basis for health care reform. We owe it to the American people to take a commonsense approach to health care reform that will not jeopardize the outstanding level of care and choice that exists in our present system.

IN MEMORY OF JAMES MATTHEW BROADUS III

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. STUDDS. Mr. Speaker, the marine scientific and policy community suffered a tremendous loss with the tragic and untimely death of Dr. James Matthew Broadus III, the Director of the Marine Policy Center at the Woods Hole Oceanographic Institution, on September 28, 1994. Dr. Broadus was recognized internationally for his work on the economics of ocean and coastal resources, particularly in the areas of marine minerals and global climate change.

Jim was the first social scientist appointed to the resident scientific staff at Woods Hole and served as Director of the Policy Center from 1986 until his death. He was one of those rare breeds—a brilliant academic with a detailed and sophisticated understanding of the political system and an appreciation of the necessity of translating scholarly findings into language understandable by policy makers.

I will miss the contributions that Jim Broadus made to my own work in Congress. He frequently provided good counsel to me and my staff on a wide range of issues. One measure of a person in a position like Jim's is the extraordinarily high level of respect accorded to him by those who worked with him. Under Jim's leadership, the Marine Policy Center blossomed into one of the leading institutions, of its kind because of the productivity of the excellent staff that he put together. It is a productivity for which Jim was directly responsible by the open and collegial environment he nurtured at the Center.

We hope that the memory of his dedication, talent, and leadership will help to sustain the tradition of excellence that he established for the Marine Policy Center at Woods Hole.

Finally, to Jim's family, his wife Victoria, sons, Matthew and Joseph, and daughter, Tory, my staff and I extend our deepest sympathies. I hope that the knowledge of the important and lasting contributions that Jim made, and the deep affection and respect that we had for him, will help sustain you during this time of sorrow.

ST. JOSEPH PARISH: 175TH ANNIVERSARY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. DINGELL. Mr. Speaker, I rise today to recognize the 175th anniversary of the founding of St. Joseph parish in Erie, Michigan which is located in my Congressional District.

The present church is the third structure to have served the people of Erie. In 1819, pioneering parishioners erected a simple structure made with logs and roofed with tree bark where they could express their faith. The community then known as the Bay Settlement was made up of hunters, trappers, fur traders, and farmers. The church was one of only four in the whole archdiocese of Detroit. The people of Bay Settlement relied on the lake to travel, as well as to receive their ministry, made up of Jesuit priests. In the beginning years, Father Gabriel Richard occasionally traveled to the area.

In 1826, the original structure was replaced by a wood frame church, and by 1833 the church was occupied by its first resident pastor, Father J. DeBruyn. The St. Joseph parish continued to prosper allowing work to begin on the present building, which was completed in 1852, under the leadership of Father Peter Warlop. The church was built of brick, with strong, thick walls, sloping roofs, and a towering steeple. It was a remarkable architectural achievement.

The church of St. Joseph has inspired the people of Erie as their community has grown. Serving as a symbol of hope for the future and reminding them of their predecessors' faith,

the church has been a source of great strength for those who worship there. Today it remains a focal point of the community serving more than 630 families. It also provides invaluable instruction for the young people of Erie and helps to promote their growth and development. The church school assists 193 students in the first years of their learning, from pre-kindergarten through the eighth grade. All this is made possible by the hard work and sound leadership of Father Joseph Plawecki and Rev. Mr. Wesley Cousino.

The rich history of St. Joseph parish, and the lasting tradition of those that worship there, represent the outstanding values that have built our Nation. The commitment and determination of the congregation and people of Erie are illustrated by their strong desire to build on past successes. They are marking this important anniversary with the construction of a new activities center which includes a social hall and a gym. The completion of these facilities will allow the parish to continue to serve the people of southeast Monroe County well into the next century.

Mr. Speaker, I call upon my colleagues to join with me in congratulating the congregation of St. Joseph on reaching this milestone in their history and to wish them similar success in the future.

A TRIBUTE TO PAT RISSLER

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. CLAY. Mr. Speaker, as my good friend, the Honorable WILLIAM FORD brings his 30-year tenure in the House to a close, so will Patricia F. Rissler, staff director of the Committee on Education and Labor. This dedicated and respected administrator will be retiring at the end of this session after a long and impressive career of service to the Congress.

Pat began her career as a staff assistant to Representative Neil Staebler from Michigan in 1963 and rose through the ranks to become staff director of the Committee on Post Office and Civil Service in 1989 and staff director of the Committee on Education and Labor in 1991.

Pat has been a key staff member on issues regarding civil service, education, and labor. As principal policy and political advisor to Chairman WILLIAM FORD, Pat contributed to numerous legislative successes for the Committees on Post Office and Civil Service and Education and Labor. Her credits include the development of the Federal employees retirement systems, the Workplace Fairness Act, Family and Medical Leave, Goals 2000: Educate America Act, National and Community Service Act, the Elementary and Secondary Education Act, the reauthorization of the Higher Education Act, women's employment equity and civil rights, just to name a few.

Pat was cited several times by Roll Call newspaper as one of the most influential staffers on Capitol Hill and was named runner-up to the Ultimate Hill Climber in 1993.

Pat Rissler is one of the most effective administrators I have every known. I have very high regard for her professional judgment and keen political insight. Moreover, she is candid, impartial, and trustworthy.

I express my deep gratitude to Pat for her outstanding assistance and wish her much success in the future. I am confident that she will be productive and resourceful in any endeavor she pursues.

THE INTERNATIONAL CORPORATE RESPONSIBILITY ACT OF 1994

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. EVANS. Mr. Speaker, as a leader in the international economic community, our Nation can be proud that we also maintain one of the most progressive policies in the world by ensuring worker rights for our labor force. In general, U.S. corporations pay their employees fair wages, maintain safe and fair working conditions and are environmentally conscious. Yet, some companies do not feel compelled to treat their workers with the same dignity and respect when operating abroad. Even more disturbing is that although some companies have endorsed a code of conduct for their foreign subsidiaries to live by, there is a significant disparity between the application of these codes to operations in the United States and abroad.

Although most companies would not knowingly contribute to repressive and irresponsible business practices, there have been cases where fundamental and internationally recognized worker rights have been violated. For example, in some U.S. affiliated factories abroad, children as young as 5 work alongside each other from 6 in the morning to 7 at night for less than 20 cents a day. in other cases, contractors like Reebok's Chinese affiliate, Yue Yuen, were found to combine warehouse, workplace and dormitory facilities—contributing to dangerous and inhumane working and living conditions. Fortunately, Reebok pressured its contractor to either correct the situation or lose its contract.

However, the Reebok case is not unique. In many cases, U.S. multinationals engaged in joint ventures or other business arrangements, may not have complete control over ensuring that fair labor practices are guaranteed to workers. Therefore, it is increasingly important that these companies articulate a socially responsible policy and provide active oversight over these standards, so that decisions are not left solely in the hands of local partners.

It is imperative that as an influential economic power, we take the initiative to not only encourage our corporations to adopt a set of voluntary and internationally-recognized principles that promote socially responsible business practices, but to improve their level of adherence to these standards.

I am pleased that Chairmen BROWN and CONYERS, Congresswoman KAPTUR, and Congressman DEFAZIO have joined me in introducing a bill that would codify and broaden socially responsible business practices for U.S. multinationals.

Undert this bill, the State Department, in cooperation with relevant agencies, will develop a set of voluntary guidelines based on internationally-recognized principles. The bill calls on the State Department to include and reaffirm the following:

The Organization for Economic Cooperation and Development [OECD] and International Labor Organization [ILO] guidelines concerning multinational enterprises and social policy.

The Sullivan, MacBride, and Slepak Principles—codes of conduct for South Africa, Northern Ireland, and the former Soviet Union.

Annual public hearings on the corporate compliance of these principles.

Among other things, the bill calls for increased disclosure, monitoring, and publicity of the corporate level of adherence to these standards. By codifying and broadening awareness of these codes, the United States will demonstrate that foreign investment can remain competitive, while creating a socially responsible climate for trade and investment.

Mr. Speaker, I urge my colleague to cosponsor this legislation to ensure that international trade and investment in a positive force in these countries—not a license to exploit workers.

TRIBUTE TO TOM JURCHAK

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. McDADE. Mr. Speaker, I take this opportunity to recognize the achievements of an outstanding Pennsylvanian who has made a lasting, positive, and significant contribution to the agricultural economy and the individuals and families involved in farming.

Tom Jurchak is retiring next month after 38 years with the Pennsylvania State University Extension Service. He started in 1956 as assistant agent in Luzerne County and was named to his present position as Lackawanna County Extension Director. Those nearly four decades of service are distinguished by a remarkable dedication, expert knowledge, professional competence, and innovative ideas for improving agricultural production.

Tom's contributions to the commercial vegetable production, tomato, and dairy industries have been invaluable. His monthly "Milk Market News" report is a widely read and valued resource for dairy farmers throughout the entire northeastern United States.

His expertise in the commercial vegetable field has resulted in numerous advancements in soil treatment and production, especially the "no till" tomato planter. Tom was instrumental in the growth of an expanding fresh market tomato industry and the development of a viable and growing local vegetable business and the startup of the oldest farmer-owned night market in Pennsylvania.

I have particular memories of Tom's essential role 21 years ago in gathering information on Federal assistance in the aftermath of damage in my region from Hurricane Agnes. He played a key role in efforts to grow grass on culm banks in northeastern Pennsylvania and development of nutrition aid programs for low-income families. He has also been active in 4–H and youth development activities.

My staff and I are grateful to Tom for serving as a source of information and advice on dairy policy and agriculture issues.

Tom Jurchak will be honored by the Lackawanna County Cooperative Extension Association at a reception in Dickson City, PA, on November 12. He is truly deserving of all of the accolades he will receive. He has been a force for positive change, and I want to extend my appreciation for the remarkable job he has done. My best wishes go to Tom, his wife Marie, their four children, and their families.

KUDOS FOR THE STAFF

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. FORD of Michigan. Mr. Speaker, I want to take a few minutes to talk about some of the people who have helped my predecessors and me enact important education and labor legislation over the past couple of decades.

As you and all of our colleagues know, Mr. Speaker, I will be retiring from the House at the end of this session. And as you also know, it is the 435 Members of this body who come before the cameras every day we are session, who get their names in the paper, who get the glory of serving our fellow citizens in this great institution. But behind us are a group of hard-working, intelligent, dedicated and loyal people who do the work of drafting legislation, putting together hearings, writing reports, and making sure that the trains run on time.

In my three decades in the House, I have been blessed to have a great number of people working for me to execute the work we were sent here to do. And as I leave the chair of the Committee on Education and Labor, there are five long-time employees who will be leaving with me. All have worked either for me or for the committee, or for other Members of Congress, for at least 20 years.

Barbara Morrison joined the committee staff in 1974 as an executive assistant for our friend, Carl Perkins. Over the last two decades, she has been an administrative assistant and specialist working in a variety of areas, including labor, budget, employment and training, human resources, and child care.

A native of Nashville and a graduate of the University of Tennessee, Barbara moved to Washington in 1961, working downtown as a legal secretary for 13 years before bringing her experience to the House. Over my 4 years as chairman, Barbara has helped us pass legislation such as the striker replacement bill, pension reform, and the National Service Program.

Lelia Beall first began working for the committee in 1963 and 1964 as a summer intern. Known affectionately as Peanuts, she returned the following summer, stepping in as clerk for the Subcommittee on Labor. She returned to school at George Washington University that fall, but in January 1965, she was asked to come back full time as subcommittee clerk. She did, and continued attending George Washington at night until she received her degree in 1970.

Along the way, Peanuts has been a key legislative assistant for the full committee, ensuring that our work is carried out in a timely fashion and providing institutional memory for the top-level staff who have come and gone for the past 28 years. Her shoes cannot be filled for a long time.

Toni Painter came to work as a part-time secretary to the staff director of the Subcommittee on Elementary and Secondary Education, Jack Jennings, in 1971, and still got home in time to greet her three children returning from elementary school. Over the following 5 years, Toni's hours increased along with Jack's needs. Toni was one of the people who helped us pass this last committee bill of the year, H.R. 6, the Improving America's Schools Act.

Jack Jennings also is leaving. Jack had tried to leave 2 years ago, but agreed to stay on to help Dale Kildee and me pass H.R. 6. Jack has been writing education legislation since 1967, when our colleague Roman Pucinski called Jack right out of law school to leave Chicago and come run the Subcommittee on Elementary and Secondary Education. He has become the most knowledgeable person in this country about federal aid to public education.

A trade newspaper, Education Week, published a profile of Jack in September. It quoted someone as saying, "There probably isn't an important education issue on which Jack hasn't been a key player. He is the one person who really ties the creation of these programs to today's intellectual and political reality." I have to agree.

Few people are replaceable around here, but as I look at the committee and around Washington, I don't see anyone who comes close to matching Jack in qualifications or dedication to the interests of public education. Personally, I'm pleased I won't have to try to serve without his assistance.

For 11 years, until last year, Janice McDonald was my executive assistant. Janice ran my office, administered my personal affairs, arranged my schedule, and read my mind. About a year ago she moved over to the Committee to become its chief administrative officer. She continued to read my mind.

Janice has been on Capitol Hill since 1969, when she left Michigan to work for our beloved friend Phil Hart. That was where I met her. When our colleague Joseph Fisher was elected to the House in 1974, Janice became his executive assistant, remaining until he left 6 years later. After a couple of years in the private sector, Janice joined my personal office in 1983. And with my departure, she, too, is taking her leave of public service.

Janice tells me that she has loved every moment of her life on the Hill—well, I know that can't be true. But she also says she knows enough to write a book, so I'm trying to be careful.

Mr. Speaker, these five people have between them 123 years of public service. Their efforts have made a direct difference to the lives of millions of Americans. The Education and Labor Committee is the "people committee." Its work helps people to acquire the skills they need to become contributing members of society, gives them legal protection from injury on the job, and secures their pensions. It has been my privilege to know these five people, and I wish them the best as they pursue their respective endeavors when they leave the Capitol at the end of this year.

THANK YOU, DR. KELL

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BARCIA of Michigan. Mr. Speaker, on October 31, the congregation of the Lutheran Church—Missouri Synod, will be celebrating the accomplishments of Dr. Donald L. Kell, who will be retiring after forty-one years of service to the Church. I join with the thousands whose lives Dr. Kell has touched with his ministry in thanking him for providing guidance, stability and sensitivity in a world so much in need of those qualities.

Dr. Kell has spent the last twenty six years as the Education Executive for the Michigan District of the Lutheran Church—Missouri Synod. Having served as a teacher, athletic director, youth counselor, and principal, his impact on the young people of Michigan.

His wife of nearly forty years, Carol, and his daughters Gretchen and Gwen, have had the opportunity to experience daily the profound influence that this gentleman exhibits. The leadership that he has demonstrated in their lives carries over to the work that he has done in contributing to the Executive Board of Family Life for the Lutheran Church. He has been extremely sensitive to the teaching of family traditions and values, something for which our nation has a great need.

Dr. Kell is a leader in the development of improved Lutheran education in the 21st century. The Saginaw Valley is tremendously strong in Lutheran education. The quality of education at Michigan's 100-plus Lutheran schools has been enhanced under his leadership, including the all-important development of pre-schools. He has worked tirelessly with our public school system to make sure that there has been constant attention to maintaining high quality throughout our education system.

Mr. Speaker, while Dr. Donald Kell is not a constituent, his life's work has been so important to so many people that I represent that I believe it is most appropriate for me to thank him on behalf of my constituents, and to wish him and his family every blessing as he movers on to new and equally important challenges in his life. I urge our colleagues to join me in wishing him well.

IN HONOR OF THE 325TH ANNIVERSARY OF WOODBRIDGE TOWNSHIP

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. MENENDEZ. Mr. Speaker, I would like to take this opportunity to congratulate the citizens of Woodbridge as they celebrate the township's 325th anniversary. This is a very special time for those living in Woodbridge. It

is a time to look back at the proud and glorious history of the township. It is a time to commemorate a wonderful history.

Woodbridge is the fifth largest municipality in New Jersey with a population of 93,086 covering 27 square miles. The township consists of ten sections, including, Avenel, Colonia, Fords, Hopelawn, Iselin, Keasbey, Menlo Park Terrace, Port Reading, Sewaren and Woodbridge proper. Many major corporations are based or have regional offices in Woodbridge. Among them are: Hanson Industries Inc., Siemens, Ciba Consumer Pharmaceutical, Englehard Corp., Merck & Co., Hess, Carborundum Co., Ecolab, Kullman Industries and Supermarkets General.

The township has a rich history. In 1664, settlers, mostly from New England, began arriving in the Woodbridge area. In 1669, Woodbridge was officially chartered as the property of Sir Phillip Carteret, Governor of New Jersey at the time. In 1751, James Parker opened his print shop which published New Jersey's first newspaper. In 1877, the first school in Woodbridge opened, along with Barron Library. When the United States entered World War II, Woodbridge citizens came together to lend a hand to the war effort by establishing a township defense council to handle all emergencies. In 1965, the township received the All American City Award from the National Municipal League.

This is a proud time for the citizens of Woodbridge because they are celebrating the anniversary of their township. Today, Woodbridge is regarded as a state and national leader for its achievements in local government. Its citizens are kind people dedicated to serving their community. They are the kind of people who come together in times of difficulty, as well as in times of prosperity.

Woodbridge will be concluding their yearlong celebration with a heritage ball on October 23. I hope this event is successful and enjoyable for all in attendance.

I am proud to have such a municipality in my district. Woodbridge is just one example of how well government can work. I would like to offer my best wishes to the citizens of Woodbridge for a prosperous future.

PASQUALE NATALE HONORED

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Ms. DELAURO. Mr. Speaker, today it is my pleasure to pay tribute to a distinguished citizen from my district, Detective Pasquale Natale. After 38 years of public service, Detective Natale will be retiring from the Hamden Police Department.

Detective Natale's hard work and commitment to the community have earned him many awards and commendations. In 1984, he was honored as the Civitan Police Officer of the Year. The following year, he distinguished himself as a graduate of the FBI National Academy. Mr. Natale is well known to the citizens of Hamden for his extraordinary commitment to his public responsibilities.

For almost four decades, Detective Natale has worked ceaselessly to ensure the safety of his community. Despite his many responsibilities, Pasquale has always found the time to support community events and to indulge in his love of athletics. Mr. Natale is also a devoted husband and father to two sons. One of his children, Anthony, has chosen to follow in his father's footsteps as a Hamden police detective.

Mr. Speaker, I am proud to salute and honor the commitment and dedication displayed by Detective Natale during his 38 years on the Hamden Police Force. I commend him on a lifetime of invaluable service to the citizens of my district.

AMY FREEMAN LEE

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. GONZALEZ. Mr. Speaker, I rise today to commemorate the achievement, dedication, service, and spirit of a long-time associate of mine, Dr. Amy Freeman Lee, on the occasion of her 80th birthday, which was this past Monday.

She is not just a friend of mine, but she is also friend to San Antonio, to Texas, to the arts, and to the animals of this world. She brings true meaning to the sentiment that the world is a better place because of her.

No small space can adequately reflect or summarize the breadth of Dr. Lee's accomplishments and contributions over the years. However, I wanted to take this opportunity here to wish Amy a happy birthday and commemorate as I am able a truly remarkable woman and the life she continues to lead.

For the RECORD, I am enclosing the entry for Amy Freeman Lee from the 1993–94 edition of "Who's Who in the World" and from the 1991–92 edition of "Who's Who in American Art."

SUMMARY

Chairman, Board of Trustees, The Wilhelm Schole, Houston, Texas
Chairman, Board of Trustees, Incarnate Word College, San Antonio, Texas 1973 to 1990
Founder-President—The Texas Watercolor Society
Elected to Membership in the International Art Critics' Association, Paris, France.
Member, Advisory Council, College of Fine Arts, The University of Texas, Austin, Texas
Past President and current Executive Board Member, San Antonio Blind Assoc.
Appointment by the Supreme Court of Texas to serve on the Grievance Oversight Committee, Austin, Texas
Elected Public Member of the Texas Society of Architects, a regional component of the American Institute of Architects
National Trustee and National Secretary of the Humane Society of the U.S., Washington, DC.
Vice-President of EarthKind—HSUS
1984—Elected to Texas Women's Hall of Fame, (Arts and Humanities Division) by the Governor's Texas Commission for Women, Austin, Texas
1984—CBS Documentary, "Reality Is Becoming", a Biography of Amy Freeman Lee (Nominated for an Emmy Award)
1985—The Joseph Wood Krutch Medal—The Humane Society of the United States, Washington, DC.
1988—First "Living Treasure of San Antonio" Award for Outstanding Achievements as Artist, Scholar, Humanist—Presented by the Center For Peace Through Culture—San Antonio, Texas
1988—First Cosmopolis Award For Significant Contribution to Human Understanding Through Humane Movement from The Wilhelm Schole in Houston, TX
1990—J.C. Penny Spirit of the American Woman Award
1991—Appointed by the Supreme Court of Texas to serve on the Lawyer Discipline Commission
1992—Appointed by the Governor of Texas to the Texas Committee For The Humanities
1993—Board of Trustees—The Institute for the Humanities at Salado
1993—Elected Distinguished Fellow—Texas Art Education Association
1994—Elected to the Board of Trustees of The Texas Center For Legal Ethics and Professionalism
1994—Designated "Charter Emeritus Member"—The Texas Watercolor Society

Lee, Amy Freeman
Painter, Lecturer

b San Antonio, Tex, Oct 3, 14. Study: St Mary's Hall, San Antonio, grad. 31; Univ Tex. Austin, 31–34; Incarnate Word Col. 34–42, Hon LittD, 65. Work: D D Feldman Collection, Univ Tex Mus. Austin; Smith Col Mus Fine Arts. Mass; Ft Worth Art Ctr, Tex: Norfolk Mus Arts & Sci, Va; McNay Art Mus. San Antonio, Tex; and others. Comn: Camelia Award Painting, Joskes of Texas, San Antonio, 71. Exhib: Nat Soc Painters Casein & Acrylic, New York, 81; 32nd Ann Tex Watercolor Soc, McNay Art Inst, San Antonio, 81; Nat Watercolor Soc, Brand Libr Art Galleries, Calif, 81; Governor's Tex Educ Week, Tex Artist's Exhib, 83; Tex Watercolor Soc, McNay Art Mus, San Antonio, 83 & 85; Nat Soc Painters in Casein & Acrylic, Nat Art Club, New York, 85; Int-30th Anniversary Exhib-Arte, AC, Monterrey, Mex, 85; Solo exhibs, Sol de Rio Gallery, San Antonio, Tex, 87 & 89; Hors de Concourt, 40th Anniversary Exhib, Tex Watercolor Soc, McNay Art Mus, San Antonio, 89. Pos: Art critic, KONO Radio Sta, San Antonio, 47–52; ed critic, KTSA Radio Sta, San Antonio, 79–80. Teaching: Lectr, Trinity Univ, 54–57, San Antonio Art Inst, 55–57 & Our Lady of Lake Col, 69–; lectr English & aesthetics, Humane Ethics-Incarnate Word Col, San Antonio, 66–; vis scholar, St Mark's Sch, Dallas, Tex, 89. Awards: Elected to Tex Women's.

Hall of Fame-Arts & Humanities by the Gov of Tex, Austin, 84; First Living Treasure San Antonio Award, Ctr Peace Through Cult, 88; 20th Anniversary Medal, Univ Tex Health Sci Ctr, San Antonio, 89. Bibliog: To See A World (documentary), 84 & Reality is Becoming, 85, CBS. Mem: Founding mem Tex Watercolor Soc; Nat Watercolor Soc; Nat Soc Painters in Casein; Int Soc Educ Through Art; SW Watercolor Soc; Int Soc Aesthetics. Media: Watercolor. Publ: Auth, Creativity and the Human Spirit, Univ Tex Press, Austin, 73; On the Fifth Day; Animal Rights and Human Ethics—A Game for all Seasons, Acropolis Books, Washington, DC, 77; Winging with the Wild, White Bird (exhib catalog), McNay Art Mus. San Antonio, 1/86. Dealer: L & L Gallery 1107 N Fourth St Longview TX 75601; Sol del Rio Art Gallery 1020 Townsend Ave San Antonio TX 78209. Mailing Add: 127 Canterbury Hill San Antonio TX 78209.

CLARIFICATION OF SECTION-BY-SECTION ON H.R. 5116

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BROOKS. Mr. Speaker, I would like to make certain clarifications to the section-by-section description I placed in the RECORD during the October 5, 1994, debate concerning H.R. 5116, the Bankruptcy Reform Act of 1994. Attached are descriptions of sections 208 and 216 of that bill which should be inserted in lieu of the language currently in the RECORD:

Section 208. Production payments.

A production payment is an interest in certain reserves of an oil or gas producer that lasts for a limited period of time and that is not affected by production costs. The owner has no other interest in the property or business of the producer other than the interest in the reserves. The production payment is created out of an oil and gas lease, each of which is a real property interest. Production payments represent a means by which capital-strapped oil producers may monetize their property without giving up operating control of their business. Although a number of States use the ownership theory by treating production payments as conveying interests in real property (*See In re Simasko Production Co*, 74 B.R. 947 (D. Colo. 1987) (production payment treated as a separate property interest)), it is not clear that this treatment will necessarily apply in all States in case of bankruptcy. As a result, this section modifies section 541 of the Bankruptcy Code to exclude production payments sold by the debtor prior to a bankruptcy filing from the debtor's estate in property. It is not the intent of this section to permit a conveyance of a production payment or an oil and gas lease to be recharacterized in a bankruptcy context as a contractual interest subject to rejection under section 365 of the Bankruptcy Code.

Section 216. Limitation of avoiding powers.

This section defines the applicable statute of limitation period under section 546(a)(1) of the Bankruptcy Code as being two years from the entry of an order of relief or one year after the appointment of the first trustee if such appointment occurs before the expiration of the original two-year period. Adoption of this change is not intended to create any negative inference or implication regarding the status of current law or interpretations of section 546(a)(1).

The section is not intended to have any bearing on the equitable tolling doctrine where there has been fraud determined to have occurred. Further, the time limits are not intended to be jurisdictional and can be extended by stipulation between the necessary parties to the action or proceeding.

EL REGRESO FOUNDATION

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Ms. VELÁZQUEZ. Mr. Speaker, on September 23, 1994, I attended the graduation ceremony for El Regreso Foundation, a bilingual drug and alcohol abuse treatment program in the Williamsburg, Brooklyn section of my district. The event was an incredibly moving experience filled with tears and applause. The feeling of hope overcoming pain and abuse permeated the evening's festivities.

Overcoming the greatest odds and barriers, these graduates literally received a new lease on life, a life formerly plagued with violence, crime and drug use.

This graduation was a perfect example of the ability of our people to take hold of their lives and turn them around, to be able to look into their selves and recognize that they do not want to become another statistic.

Events such as this one at El Regreso, are an inspiration to us all. They are of extreme importance to communities such as Williamsburg, which struggle daily for sources of hope. And while the media bombards us daily with stories of violence, crime and despair, these and other success stories go unnoticed.

Success stories such as the one of Carlos Pagan. He, too, overcame heavy drug use and a hard street life, to become the founder and executive director of El Regreso. He is now a source of inspiration to untold numbers of men and women who go through El Regreso's program, and a bright beacon of light illuminating the dark waters of addiction.

In closing, I salute Carlos Pagan and the staff of El Regreso for reminding our community that the best weapons against poverty, discrimination and even fear are not the escapes offered by powerful hallucinogenics. The best weapons against these enemies are the potency of pride and the power of belief in themselves.

RECYCLABLE COLLECTION PROGRAMS UNCHANGED

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. MINETA. Mr. Speaker, just a few weeks ago the Congress passed and the President signed into law the Federal Aviation Administration Authorization Act of 1994. Title VI of that Act dealt with preemption of State economic regulation of motor carrier transportation. In general, Title VI would preempt state economic regulation of most forms of intrastate trucking.

A question has been raised recently about whether Title VI has the effect of preempting State economic regulation of the curbside collection of recyclables. It clearly does not.

The relevant language in the Act is in Sec. 601(c) of the Act, which states in relevant part: "* * * a State, political subdivision of a State, or political authority of 2 or more States may not enact or enforce a law, regulation, or other provision having the force and effect of law relating to a price, route, or service of any motor carrier * * * with respect to the transportation of property."

The key issue becomes whether the curbside collection of recyclables is within the meaning of the term "transportation of property." That term is a term long used in the Interstate Commerce Act and has had its exact legal meaning refined over the years through a series of precedents. Sec. 601(c) is an amendment to the Interstate Commerce Act, and we are in Title VI using the term "transportation of property" consistent with its meaning in the Interstate Commerce Act and the related precedents.

The meaning of the term as refined by precedent is broad enough to cover, for example, recyclables being transported as part of a commercial transaction to a major remanufacturing concern, but not so broad as to cover garbage collection and closely analoguous curbside collection of recyclables. This distinction is fully spelled out in the written opinion I recently received from the General Counsel of the ICC, which I insert in the RECORD with this statement.

There should be no uncertainty or question in anyone's mind about this: curbside collection of recyclables is not within the definition of transportation of property as the term is used in the ICC Act or in Title VI of the Federal Aviation Administration Act of 1994. Curbside collection of recyclables is therefore not preempted by Title VI.

I would like to thank in particular my colleague from the State of Washington, MARIA CANTWELL, who has taken the leadership role in ensuring that this issue be clarified and in assuring that curbside recyclable collection programs will continue unchanged by this legislation.

INTERSTATE COMMERCE COMMISSION,
OFFICE OF THE GENERAL COUNSEL,
Washington, DC, September 30, 1994.

Hon. NORMAN MINETA,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN MINETA: You have requested my opinion as to whether Title VI of the Federal Aviation Authorization Act of 1994 preempting State regulation of intrastate truck transportation can be interpreted as foreclosing a State or municipality from regulating curbside collection of recyclables in connection with the provision of curbside trash collection service. In my view it cannot.

The ICC has never regulated curbside collection of garbage. In fact, the Commission has issued decisions finding that garbage and refuse are not considered property under the Interstate Commerce Act because they have no value. *See Joray Trucking Corp. Common Carrier Application*, 99 M.C.C. 109, 110 (1965). There is no basis, in my opinion, for treating recyclables that are handled as a part of trash pickup or other curbside collection differently for regulatory purposes. In other words, recyclables segregated from trash for curbside collection should not be deemed to be property under I.C.C. precedent and as such would not come within the purview of Title VI of the FAA Act.

A distinction must be drawn between recyclables transportation that is a part of the curbside collection process and over the road shipments of recyclables in commercial quantities such as a movement of metal scrap from or to a foundry. As I have previously advised in response to a joint letter from Congressmen DeFazio, Rahall and Cantwell to Chairman McDonald, recyclables that have value for use in a manufacturing process have been treated as property under Commission case law. *Transportation of Waste*

Products for Reuse, 114 M.C.C. 92, 104–105 (1971).

Sincerely,

HENRI F. RUSH,
General Counsel.

RESIDENTIAL CURBSIDE RECYCLING

HON. MARIA CANTWELL

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Ms. CANTWELL. Mr. Speaker, on August 8, 1994, the House approved legislation to preempt intrastate trucking regulations. H.R. 2739 (Conference Report on the Federal Aviation Administration Authorization) contains provisions that preempt State trucking regulations pertaining to prices, routes and services.

In the weeks since the bill passed, concerns have been raised relating to curbside residential recycling programs. I appreciate the fact that members of the House-Senate conference committee on the Federal Aviation Administration Authorization Act of 1994 have clarified that it was not the intent of the Congress to impact curbside residential recycling programs. I would like to particularly acknowledge Public Works and Transportation Committee Chairman NORM MINETA and Surface Transportation Subcommittee Chairman NICK JOE RAHALL for their efforts to ensure that residential curbside recycling programs are not disrupted.

In addition, the ICC has issued a legal opinion that Title VI of the Federal Aviation Authorization Act of 1994 does not preempt a state or municipality from regulating curbside collection of recyclables. According to the ICC, recyclables segregated from trash for curbside collection should not be deemed to be property under ICC precedent and as such would not come within the purview of Title VI of the FAA Act.

Mr. Speaker, it is clear that both case precedent and congressional intent are consistent and definitive—Title VI of the FAA Act does not apply to the transportation for collection of recyclable materials that are a part of a residential curbside recycling program.

THE FARM VIABILITY AND PEST MANAGEMENT IMPROVEMENT ACT OF 1994

HON. CYNTHIA A. McKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Ms. MCKINNEY. Mr. Speaker, I come before this body today to introduce The Farm Viability and Pest Management Improvement Act of 1994.

This bill provides incentives for farmers and other users to substantially reduce their use of pesticides, while maintaining an abundant affordable food supply.

The bill is farmer friendly; it provides incentives and assistance rather than punishment, and it encourages farmers autonomy while giving the public the information it needs to trust farm-level decisions.

The bill has two primary objectives: No. 1 to identify and feature farmers who are using intregrated pest management and, No. 2 to generate information and recommendations that will lessen the use and shift resources away from chemical-intensive pest management.

I encourage support and cosponsorship for this bill.

BELIZE INDEPENDENCE

HON. SPENCER BACHUS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BACHUS of Alabama. Mr. Speaker, I rise today to call attention to a potential problem in Central America. It is important because the nation involved is peaceful, committee to democracy, and has close ties to the United States. The nation is Belize; perhaps the most stable and democratic nation in Central America.

English is it's official language. It has a literacy rate that exceeds 90 percent.

It's current United Democratic Government, under the leadership of Prime Minister Manuel Esquivel, is pro-American. It is a government working to encourage American investment and working to foster local free enterprise as the best path to prosperity for its 200,000 citizens. It is making progress.

Belize, once known as British Honduras, gained its independence in 1981. It is a member of the United Nations, and remains a member of the British Commonwealth.

However, its neighbor to the west, Guatemala, has a longstanding interest in the Belize access to the Caribbean Sea. In the early 1980's, Guatemala massed troops on its border with Belize in an intimidating fashion. Fortunately, the resolute action of the British Government of Margaret Thatcher in the Falkland Islands war, and the immediate stationing of RAF and British army personnel in Belize, convinced the Guatemalans to immediately avoid confrontation.

Now, however, the British are withdrawing their troops for financial reasons. Queen Elizabeth and Prince Philip spent a 2-day visit to Belize this past March to formally signal British determination to maintain Belizean independence and integrity.

I am speaking today as an effort to ward off any miscalculation toward the independence of Belize. This body should do a very simple thing in this matter: Formally note that the United States stands with Great Britain and in full support of U.N. resolutions in full support of Belize independence.

I have asked the Belize ambassador to the United States, the Honorable Dean Lindo, to keep me personally aware of any developments threatening Belize independence.

There is no need now for formal action by this Congress. This should make certain that aggressor nations fully understand that militant actions against the independent status of Belize are unacceptable and will meet immediate response from this body.

REFLECTIONS ON UNITED STATES-TAIWAN FRIENDSHIP

HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Ms. BROWN of Florida. Mr. Speaker, these are auspicious days for the Republic of China. After 6 years here in Washington, Representative Mou-Shih Ding of the Taipei Economic and Cultural Representative's Office of returning to Taipei to become the Secretary General of the National Security Council. I would like to congratulate Representative Ding on this latest promotion and wish him Godspeed in his new post. I am sure that he will continue to serve his country with the same grace and dignity that he has exhibited while here in Washington.

I would also like to take this opportunity to welcome to Washington Representative Ding's successor, Benjamin Lu, who, like Mou-Shih Ding, has had a long and distinguished career in the Foreign Service. I am confident that the special relationship between our two countries will continue to flourish under Benjamin Lu's stewardship.

October 10 marks the anniversary of the founding of the Republic of China, a day that is marked here in Washington by a number of cultural events. However, there is a more important reason for us to celebrate this date along with our Chinese friends, for it is only under a democratic system that Taiwan has been able to flourish economically and socially as we have seen over the past decade, becoming one of the world's leading economic powers.

To help us celebrate all of these momentous accomplishments for our friends on Taiwan. I urge my colleagues to support U.N. membership for the Republic of China on Taiwan. Although a member of several international organizations, the Republic of China has been refused a seat in the United Nations, which to many of us is truly absurd, for it denies to the world the many economic, social, cultural, environmental, and democratic benefits that the Republic of China's membership could bring. I know that Representative Ding has worked tirelessly for the last year on this matter, and I know that Benjamin Lu will also be deeply involved. I can think of no better way for us to show our support for the democrat ideals found in the Republic of China than to support this U.N. bid.

RETIREMENT OF HOUSE ATTENDING PHYSICIAN

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mrs. LLOYD. Mr. Speaker, I rise today to salute a great public servant, a man of complete dedication to duty and a person of great talent—my friend, Dr. Robert Krasner.

There are few individuals in this body that have touched and helped and counseled as many as Dr. Krasner. He has always been

there for us. Whether we need most qualified medical services or just an encouraging word to us through the day, Dr . Krasner was there with a smile. I will miss him.

Mr. Speaker, in June 1991, I was diagnosed with a breast malignancy. Today, I am cancer-free and well. I give Dr. Krasner much of the credit. Although I was in Tennessee for my surgery, Dr. Krasner stayed in touch daily and when I returned to Washington, he found a fine oncologist to provide treatment for recovery and continued to monitor my progress.

Dr. Krasner has served us well and we wish him only the best as he moves on to other challenges.

PATENT LAW CHANGES SHOULD NOT BE PART OF THE GATT LEGISLATION

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. ROHRABACHER. Mr. Speaker, recently there appeared in the New York Times an excellent article by Skip Kaltenheuser and Donald Banner that delineates the problems that the patent law changes buried in the GATT implementing legislation would create for small inventors and entrepreneurs. The future of our economy depends in large measure to the certainty provided by the present U.S. patent law protections. I commend this article to my colleagues.

[From the New York Times, Aug. 28, 1994]

DON'T SNEAK PATENT CHANGES INTO GATT

(By Donald W. Banner and Skip Kaltenheuser)

The General Agreement on Tariffs and Trade, soon to be before Congress for implementation, has many virtues. But those good points are tainted by a major change to American patent law that the Administration plans to include in the bill. This change has not been fully debated, it may work grave economic harm on the nation, and to top it off, it is not even required by GATT.

The issue is how long patents run. Now, they last for 17 years from time of grant. Under the proposal, they would run 20 years from time of filing.

The difference may seem trivial, but it is not. Much time can elapse between the filing of a patent and the grant decision; if so, under a time-from-filing system the effective lifespan of a patent can be greatly shortened. Some patents, in fact, take 14 years or more to issue. And, whether the time to grant is long or not, applicants must live with the uncertainty that it may be.

These prospects raise great alarm. Inventors worry that a well-heeled competitor will develop strategies to delay their patents. And funding may become scarce. For small companies, "there's a strong connection between secure, definite patent terms and the ability to gain financing from banks and venture capital," said Robert Rines, a patents lawyer and holder of 60 patents.

An iffy patent term carriers another risk: that the patent will run out before it has yielded a marketable product. Universities, which file more then 3,000 patents a year, may be very hard hit. The average interval between a school's grant of a patent license and a marketable product is eight years—longer for biotech. The more advanced an invention is, the longer the likely time to commercial viability—and the more severe the penalty under a time-from-filing approach.

The Administration vigorously defends its position. Bruce A. Lehman, the Commissioner of Patents, says the average patent is issued 19 months after filing—and thus many patents would last longer than the current 17 years under the change. But the 19-month average understates the reality; it includes many "follow-on" patent applications, all dependent on an initial one. In any case, the focus should be on the commercially critical, leading-edge patents—which often take longer.

Mr. Lehman also says the proposal will ward off "submarine" patent filings. With these filings, applicants allegedly delay decisions so that the patent can surface years later in infringement claims against the unwary. But despite great worry, the data show this practice to be rare.

Moreover, on Aug. 16, the United States and Japan signed a broad patent pact which included an American promise to publish patent applications 18 months after filing. Because submarines are impossible if applications are public, the accord, if approved by both countries' legislatures, will stop the practice.

Is the proposed change intended to speed the patent process? Then it puts the cart before the horse. Most delays are controlled by the Federal patents office, not by applicants. Also, the change hands the office a "timer" with which it could pressure applicants with valid disagreements.

Nor can the Administration say GATT demands this risky change. The treaty only requires signatories to adopt a minimum term of 20 years from time of filing. Thus, Congress need only adopt a simple either-or formula: 17 years from grant or 20 years from filing, whichever is longer.

Finally, the changed patent term is part of the broad patent pact the Administration recently reached with Japan. But, ill-advised though the change seems, no proper assessment is possible without full debate of all these issues.

Such an airing is impossible, however, if the time-from-filing idea remains folded into the GATT bill—especially when, under the applicable "fast track" rules, Congress must vote yes or no on the whole package, with no changes.

In the GATT bill, the Administration should confine itself to the GATT legislation. To do otherwise is dangerous sleight of hand.

IN HONOR OF THE 20TH ANNIVERSARY OF THE PUERTO RICAN ASSOCIATION FOR HUMAN DEVELOPMENT

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to the Puerto Rican Association for Human Development, Inc. [P.R.A.H.D.]. This organization was founded and incorporated in 1974 by a group of students from Rutgers University under the leadership of Dr. Marcos Leiderman, a professor with the Rutgers Graduate School of Social Work. The objective of the association was to expand into a multi-service agency emphasizing services for the Hispanic community of Perth Amboy. The association offers a variety of educational, vocational and social services to members of the community.

In 1975, the P.R.A.H.D. established the first state licensed bilingual day care center in New Jersey, called "Mi Escuelita Day Care Center." In 1976, the organization expanded once again by starting an ESL program and a latchkey program known as "Escalar." Both of these programs still exist today.

Today, P.R.A.H.D. serves people from ages 2½ and over. The organization, under the direction of Chairperson Ana Cruz Cabassa, and Executive Director Lydia Trinidad, currently employs over 98 people and runs 21 programs. Other services P.R.A.H.D. currently provides include case management, financial aid for heating utilities, food and housing, in-home services for developmentally disabled adults, social activities and job placement for senior citizens, in-home assistance for the elderly, education and counseling on prevention of HIV/AIDS and other sexually transmitted diseases, services for people with AIDS, education on substance abuse, information on pre-natal care, mentors for school children, working with school children to promote healthy habits, and lunches for poor Hispanic seniors.

The Puerto Rican Association for Hispanic Development began as a school project, and grew into a very successful organization. I am very proud to have such an organization in my district. Perhaps the founders did not think at the time that their collaboration would result in such a successful organization or that it would last as long as it has. They should be very proud of their accomplishment and their contribution to society. I am sure that many have benefited from the services this association has offered in the past twenty years. I congratulate them on their 20th anniversary and hope that their annual banquet is successful. Furthermore, I wish them much continued success.

IN HONOR OF ROBERT AND HELEN GRUBBS' 50TH WEDDING ANNIVERSARY

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. POSHARD. Mr. Speaker, I rise today to honor my good friends Robert and Helen Grubbs of Eldorado, Illinois, who on August 5, 1994 celebrated their 50th wedding anniversary. In an era when families find it more difficult to stay together, the Grubbs are certainly deserving of this recognition for their 50 year union.

Through the years, Robert and Helen have contributed greatly to our community. Many in our area know Robert and Helen best for the 25 years they owned and operated the roller rink in Eldorado. Robert has also been active in local politics for over 40 years, serving many of those as Democratic precinct committeeman.

Robert and Helen have a son, and daughter-in-law, Harvey and Diane Grubbs of Eldorado and a daughter and son-in-law, Evelyn

and Dr. Larry Jennings of Mt. Carmel. Robert and Helen also have six grandchildren and one great-granddaughter.

Along with the people of the 19th Congressional District, I congratulate Robert and Helen on this very special occasion, and I wish them and their family good health and greatest happiness in the many years to come. May we all live such rich and distinguished lives as Robert and Helen Grubbs.

THE EQUITABLE TRANSPORTATION OF MOTOR VEHICLES INTO THE UNITED STATES

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. LIPINSKI. Mr. Speaker, today I have introduced a concurrent resolution calling for the Clinton administration to take all necessary and appropriate steps to insure fair and equitable participation of U.S.-flag vessels, owned, operated and crewed by citizens of the United States, in the transportation of motor vehicles in the foreign commerce of the United States. If measurable progress on this matter is not made by the time Congress reconvenes next year, I intend to introduce and aggressively move legislation to open the vitally important car carrier trade to U.S.-flag carriers.

Each year, millions of motor vehicles are imported to the United States from abroad, almost all of which are transported by foreign-flag vessels, owned, operated and controlled by foreign companies and crewed by foreign seafarers. While the world car carrier fleet numbers well over 300 vessels, only 4 of these vessels are U.S.-flag. Foreign shipping companies and foreign automobile manufacturers are clearly engaging in unfair trading practices—condoned and facilitated by foreign governments—which have the effect of eliminating or minimizing the participation of U.S.-flag vessels and U.S. seafarers in the transportation of motor vehicles in the foreign commerce of the United States. These unfair and unjustified practices must end. U.S.-flag vessels must be given the opportunity to compete in this trade on a fair and equitable basis.

Mr. Speaker, my concurrent resolution simply asks the President, the U.S. Trade Representative, the Secretary of Transportation and the Secretary of Commerce to redouble their efforts through bilateral negotiations or otherwise to eliminate these unfair and anticompetitive practices. I urge all members to lend their support to this resolution. Should favorable action not be taken on this matter in the near future, I expect for my committee and the Congress to address this issue early next year.

IN RECOGNITION OF THE ROCHESTER AREA MEALS-ON-WHEELS PROGRAM

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. KLINK. Mr. Speaker, volunteers provide a variety of services to the people of the United States, and specifically to my congressional district in western Pennsylvania. Through such legislation as the National Service Act, and the Service Learning Act, I have advocated the development of community service programs. I strongly believe that volunteering can enhance learning by promoting civic responsibility.

To the more than 90 people, each receiving 2 meals a day, the service provided by the Rochester area Meals-On-Wheels program of Rochester, PA, is invaluable. They offer the freedom of living at home to clients whose disabilities limit their ability to provide for themselves adequate meals to fulfill their nutritional needs. These people volunteer to not only prepare the food, but also deliver the food to people who without the program, would have no choice but to relinquish their independence and become institutionalized during their rehabilitations.

On October 28, 1994, the Rochester area Meals-On-Wheels program, will be celebrating its 25th anniversary of service to the community. During this time the program has more than doubled in size and continues to grow each year. It gives me great pleasure to recognize a group of people who have provided such a valued service to people who are so badly in need of it.

In this society where we are continually reminded of hatred and greed, it is heart-warming to see a group committed to the health and well being of others. In 1994, the Rochester program will serve some 45,000 meals. The efforts of the selfless western Pennsylvanians cannot be given enough praise. While these volunteers are not rewarded monetarily for their contributions, the smiles and thankyous of the people they're helping makes their service worthwhile.

Mr. Speaker, I would once again like to thank the Rochester area Meals-On-Wheels program, for the 25 years they have invested into this community and I offer my support and best wishes in the future for their continued success in public service.

TRIBUTE TO COMDR. WILLIAM R. BURKE

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. KOLBE. Mr. Speaker, it is a personal privilege for me today to pay tribute to a truly outstanding Naval Officer, Comdr. William R. Burke. Bill Burke has served with distinction as Deputy Director of the House of Representative's Navy Legislative Liaison Office these last 2 years. Today I want to recognize his many achievements and commend him for the superb service he has provided to Members of Congress and to our Nation.

A native of Hornell, NY, Commander Burke earned a bachelor of science degree in Systems Engineering from the U.S. Naval Academy in Annapolis, MD. Upon graduation in 1978, he was commissioned an ensign in the U.S. Navy. Commander Burke then completed a rigorous nuclear propulsion training program and submarine officers basic course.

Following his initial training, Commander Burke reported to his first ship, U.S.S. *Lafayette* (SSBN 616), serving as main propulsion assistant and damage control assistant. While on USS *Lafayette,* Commander Burke completed three strategic deterrent patrols. Those serving in ship such as U.S.S. *Lafayette* played a critical role in maintaining a key component of the nuclear deterrence triad during the height of the cold war.

Completing his tour of duty on U.S.S. *Lafayette,* Commander Burke served on the Chief of Naval Operations Staff. There he was responsible for tactical development for the director of the Attack Submarine Division. While stationed in Washington, DC, he also completed a masters of business administration degree at Marymount University.

Commander Burke was next given an opportunity to put into practice his experience in submarine tactical development. As part of the commissioning crew of the U.S.S. *Key West* (SSN 722), Commander Burke served as weapons officer and is a "plank owner" of the *Key West.* After spending two years on the *Key West,* he transferred to U.S.S. *Omaha* (SSN 692) homeported in Pearl Harbor, HI, where he served as navigator.

Immediately prior to his tour here in the Navy's House Legislative Affairs Office, Commander Burke was executive officer of U.S.S. *Cavalla* (SSN 684) also in Pearl Harbor. While on the *Cavalla,* he was awarded the Admiral Chick Cleary Award for the outstanding naval officer afloat presented by the U.S. Navy League. Now, at the Legislative Affairs Office, Commander Burke has provided Members of the House Armed Services Committee, our professional and personal staffs, as well as many of you seated here today, with superior support regarding navy plans and programs. His work has contributed to building a more cooperative relationship between Congress and the Department of the Navy—no easy task given the difficult environment for the Navy these past 2 years.

I've had an opportunity to make many visits to Navy ships and facilities with Bill Burke. I can honestly say I've never traveled with a better escort officer. Bill Burke is efficient, organized and easy going. On one occasion, we arrived on the U.S.S. *Nimitz* while his luggage went elsewhere on the helicopter. Bill Burke showed great resourcefulness as he patched together enough of a uniform—not easy considering his size—to make do. But he was never bothered or upset by such mix-ups. Bill Burke is both professional and an enjoyable traveling companion. I shall personally miss him.

Mr. Speaker, Bill Burke, his wife Mary, and their two children, Jacqueline and William, have made many sacrifices during his 17 year naval career. In four submarine tours of duty,

he has spent a lot of time underway and gone from his family. He has done this, as so many other officers and enlisted men and women have done, to make a significant contribution to the outstanding naval forces upon which our country relies so heavily. Commander Burke is a great credit to the Navy whose uniform he wears and the country he so proudly serves. As he departs to his next tour of duty, I know my colleagues join in wishing him every success, or in Navy parlance, may he have fair wind, and following sea.

CONCERNING ADMINISTRATION POLICY TOWARDS CUBA

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. COX. Mr. Speaker, I rise to express my very strong concern over the President's cavalier discarding of the Cuban Adjustment Act of 1966, which has guided both Democratic and Republican administrations for almost 30 years.

Under the Clinton administration's new policy, Cubans have essentially forfeited the right to claim political asylum from the Castro dictatorship.

The President's about-face is completely misguided. The 1 million Cubans in the United States have not been a burden to this country; they pay taxes, serve in our Armed Forces, and have been elected to Congress.

Among them are distinguished business leaders, including the President of Coca-Cola and the Vice President of Pepsi-Cola; famous artists like Gloria Estefan, trumpeter Arturo Sandoval, and violinist Luis Haza; eminent diplomats like Ambassador Jose Sorzano, Jean Kirkpatrick's deputy at the United Nations; and humanitarians like Dr. Joe Greer, who has received a MacArthur Foundation Award for his work with the homeless in Florida. Under President Clinton's policy, none of these people would have been able to come to the United States. None of them would have been able to make these outstanding contributions to our country.

There are currently some 3,000 children in Guantanamo and Panama, who are the innocent victims of President Clinton's policy. Moved by their plight, the Valladares Foundation offered to assist in their care; it has not yet received even the courtesy of a reply from the administration.

Mr. Speaker, this travesty must be brought to an end, and the bipartisan tradition of receiving refugees from Castro's dictatorship restored.

TRIBUTE TO NATIONAL FEDERATION OF THE GRAND ORDER OF PACHYDERM CLUBS

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. TALENT. Mr. Speaker, today I rise to pay tribute to the National Federation of the Grand Order of Pachyderm Clubs. This organization has dedicated itself toward promoting good responsible government for the past 20 years, since its founding in Columbia, MO.

Over the past 20 years, the Pachyderm Club has expanded to include clubs in 11 States. The Grand Order of the Pachyderm Clubs have initiated a unique concept for political organizations, by adopting weekly luncheon meetings dedicated to political and governmental affairs.

Among their most important accomplishments has been the development of future political leaders and citizen participation as embodied in their motto, "Free Government Requires Active Citizens." This organization promotes better government by opening meetings to the public, and by encouraging all citizens to increase their awareness of political affairs. The Pachyderm Clubs sponsor numerous programs and activities which include the "Politic: Preparation and Participation" program and political science scholarships.

I would also like to take this opportunity to recognize Mr. George Parker, the founder of the National Federation of the Grand Order of Pachyderm Clubs. His hard work and dedication have provided true leadership to this organization and allowed for its continued growth.

Mr. Speaker, it is an honor and a privilege for me to pay tribute to this fine organization, and wish them another 20 years of outstanding service in political and governmental affairs.

THE WORLD SUMMIT FOR CHILDREN

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. NADLER. Mr. Speaker, I rise today to give special recognition to last week's celebration of the fourth anniversary of the World Summit for Children. The World Summit for Children, reportedly the largest gathering of heads of state and heads of government up until that time, united the world in a commitment to protect the lives of children, diminish their suffering, and enhance their futures.

The Summit calls for a shift in U.S. and global priorities to increase assistance toward enhanced health and education of the world's children and families.

Malnutrition and disease suffered by millions of children around the world is one of the most paramount obstacles to the social and economic development of all nations. Tragically, 35,000 children around the world die each day largely from preventable and treatable malnutrition and disease. Further, over the past decade, a total of 40 million children died from vaccine preventable and treatable diseases. Mr. Speaker, we have a global obligation to end this misery and devastation. I credit the World Summit for Children for catalyzing that global commitment.

The World Summit for Children set a number of goals which serve as a global blueprint for eliminating severe poverty and suffering. Those goals include: reducing child and infant deaths by at least one third; reducing maternal mortality and child malnutrition by half; providing all children access to a basic education; and ensuring universal access to safe drinking water, safe sanitation, and family planning education.

I call on the United States and all other nations of the world to continue to take to heart this united commitment to achieve the goals set forth by the World Summit for Children. I also urge my colleagues to support the World Summit for Children Implementation Act, the bill which implements the Plan of Action adopted by the Summit, and directs adequate funding levels for key education, health and nutrition programs. Mr. Speaker, with strong international solidarity and support, we can soon make the goals of the World Summit for Children a reality.

SUPPORT OF THE CORPORATION FOR PUBLIC BROADCASTING

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. UPTON. Mr. Speaker, I want to take a moment to recognize the quality programming of the Corporation for Public Broadcasting [CPB]. For the past 25 years, Congress has found that it is in the public interest to encourage the growth and development of public broadcasting for instructional, educational and cultural purposes.

The Public Broadcasting Act of 1967 authorized the establishment of the CPB as a private, nonprofit corporation dedicated to providing high-quality programming and educational services to every American regardless of location or income.

The CPB funds such things as the Public Broadcasting System [PBS] and the National Public Radio [NPR]. Like millions of Americans, I get a great deal of enjoyment listening and watching news and information from CPB's many programs.

I believe both PBS and NPR offer this Nation some of the finest, top-notch programming on the airwaves. Shows like "Sesame Street", "MacNeil-Lehrer NewsHour", "Masterpiece Theater", and "Nova" are a few of the wide variety of selections that you can find. In Michigan, Federal funds help local stations broadcast public affairs programming like "Off The Road" and the Governor's state-of-the-State address.

The Corporation for Public Broadcasting is marked by excellence in broadcasting and commitment to providing first-class programs. I urge my colleagues to support it in the years ahead.

IMPROVING THE FEDERAL MILITARY SURPLUS PROGRAM

HON. EDWARD R. ROYCE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. ROYCE. Mr. Speaker, over the past decade, helicopters have become an indispensable tool for efficient law enforcement, search

and rescue operations, and emergency medical transportation. Increasingly, city, county and State agencies have come to rely on helicopters to effectively serve their communities. Helicopters have proven to be a vital tool in fighting crime and saving lives.

Tight budgets on every level of government have made the acquisition, operation, and maintenance of community service helicopters prohibitive. During this session of Congress, the House and Senate have expressed their concern with providing assistance to State and local governments so that they could perform their fundamental obligations. We have the ability to help these communities fulfill their responsibilities.

The Federal Military Surplus Program awards surplus Army OH–6 helicopters to law enforcement agencies. These helicopters are awarded based on the agencies' ability to meet certain criteria, most importantly need, ability, and intent to wage a comprehensive drug interdiction program within their jurisdictions. These helicopters can also be used for emergency medical transportation and search and rescue operations.

Unfortunately, the aircraft are delivered to recipient agencies as is. This translates into military operational readiness, which is not compatible with law enforcement and other civilian performance and equipment needs. The cost of refurbishing the aircraft to meet the needs of civilian applications is approximately $400,000 per helicopter. Thus, a paradox has evolved. Recipient law enforcement agencies are almost all facing budget crises, particularly capital budgets. Although they can accept the free helicopters from the Army, they cannot afford to have them modified for their use without budgetary assistance.

Congress has an interest in assisting every law enforcement agency in the country. We have the power to equip them with proven tools necessary to effectively protect their communities. The concept of giving away tools only to have them stored in hangars, on fields, and in garages for lack of resources is wasteful. We must find a way to provide the necessary resources to these recipient agencies so that these communities can be served.

TRIBUTE TO HAM FISH

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. MOORHEAD. Mr. Speaker, it is with some sadness that I rise to say good bye to an old and dear colleague, HAM FISH.

As everyone in the House is aware, HAM FISH has an impeccable pedigree. His family's political tradition is long, storied and honorable.

During his long service to the Nation and its Congress, he has done nothing to dull that reputation. In fact, he has added immeasurable luster to its already glowing history.

I can speak firsthand about this because I have been fortunate enough to work side-by-side with HAM FISH in the Committee on the Judiciary since 1974.

We worked through Watergate, legislation on civil rights, the handicapped, environment, crime and the courts. He has always been a helpful and insightful leader; a respected committee and House Member; and a valued friend.

Mr. Speaker, I will miss HAM FISH. I thank him for all his service to the Nation and the House. I wish him Godspeed.

TRIBUTE TO OUR COLLEAGUE CONGRESSMAN HAMILTON FISH, JR.

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. RANGEL. Mr. Speaker, on behalf of the New York State Congressional Delegation, I rise to pay tribute to our colleague Congressman HAMILTON FISH, JR., Dean of the New York State Republication Delegation. Our dear friend and scion of the distinguished political family will retire at the adjournment of the 103d Congress after 26 years of honorable service.

"HAM", as he is affectionately known, has earned a reputation as one of the finest and most respected gentlemen in the Congress. A truly independent leader, he has consistently voted with his conscience, ever guided by compassion for the least fortunate among us. And as a masterful legislator, he has understood and effectively applied the principles of bipartisanship and coalition-building in producing an historic record of achievements.

Congressman FISH evidenced his courage and independence with his leadership in some of the most significant, and sometimes controversial civil and constitutional issues in recent history. The ranking Republican member of the Judiciary Committee for more than a decade, he was a principle sponsor of the Americans with Disabilities Act in 1990, and considers its passage his most important legislative achievement.

But there were many other pieces of legislation that reflected his consistent affirmation of civil rights for all Americans: the Civil Rights Act of 1991, the Fair Housing Act Amendments of 1988, the Civil Rights Restoration Act, the Japanese-American Redress Act, and the 1982 Voting Rights Act extension.

Representing the 19th Congressional District in the Hudson Valley of New York, Congressman FISH has been a formidable advocate for a broad array of issues of importance to his constituents. He has compiled impressive records in support of economic development, law enforcement, the environment, veterans issues, and education. In doing so he has upheld a long family tradition of public service.

Generations of the Fish family have served our country, starting with HAM'S great-great grandfather, Nicholas Fish who served as a Lieutenant Colonel in the American Revolution. Many have served in the Congress; his great grandfather, grandfather and father—all Hamilton Fish—and that was just the paternal line of Ham's family.

Throughout his career as a legislator, Congressman FISH has been motivated by the ideals of liberty for his country and its citizens. Everything else was a means to that end. HAM FISH, our friend and colleague, will be truly missed.

TRIBUTE TO THE HONORABLE DOUGLAS APPLEGATE

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. LIPINSKI. Mr. Speaker, I rise today as we prepare to adjourn the 103d Congress sine die to pay tribute to our retiring colleague DOUG APPLEGATE.

I have had the privilege of serving in the House with DOUG since I was first elected at the beginning of the 98th Congress in January 1983. I am also fortunate to have served with DOUG on the Committee on Public Works and Transportation, where I have seen DOUG excellent work firsthand. His leadership, most recently as Chair of the Subcommittee on Water Resources, has been exemplary. I know that all his colleagues on the committee—on both sides of the aisle—will miss him a great deal.

In the 9 years I have known DOUG, he has always presented himself and represented his constituents as a true professional. The people of the Ohio's 18th District and the Members of the U.S. House of Representatives are losing a great leader.

I can only hope that DOUG will leave the House with the knowledge that he has served his country with great distinction. I wish DOUG and his family much happiness and success in the years to come. I hope he knows that I will think of him often.

THE CONSUMER PRODUCTS SAFE TESTING ACT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. LANTOS. Mr. Speaker, I rise today to bring attention to legislation which I have introduced which will encourage the Federal Government to review its regulations and guidelines concerning animal acute toxicity tests. The Consumer Products Safe Testing Act will provide avenues for increased awareness and research for nonanimal toxicity testing as a viable, safe, and healthy alternative.

Manufacturers are reluctant to use nonanimal tests without encouragement from the Federal Government. This legislation would encourage industry to expand their research and development, unhindered by the Federal Government, to seek new alternative methods of testing which are as accurate and more humane than animal tests. This bill promotes research and encourages the use of the most technologically advanced techniques.

Alternatives to animal testing are already in use by many household product companies including Avon, Revlon, Redken, Paul Mitchell, and Nexxus. Tests such as Skintex, developed by Ropak Industries in Irvine, CA, and Testskin, developed by Organogenisis Inc., of

Cambridge, MA, use living skin tissue equivalents. With this legislation, these and other progressive companies will help set a new standard for nonanimal toxicity testing.

Introduction of the Consumer Products Safe Testing Act this year will form a solid base of support from which we can move forward and pass this legislation into law next session.

GOOD SHEPHERD BAPTIST CHURCH

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. KLEIN. Mr. Speaker, I rise today in recognition of the 35th Anniversary of Good Shepherd Baptist Church in Paterson, NJ. I ask my colleagues to join with me in paying tribute to Pastor Roy Jones and the church as it celebrates this occasion on Sunday, October 9, 1994.

The first prayer meetings of the Good Shepherd Baptist Church were held at the home of Mr. and Mrs. Miller Moody in 1959. Soon the group met at the YMCA located on Ward Street. After Rev. James R. Burton began overseeing the gathering, the prayer group established a permanent religious organization known as the Good Shepherd Baptist Church. The charter members were: Rev. James R. Burton, Mrs. Mabel Burton, Mr. Miller Moody, Mrs. Mary Moody, Mr. Henry Watson, and Mrs. Dolores Watson.

Pastor Burton remained for the rest of his life with the church until he passed away in 1986. At that time, Rev. Roy E. Jones, Sr. was elected as pastor and installation services were held on Sunday, January 18, 1987.

On April 30, 1990, the church voted to change its name to Good Shepherd Baptist Church. Later that year, it became a member of the New Hope Missionary Baptist Association, and has subsequently become a member of the General Baptist Convention of New Jersey and the National General Baptist Convention.

I am honored that you have given me this opportunity to recognize the contributions Good Shepherd has made to the community. I wish Pastor Jones continued success in all of his good work and service.

ADDRESS BY ARMENIAN PRESIDENT TER-PETROSIAN AT THE UNITED NATIONS

HON. FRANK PALLONE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. PALLONE. Mr. Speaker, on September 28, 1994, His Excellency Mr. Levon Ter-Petrosian, the President of the Republic of Armenia, spoke at the 49th Session of the United National General Assembly. I am enclosing the text of President Ter-Petrosian's address, which eloquently sets forth the challenges for the people of Armenia as they fight to build a prosperous, democratic nation from the ruins of the Soviet Empire. I urge the Members of this House to read President Ter-Petrosian's words, and to reflect on his sage advice for shaping a post-Cold War foreign policy.

STATEMENT

[By His Excellency Mr. Levon Ter-Petrosian]

As with all former Soviet republics, Armenia's economy has been strained by the changes following the disintegration of the Soviet Union and the difficult transition to a market economy. Armenia's economy is further crippled by its over-reliance on trade with the former Soviet republics, the blockade of transportation routes imposed by neighboring Azerbaijan, an embargo by Turkey and the damage inflicted by the disastrous earthquake in 1988. Other external conditions, such as the disruption in transit due to the difficulties faced by Georgia, have exacerbated the situation contribution to the decline in Armenia's industrial productivity. The legacy of the Soviet period, with its inefficiencies and excessive horizontal integration, has worsened the effects of the blockade.

Despite the difficulties, the Armenian Government has begun implementing significant structural reforms to create a healthy market economy, beginning with the privatization process, launched soon after the democratic Armenian National Movement came to power in 1990. Indeed, the commitment to the transformation of the centrally planned economy to market economy stems from the philosophy of the democratic movement in Armenia and is seen as an integral part of the transition to a democratic state.

In turn, a free market economy will flourish in a stable democracy, which promotes and underpins economic development. Armenia today is a country with more than thirty registered political parties, a free press, freedoms of conscience and religion, and with laws guaranteeing civil and political rights. So far, three free elections have been held in Armenia: parliamentary and presidential elections, and the referendum on independence. The upcoming referendum on the Constitution and elections of the National Assembly (parliament) and the President of the Republic will reaffirm the establishment of a democratic tradition.

Democracy is fundamental to the process of economic transformation. This process can be divided into three phases, more or less typical for all countries in transition: institutional reforms, long-term investments and changes of technological structures, and integration into international markets. It is imperative however, to set priorities and to identify the most pressing issues of the moment. In my opinion, Armenia is at the end of the first phase, which includes: creation of a legal framework for economic reform, within which private economic activity can take place, contracts are enforced, and private property is protected; liberalization of prices; privatization; introduction of a national currency; financial and budget stabilization; improvement of the balance payment. We have already accomplished 80% of this phase. Armenia has distinguished itself as being the first among the former Soviet republics to privatize the ownership of agricultural land and livestock production. Privatization of small and medium businesses as well as large enterprises is well underway. In late 1993, with the collapse of the "ruble zone", Armenia faced a monetary crisis. The uncontrollable flow of old Soviet rubles into Armenia, and Armenia's subsequent inability to control monetary policy on its own territory forced the Government to prematurely introduce a national currency, the dram in November 1993. The Government is presently implementing a programme based on controlling and lowering the inflation rate, enforcing a strict budget and controlling fiscal expenditures and targeting assistance to the most vulnerable groups.

Basic reforms have been undertaken in the banking sector, the first step of which was to break apart the "monobank" system of central planning into a "two-tier" system, comprised of a central bank and a group of commercial banks. * * *

Armenia considers self-determination in its multitude of manifestations to be an inalienable human right. Armenia's position on the Nagorno Karabakh conflict has been clear and consistent from the start. Armenia has no territorial claims against Azerbaijan. The conflict is between the people of Nagorno Karabakh, who are striving for self-determination, and the Azerbaijani government which is refusing to address the rights of the people of Nagorno Karabakh. Armenia provides moral, diplomatic and humanitarian assistance to the people of Nagorno Karabakh, and it can not accept a military solution which can only mean the genocide or deportation of the population of Nagorno Karabakh.

While the Nagorno Karabakh conflict has gone through periods of both intense fighting and relative calm since I spoke from this podium two years ago, there has never before been a period in the five year history of the conflict when a cease-fire has taken hold for so long. I am pleased to inform you today that the cease-fire of May 12, 1994, which was mediated by the Russian Federation is in general being maintained. What is more gratifying and encouraging is that the de facto May 12 cease-fire, through direct and immediate contacts between the parties to the conflict, was formalized on July 27, 1994, and on August 28, 1994, the parties reaffirmed their commitment to the cease-fire until such time as a political document has been signed.

Armenia congratulates the main parties to the conflict for their commitment to maintain the cease-fire and engage in direct dialogue. Armenia views this as an important confidence building measure, as a major step toward the consolidation of the cease-fire and as a sign of a strong commitment toward the successful conclusion of the current negotiations which in turn will make possible the solution of the problem at the CSCE Minsk Conference.

Clearly, the conflict has entered a new phase in which the parties have demonstrated their desire for peace.

Our new challenge, and the priority for Armenia, is the consolidation of the cease-fire and the establishment of peace. Indeed, there is a historic opportunity today to end the conflict. Yet the cause of peace requires the active, unified support of the international community, including possibly the immediate dispatch of UN and CSCE monitors to consolidate the existing cease-fire. The cumulative impact of the distrust of the past five years on one hand, and the lack of international measures toward consolidation on the other hand may increase the current uncertainty and threaten the fragile cease-fire.

There is no doubt that beyond the cessation of hostilities, a lasting peace will mostly depend on the ability of the main parties to the conflict and the international community to develop innovative and internationally sanctioned mechanisms for its establishment and maintenance.

The primary concern for Armenia has been and remains the security of the people of

Nagorno Karabakh. Both, Armenia and Nagorno Karabakh have repeatedly expressed their readiness to comply with the relevant Security Council resolutions. A lasting peace can be achieved only by ensuring the irreversibility of the peace process through the deployment of international security forces between Azerbaijan and Nagorno Karabakh until such time as a negotiated solution to the problem of Nagorno Karabakh has been reached with the full participation of Nagorno Karabakh at the CSCE Minsk Conference.

Let me return for a moment to the theme I began with. In this period of unprecedented change, many hardships, both expected and unforeseen, have arisen. The present era, full of challenge and hope, gives us new faith in the United Nations as the most privileged and appropriate forum for integrating the global interests of all peoples of the world, which are too fragmented today. A universal accord can be established only when discords are peacefully resolved and full cooperation among nations is achieved. The United Nations, with the noble principles and objectives enshrined in its Charter, and the new responsibilities and tasks it faces today, can and must lead the way to a better organized, more harmonious world.

COLORECTAL CANCER SCREENING PROVISIONS OF HEALTH CARE REFORM LEGISLATION

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. HASTINGS. Mr. Speaker, I rise today to express my support for the development of a screening program for colorectal cancer (CRC), and to make clear my interest in continuing to work on this important issue. Although the 103d Congress will adjourn without enacting comprehensive health care reform legislation, I am hopeful that the progress we have made over the past 2 years toward the establishment of a national CRC screening program will provide the starting point for action next year. I would like to discuss today a number of issues that need to be addressed in developing such a program.

CRC accounts for about 15 percent of all cancers diagnosed in the United States, and about 12 percent of all cancer deaths. More than 150,000 Americans will develop CRC this year, and more than 57,000 Americans will die of the disease. Because CRC mostly strikes individuals over the age of 50, the impact is particularly significant in States with a high percentage of senior citizens, such as Florida. According to the American Cancer Society, about 10,200 new cases of CRC will be diagnosed in Florida this year, and more than 3,800 Florida residents will die from the disease.

The data also show, however, that many of the deaths could have been avoided through early detection. According to the American Cancer Society, the 5-year survival rates are 92 percent for colon cancer and 85 percent for rectal cancer, when the cancer is detected at an early, localized stage. However, after the cancer has spread regionally, to involve adjacent organs or lymph nodes, the survival rates drop to 61 percent and 51 percent, respectively. For those persons with distant metastasizes, 5-year survival rates are less than 7 percent.

A number of the health care reform bills that we considered this year included provisions that would have added CRC screening as a covered benefit under the Medicare program, and required that CRC screening be included in the "basic benefit" package for all Americans. The goal of these provisions was to assure that the health care coverage for all Americans over the age of 50 would include periodic screening for CRC. Some of the bills also included a more comprehensive screening program for individuals at high risk for CRC.

While I strongly support the intent of these provisions, I have been concerned that the language of some of the bills is overly narrow and restrictive in the types of CRC screening that would be covered under the program. Specifically, some of the bills would have allowed reimbursement only for a flexible sigmoidoscope procedure for individuals in the general population, and a colonoscopy for those at high-risk for CRC. In doing so, these bills would have excluded coverage for CRC screening through such established, cost-effective procedures as the barium enema, as well as through other new screening technologies that may be developed in the future.

I was working on an amendment to the CRC screening provisions of pending health care reform legislation at the time the House stopped its consideration of these bills. The amendment would have removed the procedure-specific bias in the pending bills by providing coverage for the range of screening procedures recommended by the major medical groups. This proposal would have brought the legislative language more in line with the CRC screening recommendations of such respected groups as the American College of Physicians, the American College of Radiology, and the Blue Cross–Blue Shield Association of America.

In order to control the cost of the CRC screening program, my amendment also would have established a single payment level for screening individuals who are not at high risk for CRC. This is analogous to the Medicare screening program through mammography, under which each eligible individual receives a fixed amount that can be applied to an authorized procedure. I believe that the physician and patient should determine the specific CRC screening procedure to be used for each individual patient—not the Federal Government.

Mr. Speaker, I look forward to working with my colleagues on legislation that will provide the basis for a comprehensive and effective CRC screening program for all Americans. Prevention, and early detection, are the best and most cost-effective means to cut the mortality rate from this deadly disease. I regret that this Congress will not be able to accomplish this important objective, but it should be high on the agenda next year.

RECOGNITION OF THE DEPARTING KANSAS CONGRESSIONAL STAFF

HON. PAT ROBERTS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. ROBERTS. Mr. Speaker, I rise today to call attention to three special ladies, all of who have greatly contributed to the State of Kansas through their service on Capital Hill.

By their kindness, professionalism and dedication, I came to know personally all three of these individuals: Ann Sullivan, Jo Jorgensen and Merry Tobin. All worked in Kansas congressional offices and part of the Kansas State Society, serving with me when I was both a Hill staffer and later a Member of Congress. Now they have joined the ranks of the retired, or so they say, to pursue new goals.

Over time, each one has shown Congress true dedication, respect, and a great love for the Big First District of Kansas. Be assured that any visitor to our office will always remember the care and kindness given by these women and their in-depth knowledge of inner workings of Capitol Hill. They were a true example of Kansas hospitality at its finest.

With more than 50 years of Hill service and thousands of episodes and anecdotes between them, Capitol Hill will certainly miss the way in which these women did their jobs. With a heavy heart and great appreciation, I wish to publicly thank them for sharing their time with us and wish them only the best in their future endeavors. Each has made a difference on Capitol Hill. May future generations learn from their dedication and experience and may they enjoy their well-deserved years away from Congress as much as we enjoyed their time working with us.

S. 2500, LAMB AND WOOL CHECKOFF

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. WILLIAMS. Mr. Speaker, the lamb and wool checkoff bill which we are sending to the President is the breath of fresh air to the 2,500 sheep ranchers and farm-flock operators in Montana.

Imagine the doom and despair created last year when Congress torpedoed the Wool Act. Our domestic lamb and wool industry, long under pressure from subsidized imports was left without a research and promotion mechanism.

The successes of the domestic sheep industry in recent years in improving wool and lamb quality and marketing are testaments to the effectiveness of programs under the wool act.

I was proud to be an original co-sponsor of H.R 5183, along with such colleagues as CHARLES STENHOLM, CRAIG THOMAS, and TIM JOHNSON. Identical legislation passed the Senate and was unanimously approved by the House Wednesday. I'm glad we in the 103rd Congress were able to finish this important business before adjourning.

The program, operated at no cost to the government, must be approved by eligible producers, feeders, and importers. Checkoff rates will be a penny per pound of domestic and imported lamb and two cents a pound on both domestic and imported wool.

That's expected to bring in about $14 million a year, of which 20 percent would be returned to State organizations.

I'm grateful for the support and research conducted by the Montana Wool Growers Association on this vital issue. Signing this act into law provides a self-help program of benefit to sheep producers and the rural communities which they help support.

MICHIGAN CITY SCHOOLS: USING TECHNOLOGY AS A CATALYST FOR CHANGE

HON. TIM ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. ROEMER. Mr. Speaker, last week the House passed the Improving America's Schools Act. This reauthorization of the Elementary and Secondary Education Act of 1965 will prepare our schools for the next century by providing Federal support to local school districts to invest in the technology and teacher training that is essential if we expect today's students to be competitive in tomorrow's workplace.

I am pleased to announce that these innovations are already being instituted at local schools in Indiana's Third Congressional District. Last week, the Michigan City Area School District unveiled "A Vision for Tomorrow," which is a computer system that will bring an exciting new approach to teaching and learning in our classrooms.

Two years ago, Michigan City educators got together to devise a strategy that would improve teacher-student interaction through the use of technology. "A Vision for Tomorrow" goes beyond merely installing more computers in classrooms—it relies on specially-developed software to energize and expand the traditional way our students learn and our teachers teach.

By the end of the year, "A Vision for Tomorrow" will be fully operational in four Michigan City elementary schools. Each school will have a computer lab and five computers will be installed in every classroom. What makes this system unique is that the computers will communicate through a local area network, which will enable students to use any work station in the school to complete an assignment. Teachers will then be able to access a student's computer files to correct homework or communicate a message.

By the end of next year, all Michigan City elementary schools will be participating in "A Vision for Tomorrow," and a wide area network will be up and running, enabling students and teachers to communicate with their colleagues in other Michigan City schools. This school district looked ahead to anticipate the learning needs of its students, and made the financial commitment to purchase the necessary technology.

Mr. Speaker, I commend Michigan City school administrators and teachers for their foresight in devising and implementing a technology strategy that I believe will produce an entirely new and productive student-teacher dynamic. It is exactly this type of program that we envisioned as we worked on legislation to truly Improve America's Schools, and Michigan City Area Schools are to be congratulated and emulated.

BASE CLOSURE ACT

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. CONDIT. Mr. Speaker, I rise today in support of the passage of S. 2534, the Base Closure Community Redevelopment and Homeless Assistance Act of 1994. This measure has been long awaited by many communities with closing military bases across our Nation. This legislation ensures that homeless providers will work closely with the local community for the best possible reuse of the land and property on the closing base.

Mr. Speaker, I have a closing base in my district, Castle Air Force Base, and coupled with the highest unemployment rate in the State of California, my district is severely impacted. Local reuse authorities need to be able to work with homeless providers so that an overall reuse plan accommodates everyone; the homeless as well as the community. The local reuse authority in my district has welcomed the homeless providers' requests and is working to fulfill their needs while keeping the overall reuse plans for the closing base in mind. It is essential that the community not feel like they are at the mercy of unreasonable requests by "outsider" homeless providers that may not have the best interests of the community as a whole in mind.

Mr. Speaker, I also want to thank Chairman GONZALEZ, House Banking Committee, who, through his diplomatic efforts, pacified a potentially difficult situation for local reuse authorities and the communities they serve. I am hopeful that with the passage of this measure, homeless providers and local reuse authorities will enter into amicable agreements that will benefit both the homeless and the community. I look forward to continue working on this issue and other issues affecting the closing military bases across our country.

LUCA PACIOLI: THE "FATHER OF ACCOUNTING"

HON. COLLIN C. PETERSON

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. PETERSON of Minnesota. Mr. Speaker, I rise today to honor the Italian Renaissance scholar and mathematician who, in 1494, published a work that earned him the title "Father of Accounting."

Luca Pacioli explained in Summa de Arithmetica, Geometria, Proportioni et Proportionalita how the merchants of Venice kept their books and he counseled other business owners to adopt this system of debits, credits, and balances. The system the Franciscan monk described is known today as double-entry bookkeeping and is practiced worldwide as a fundamental accounting principle.

In order to provide some perspective about Pacioli's contribution and the time in which he lived, I have excerpted the following from a playful, mock interview of Pacioli reported by two professors of accounting at the Albers School of Business and Economics at Seattle University. The professors, William L. Weis and David E. Tinius, are CPA's and the cofounders of the Pacioli Society, an educational foundation. The article appeared in the November 1991 issue of the Journal of Accountancy.

Q. Fra Pacioli, did you have inkling in life that posterity would award you the title, the Father of Accounting?

P. On the contrary. My field was mathematics and all my manuscripts * * * were attempts to apply mathematical principles to the vital functions of Renaissance society. In 1494 I published the bookkeeping model that was used by Venetian merchants because it hadn't yet been written down in a complete, coherent format.

Q. Just what did the bookkeeping model have to do with mathematics?

P. A lot. You see, the Venetian method—you call it double-entry—was an application of Arabic algebra. You must remember Arabic numerals were introduced to Europe only in the 13th century * * * So Arabic algebra * * * was a magical new toy * * *.

Q. A new toy?

P. For scholars, yes. Imagine working only with Roman numerals! This new system for quantitative manipulation triggered enormous advances in scholarship. A toy as enabling as algebra was truly revolutionary—and we found applications for it everywhere. That's how the Venetian, or double-entry, method evolved.

Q. What was your role in formulating the accounting model?

P. Really quite minimal in one sense, but monumental in another.

Q. Minimal?

P. I was merely the codifier—the technical writer, so to speak—for a system already in use in Venice. I mastered the system in order to teach it to a Venetian merchant's sons whom I was tutoring * * *.

Q. Were there no manuals available to describe the system?

P. None. This must seem incredible to a 20th century reader who can choose from dozens of competing textbooks in accounting, but in the 15th century published documents were rare. The Gutenberg press, on which my Summa was printed in 1494, had reached Venice only in 1469.

Q. So timing was a big factor in your becoming the Father of Accounting?

P. Timing was everything. I was the first to publish an accounting model that had been evolving, and used, for nearly two centuries.

Q. Why, then, was your contribution "monumental" if it was neither original nor ingenious?

P. Ah, but it was ingenious! We know that now, with 500 years of critical hindsight. And my role was monumental because my treatise established the double-entry model as the universal standard for accounting in the Western world

Q. A question of being in the right place at the right time?

P. Exactly. And having the divine fortune of describing a rather ingenious system—one adaptable to virtually every commercial transaction that has emerged over the past 500 years.

Q. That certainly explains why you're the Father of Accounting. Tell us about your * * * philosophy of learning.

P. [Leon Battista] Alberti believed learning should be relevant and broadly disseminated and that the results of scholarly effort should be communicated clearly to everyone who might benefit.

Q. For example?

P. Alberti urged me to write in Italian—the "vulgar" tongue virtually everyone used and understood. But Italian was not the accepted language of scholarly discourse. Latin was. Trying to be an accepted member of the academic community while writing scholarly treatises in Italian was a serious career risk * * * Alberti wanted me to write for merchants and artists and stonecutters—not erudite mathematicians * * * The very treatise that made me the Father of Accounting also contained a thorough discussion of mathematical perspective in language comprehensible to artists.

Q. And?

P. After Leonardo [da Vinci] read my Summa he arranged for me to come to the Court of Milan to tutor him in mathematical perspective and proportion. I joined Leonardo at the Sforza Court in 1496, beginning a seven-year relationship that produced two enduring masterpieces.

Q. Name one.

P. De Divina Proportione—my second major treatise on mathematics. In it I calculated and constructed a system of classical Roman letters as a guide to stonecutters for ornamental lettering on building facades. Yes, I wrote a mathematical treatise for stonecutters—and one they could read and understand * * *.

Q. So Leonardo collaborated with you on your second major treatise?

P. Yes. My writing; his drawing. Our De Divina Proportione * * * I should point out that Leonardo was seven years younger than I and not particularly well known as an artist, where the Summa had made me a celebrity. If you're looking for the first published affirmation of Leonardo's genius look in De Divina Proportione * * *.

Q. That is very impressive. But what does this have to do with * * *

P. The Santa Maria della Grazie mural Leonardo was working on during our first years together in Milan? The one that became the most famous painting of the 15th century?

Q. Are you talking about the Last Supper?

P. None other * * *.

Q. Fascinating! You've just said the Father of Accounting was tutoring Leonardo da Vinci in mathematical perspective while that famous artist was painting a mural that exemplified artistic perspective * * * Looking at your whole career, what were the watersheds?

P. Writing the Summa and De Divina Proportione permanently etched my name in the history of mathematics and classical lettering and gave me celebrity billing as a teacher and scholar throughout Renaissance Italy * * * I can take the most pride in the exploits of my protégé, friend and coauthor, the great Leonardo da Vinci.

Q. Aren't you forgetting * * *

P. Oh, yes, of course. The Father of Accounting issue. It seemed so trivial at the time, but it turned out to be my most influential legacy. It's hard to believe this simple system for recording and summarizing commercial activity has endured for five centuries! And that posterity has given me such credit for being its codifier!

GLOBALEARN EXPEDITION

HON. ERIC FINGERHUT

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. FINGERHUT. Mr. Speaker, I want to commend to the attention of my colleagues an innovative program called the GlobaLearn Expedition—Northern Hemisphere. This proposal was initiated by the non-profit corporation GlobaLearn to prepare children for global citizenship and to help them become responsible stewards of the Earth.

I am deeply concerned about the future of American education and embrace creative efforts to improve the changes of our children to lead successful, productive levels. As we approach the 21st century, it is important that we realize the world is truly becoming a global village. Geographical literacy and cross-cultural understanding are absolutely essential for our children to compete and survive in the world to come. Recent ethnic turmoil and radical changes in the political boundaries of our globe underscore the fact that Americans need to be able to understand the historical and international context in which they live.

Yet today, many American children are not gaining this necessary international awareness and understanding. Although the "global village" has brought news footage of distant places into our homes and classrooms, and broadcast our own culture and mass media across the globe, our understanding of the world remains superficial and fragmented. Young school children must gain an appreciation today of the richness and diversity of the peoples of the world in order to be prepared to function and contribute positively to that world.

GlobaLearn will conduct the GlobaLearn Expedition—Northern Hemisphere as its first interactive global education project. Beginning in September 1996, a team of nine men and women will drive three vehicles equipped with telecommunication technologies through 37 nations in the northern hemisphere. The team will be hosted by children aged 10 to 12 years old at each stopping point. From behind their desks, millions of students in the United States and across the world will follow this live multi-media tour via computers and televisions. For 10 months, the geography, culture, and daily lives of children from other countries will come to life in classrooms across the United States.

Through on-line computer and cable networks, at least 500,000 fourth, fifth, and sixth-grade students will participate in the expedition as an integral part of their studies. Students will access a daily expedition log over an electronic bulletin board, and ask questions which will be relayed to the expedition team. Twice a week students will watch a video transmission showing the expedition team's progress and interviews with host children in each community. The students will be able to observe first hand the team's trials and triumphs, the daily problems, and the process of solving them. By following the GlobaLearn Expedition, these American school children will be connected to the study of geography and culture in a way that is not possible through traditional teaching methods.

GlobaLearn will expose students to global issues and encourage interactive learning and cooperation among students around the world in order to help them better understand the complexities and wonders of their own communities, relationships, and ultimately, themselves.

This project will pioneer a new approach to education. If offers an educational experience in which children and teachers, through technology and the information highway, establish a real-life connection to the world and its myriad of peoples and cultures, without sacrificing the development of traditional studies. The GlobaLearn Expedition employes an interdisciplinary approach to education that integrates all areas of study, ranging from math and science to geography and literature. Furthermore, it provides a window through which our children can see and meet their counterparts from around the globe.

I commend the innovative efforts of the GlobaLearn team to challenge and inspire the students of the world and I applaud the dedication and enthusiasm brought to this project by its founders.

TRIBUTE TO THE BACARDI FOUNDATION

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. DEUTSCH. Mr. Speaker, I rise today to pay tribute to an organization which has begun to do wonders to help protect the fragile marine environment of our Nation's recreational waters.

The Bacardi Foundation, a nonprofit organization funded by the Bacardi companies worldwide, has announced its long-term commitment to support the preservation and conservation of environmentally sensitive coastal waters through educational and grass roots programs.

For the past 3 weekends, this organization has sponsored and coordinated Clean Water Weekends—a unique program in the Florida Keys portion of my district. Volunteers and divers from around the country have helped clean miles of shoreline and underwater reefs by removing more than 21,000 pounds of debris to date.

Long-term maintenance of these areas is being promoted through Adopt-A-Reef and Adopt-A-Shore programs. Volunteers who participate in these programs are committed to visiting their site at least twice a year to make sure that it is kept as close to its natural state as possible. In return, they receive a sign to post at the site and an adoption certificate to take home.

Mr. Speaker, I ask you and my colleagues to join me in saluting both the Bacardi Foundation and hundreds of volunteers who have

participated in the program to help protect the waters, reefs and shores of the Florida Keys. It is my belief that through its programs, the Bacardi Foundation will continue to make an invaluable contribution to our society by helping to educate the public about the importance of keeping our natural environments clean.

THE FEDERAL RELIEF FOR STATE AND LOCAL GOVERNMENT ACT OF 1994

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. PORTMAN. Mr. Speaker, this week the Government Operations Committee, on which I serve, voted 35–4–1 to report H.R. 5128, the Federal Relief for State and Local Government Act of 1994, to the full House. This legislation is an excellent first step toward ending Congress' practice of imposing costly unfunded mandates on State and local governments. I urge the leadership to permit full House debate and a vote on this legislation before we adjourn. State and local governments need Congress to take action now, not later.

This very moment, the full Senate is in the process of considering a companion bill. Both House and Senate bills would bring some accountability and honesty to a practice that, quite frankly, has gotten out of hand. By requiring CBO to provide cost estimates on the impact of mandates on State and local governments, committees to authorize financial assistance to cover the costs of mandates to States and localities, and committees to identify the sources of funding for such mandate costs, Congress will have taken a long step toward ending unfunded mandates.

The legislation also sets up an advisory commission to make recommendations to Congress regarding the value of existing mandates and whether they should be eliminated or changed. Finally, the bill gives us information with respect to the impact of mandates on the private sector.

This legislation has the strong support of State and local governments nationwide. House and Senate committees have also reported the legislation on a bipartisan basis for consideration by the full House and Senate. The full Senate is in the process of considering this legislation. I urge the full House to act now.

TOWNSHIP OF SOUTH ORANGE VILLAGE

HON. HERB KLEIN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. KLEIN. Mr. Speaker, I rise today to pay tribute to a dual celebration—the 125th anniversary of the Village Charter of the Township of South Orange Village and the Centennial Anniversary of Village Hall. This month, South Orange will be celebrating its history with numerous activities, including a founder's day ball and a grand parade. Let me briefly describe a few chronicles of this community.

Transportation has changed in the township from this early period from horseback riding on Indian trails to the opening of the Morris and Essex railroad in 1836. The South Orange train station still exists.

In 1850, gas service became available and electric power was brought into the village in 1888. By 1860, a telegraph office was most likely operating at the South Orange freight station, and by 1926 the Bell Telephone Co. moved into its new building on West South Orange Avenue. In 1932, dial service began.

The first school was constructed in 1811 and consisted of one room. Within a few years, the Columbian School was opened, and this later transformed into a two-story brick building known as "Columbia High School." Other schools were later constructed to adapt to the growing community.

The South Orange Library Association was organized in 1864. In 1926, after this organization accumulated thousands of books, a referendum was passed which supported the creation of "The South Orange Public Library". The library later moved into its current home at the corner of Scotland Road and Comstock Place in 1968.

As you can tell from just these few indicators, South Orange has grown in size and diversity, from an agrarian community to a suburban one. The history of South Orange begins when settlers founded Newark in 1666. The present form of government finds its origins from the creation of South Orange Township in 1861 by an act of the New Jersey State Legislature. Eight years later in 1869, a small group of people received a charter to establish South Orange Village. The community was created with the values of tradition, high standards, and simple government in mind.

Twenty-five years after the village received its charter, its citizens proudly built Village Hall. Nearly everyone in the Village was involved in the project. The Village Hall survived the passage of time without losing its place with the people of South Orange Village. In fact, in 1975 Village Hall was placed on the New Jersey State register of Historic Places, and in 1976 was added to the National Register of Historic Places as well. The Village Hall continues to be a picturesque mark of the village.

I am grateful for the opportunity to honor South Orange and Village Hall. I am also proud to make note of this month's ceremonies because of the important contributions the community has made to our Nation's history.

RETIREMENT OF CONGRESSMAN HAMILTON FISH, JR.

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BROOKS. Mr. Speaker, I rise today to say farewell to a dear and loyal friend. HAMILTON FISH, JR., has ably and diligently represented the 19th Congressional District of the State of New York, which first elected him to office in 1968. I have had the high honor of serving with Congressman FISH on the House Committee on the Judiciary since 1969. As the years passed, I became chairman of that committee and Congressman FISH became the ranking minority member. Some Members may not know that Congressman FISH was actually born in the District of Columbia when his father was serving in the U.S. Congress representing the same congressional district HAM serves today. Congressman FISH's contributions to the work of the Judiciary Committee and of the Congress in general cover many years and many topics. His work on civil rights and immigration, to name just a few issues, will be long remembered. We shall all miss HAM FISH and his lovely wife, Mary Ann, as they return home to the State of New York. May happiness and good health accompany them along the way.

TRIBUTE TO CHRISTOPHER BURKETT—SALLIE MAE FIRST CLASS TEACHER AWARD WINNER

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. SPENCE. Mr. Speaker, it is with pleasure that I recognize Christopher Burkett, from the Second Congressional District of South Carolina, who has been selected as a 1993–94 Sallie Mae First Class Teacher Award winner. Christopher is 1 of 51 teachers nationwide to receive this award.

Sallie Mae, a corporation that specializes in financing student loans and other education-related services, established the First Class Teacher Award 10 years ago to recognize outstanding performance by new elementary and secondary schoolteachers. Selections of recipients of the awards are made for Sallie Mae by a panel of education experts assembled by the American Association of School Administrators [AASA], the professional organization that represents public and private school superintendents and leaders.

Christopher Burkett is a 12th grade American government and economics teacher at Dutch Fork High School in Irmo, SC. He is a 1993 graduate of Newberry College and is beginning his second year as a teacher.

I have had the pleasure of meeting with Christopher and have been impressed with his dedication and enthusiasm for a profession which has as its calling one of the most important in life, that of educating others. The citizens of the Palmetto State can take pride in the selection of Christopher Burkett as their Sallie Mae First Class Teacher Award winner for 1993–94.

SARCOIDOSIS FLOOR STATEMENT

HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BISHOP. Mr. Speaker, I rise today to urge my colleagues to recognize and support

November 1994 as "National Sarcoidosis Awareness Month."

Unless you've heard a doctor pronounce its fearsome sounding syllables, you may not recognize the name.

Sarcoidosis is an inflammatory disease that usually appears in the lungs or lymph nodes but can begin in any organ. The cause of Sarcoidosis is unknown and the disease is unpredictable, appearing and disappearing seemingly at random and often for a lifetime. Often someone with Sarcoidosis cannot walk up a flight of stairs without stopping to catch their breath.

Though the majority of people with Sarcoidosis can go on with relatively normal daily activities, 10–20 percent will eventually develop disabiling conditions and others will die.

Once thought to be an uncommon disease, Sarcoidosis is now found all over the world, though it appears most commonly in young black adults or in people of German, Scandinavian, Irish, or Puerto Rican descent. It is difficult to estimate the number of those afflicted because Sarcoidosis is often not diagnosed or can be mistaken for other illnesses. However, the best estimate is that it affects about 5 in 100,000 whites in the United States and about 40 of 100,000 blacks.

The National Heart, Lung, and Blood Institute at the National Institutes of Health is trying to resolve some of the mysteries surrounding Sarcoidosis. For example: Do heredity, lifestyle or environment have a hand in the diseases severity or appearance? And how can we prevent Sarcoidosis? We are thankful for the work that NIH is doing but we can do more.

This issue is especially personal for me because a member of my staff has been undergoing extensive treatment for Sarcoidosis.

In order to raise public awareness about this disease I again ask for your support and recognition of November 1994 as "National Sarcoidosis Awareness Month."

UNITED STATES AND NATIONS OF MIDDLE EAST SHOULD CONTINUE TO GROW IN UNDERSTANDING

HON. CHARLIE ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. ROSE. Mr. Speaker, the last 2 years have provided remarkable progress toward a lasting peace in the Middle East. New diplomatic avenues are regularly presenting opportunities for the nations of the region to put aside longstanding differences and make plans for a mutually beneficial lasting peace. Natural resource sharing, common agricultural needs, and the native entrepreneurial spirit of the region are finally having a chance to take hold over political and military advantage. The parties involved in these new beginnings should be praised as peacekeepers, and the U.S. role in encouraging these changes should be escalated.

The recent opening to Syria has been long in coming. The fact that Israeli and Syrian Government officials are conducting meaningful dialog is an indication of the positive direction of talks in the region. The United States should continue to look for opportunities in the Middle East to bring people together, and highlight those items that connect our peoples on human as well as governmental levels. Recently, I became aware of the artistic talents of Mrs. Lawsan Khayat Al-Moualem, wife of H.E. Walid Al-Moualem, the Syrian Ambassador to the United States. The recent exhibit of her works continues to illustrate the fact that art, like music and dance, crosses national boundaries in appeal as easily as art crosses generational barriers. Art appreciation is one human endeavor that does not discriminate against race, creed, color, or national origin. It is one of those intangible human enterprises that joins rather than divides the world's people.

To quote an inscription on the wall of the John F. Kennedy Center for Performing Arts,

> To further the appreciation of culture among all the people, to increase respect for the creative individual, to widen the participation by all the processes and fulfillments of art—this is one of the fascinating challenges of these days.

Let the United States and the nations of the Middle East continue to bridge the interests of the region and let us continue to highlight those activities that make us understand each other more clearly.

IN HONOR OF MARTIN TUMAN, NEWLY ELECTED CHANCELLOR OF THE KNIGHTS OF PYTHIAS OF NEW JERSEY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. MENENDEZ. Mr. Speaker, I would like to take this opportunity to congratulate Martin Tuman for being elected Chancellor of the Knights of Pythias of New Jersey, as well as for a lifetime of achievements. Mr. Tuman has had, and continues to have, a very successful career. He has used his talents to help his community through his work.

Mr. Tuman joined the Knights of Pythias in 1956. Since then, he has been an active member. During the past 38 years, he has served the organization on countless committees. He has been a charter officer and has served as secretary of the Grand Lodge of the Knights of Pythias of The State of New Jersey Charities Foundation, Inc., since its inception.

Mr. Tuman has lived in Bayonne his entire life. He attended the Roberson School, Bayonne High School and then went on to receive a Bachelor of Arts in History and Political Science from Rutgers University in 1950. In 1953, he received a law degree from Rutgers Law School. In January, 1956, he was admitted to the New Jersey Bar. From 1963–68, he served as assistant U.S. attorney of the State of New Jersey, civil division. In June of 1968 of that same year was admitted to practice before the Supreme Court of the United States of America. In August of 1969, he was admitted to the Tax Court of United States. Mr. Tuman has also been involved in the judicial system on a local level, as acting magistrate for the city of Bayonne in 1961 and 1962.

Mr. Tuman is a member of a number of associations, such as the Hudson County Bar Association, the New Jersey State Bar Association and the National Association of Trail Attorneys. In addition, he was president of the Temple Emanu-El of Bayonne for 2 years and currently serves on various committees for the Temple.

Mr. Tuman has always found time in his busy schedule to volunteer his time to the citizens of Bayonne. He was a key player in the Bayonne Council Boy Scouts of America and served as the council's president from 1971–74. For his services, he received the Silver Beaver Award and the Shofer Award.

It is impossible to state all of Mr. Tuman's accomplishments. He has done so much for the citizens of New Jersey and America; too much to mention here. Needless to say, Mr. Tuman is an exemplary citizen. He has shown his dedication to the community time and again. I commend him for his many achievements and wish him continued success.

HARVARD BAND'S 75TH ANNIVERSARY

HON. SAM COPPERSMITH

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. COPPERSMITH. Mr. Speaker, tonight, the Harvard University band begins to celebrate its 75th anniversary. As a former member and manager of the band, I rise to salute the college band that the New Yorker magazine called the best in the business.

The Harvard band started performing in 1919, when two undergraduates, Fred Reynolds and Paul McElroy—both class of 1920—decided to replace the university's banjo club with a real marching band for football games. From that ragged beginning, the Harvard University band quickly earned its well-deserved reputation for innovation, quick wit, and first-rate music.

In 1932, the Harvard band first marched into words and pictures on the field, a practice now used by bands around the Nation. The band also pioneered its characteristic scramble style marching, where instead of military marching, the band members sprint from one formation to the next on cue.

Musically, the Harvard band premiered famous medleys of college fight songs written by Leroy Anderson, class of 1929, the renowned composer who got his start as the student conductor of the band. The band also premiered works by Gustav Holst, Aaron Copeland, Leonard Bernstein, Sergei Prokofiev, and P.D.Q. Bach.

This weekend, alumni of the Harvard band will join current members for a joint half-time show at the Harvard-Cornell football game. I regret I have to leave my clarinet in the closet due to our late session, but I salute from the floor of this House 75 remarkable years of musical accomplishment, collegiate camaraderie, and humor by the Harvard University band.

LUCYE LEE—VOLUNTEER EXTRAORDINAIRE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. PAYNE of New Jersey. Mr. Speaker, I am proud to salute a very special individual who is being honored in my congressional district. On Friday, October 14, 1994, the Urban League of Essex County, NJ, will be hosting a testimonial dinner for Ms. Lucye Lee. Ms. Lee has been called a volunteer extraordinaire, for the more than five decades that she has devoted to volunteer activities in this community.

Born in Carthage, NC, Ms. Lee has spent most of her adult life here in Essex County, where she has touched thousands of lives with her concern for community and commitment to helping others. Ms. Lee has long been active in the Presbyterian Church. She taught Sunday school at 13th Avenue Presbyterian Church, Newark, and served as chairwoman of the church's 120th anniversary celebration. She currently worships at Grace Presbyterian Church in Montclair where she serves as a deaconess.

Lucye Lee taught knitting and crocheting to elderly women at the Newark YMWCA, she was a master auxilian for the New Jersey Hospital Association, she helped establish a teenage pregnancy program for the Newark Board of Education, she volunteered with the American Cancer Society and raised funds for the United Community Fund of Essex and West Hudson, now known as the United Way. From 1968–70 she was president of the Urban League Guild and also served 8 years on the Urban League's board.

If that's not enough, because of her concerns about health in the black community Lucye Lee served four terms as auxiliary president at Martland Hospital. She demonstrated a lifelong commitment to education, the arts and to music. She is also quite a cook and introduced "Simple Pleasures" the cookbook of the Urban League Guild.

Lucye Lee once stated that she wants to do something meaningful with her life. Through her devotion to her church, family and friends, her concern for her community and her willingness to help others she has achieved this ambition. Mr. Speaker, I urge my colleagues to join with me in recognition of Ms. Lucye Lee a truly special woman.

SAN FRANCISCO—OCEANSIDE WATER POLLUTION CONTROL PLANT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. LANTOS. Mr. Speaker, it is my pleasure today to congratulate the international consulting engineering firm of CH2M HILL, whose many offices include a long-time presence in the San Francisco area, for winning a significant award this year from the American Consulting Engineers Council [ACEC]. CH2M HILL won an ACEC honor award for the design of San Francisco's new Oceanside Water Pollution Control Plant.

This $220 million plant was part of a major clean water effort in the city's west side, but it faced difficult siting obstacles. Optimum sites were in prime use areas of Golden Gate Park and along the Great Highway. Because the site chosen had been planned for zoo expansion, which raised residents' concerns over esthetics, noise, vibration, and odor, the city and county of San Francisco asked CH2M HILL to design the pollution control plant under the zoo's future mammal center. The plant's roof—and the mammal center—will cover 70 percent of the total plant area, and will carry a load of 300 pounds per square foot. This makes the Oceanside Water Pollution Control Plant the Nation's first such plant with a zoo on its roof.

CH2M HILL, an employee-owned family of companies involved in the domestic and international consulting engineering business, has nearly 6,000 employees working in more than 70 offices both nation- and world-wide. CH2M HILL is a world leader in engineering service that helps clients apply technology, safeguard the environment, and develop infrastructure. Their work involves planning, design, and program management for clients engaged in hazardous waste remediation, water, waste water and waste management, transportation, and related environmental fields. I congratulate CH2M HILL for this important award!

THE EXAMPLE OF MELVIN VAN DENEND

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. HYDE. Mr. Speaker, I would like to draw the attention of this body to a man whose life should serve as an example to all of us.

Mr. Melvin Van Denend passed away last year, but his work lives on in my community, the western and northwestern suburbs of Chicago. Walking into a nursing home several years ago, Mel was struck by the number of wheelchair-bound patients who had no way of venturing outside the nursing home. Inspired, he and his wife simply started taking nursing home residents, one at a time, on excursions to local points of interest. Over the past 7 years, his program, "Life on Wheels," has grown dramatically. It now has over 40 volunteers and brings joy to over 1,000 nursing home residents each year.

Mel passed away last December after a long battle with emphysema. I hope his life is inspiration to everyone.

I am also submitting an article from the Chicago Tribune about Mel's life and work.

MAN'S VISION TO FREE DISABLED CARRIES ON

(By Sonya C. Vann)

Visiting a nursing home, Melvin Van Denend was struck by the number of patients in wheelchairs who had no visitors and no means by which to venture outside the institution, his wife said.

He had the idea of using a van to get patients in wheelchairs out of their often monotonous routines. From that, the Lombard man and his wife built a not-for-profit agency that began with only two volunteers and now boasts more than 40.

Before his death Dec. 13 at age 65, the founder of Life on Wheels Inc. had given the mantle of director over to Victor Glavach of Wheaton, a writer and organizational consultant with 29 years' experience in the nonprofit sector.

In the job since October, Glavach said, "Life on Wheels is small, and very efficiently run by volunteers. I simply give overall management direction and work on fundraising.

"We don't foresee any kind of decline in the operation because Mel and the board anticipated his death, and we're planning on continuing the whole thing," Glavach said.

Van Denend was battling emphysema and had to give up his small decorating business, but was on the mend when he bought a small van for $20,000 in which two people in wheelchairs could ride along with two volunteers.

"I could never sit around a lot, and I felt God had given me a second chance to do something good, so I came up with this idea for Life on Wheels and bought a van in '87," he told the Tribune in 1990.

Van Denend secured help in 1988 from the Mid-America Leadership Foundation of Chicago, which reimbursed him for the van.

"It took us three months to be able to get insurance because we had no background in working with the handicapped," Alvina Van Denend said.

Today, the group has two vans and two buses and serves convalescent centers in Du Page and the northwest suburbs, with plans to expand to Palos Heights, to other southern suburbs and to parts of Chicago.

Life on Wheels takes nursing home residents who are welfare recipients and have little or no family or friends out for daytime excursions to Chicago area attractions such as the Morton Arboretum or Shedd Aquarium and then out to a restaurant for a free lunch.

Mostly staffed by retirees, the group rotates among different nursing homes, spending one week at each.

"The big highlight is their lunchtime, where they can choose anything they want to eat," Alvina Van Denend said. "They have a choice—as much as they want and desserts."

Life on Wheels' budget for 1993 was $42,000 and will be $57,000 in 1994, the lion's share going toward operating and insuring the vehicles, Glavach said.

"What really amazes me is how dedicated the volunteers are and how smoothly the whole thing runs," Glavach said.

CLARIFYING THE DEFINITION OF RAILROAD MAINTENANCE

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BLILEY. Mr. Speaker, I rise today to clarify the definition of railroad maintenance in H.R. 4349, the One-Call Notification Act of 1994.

By and large, rail facilities have been in place for more than a century. During that time they have been extensively mapped, and any encroachment on rail property by a private or public entity must be covered by a lease or other contractual agreement. Those documents define the nature of the encroachment

by transmission line or other facilities and the manner in which they are to be installed on rail property to ensure no breach will occur during routine maintenance by the railroads.

The committees of jurisdiction in both bodies clearly recognized these contractual arrangements and the railroads' outstanding record in maintaining their plant without disturbing transmission lines or other facilities which are buried between 3 and 10 feet underground. As a result, routine railroad maintenance was exempted from the one-call notification requirement.

H.R. 4349 lists examples of railroad maintenance activities such as ballast cleaning, general ballast work, track lining and surfacing, signal maintenance, and the replacement of crossties. These examples are not meant to be all-inclusive. Routine rail maintenance covers many other activities, including ditch cleaning, which are part of the ongoing activities railroads carry out to ensure proper drainage and a strong physical plant.

There is no record indicating that these activities are a threat to pipelines or transmission line buried under rail property. As a result, it is appropriate that the definition of routine railroad maintenance be construed in the broadest possible manner.

HONORING DOUG APPLEGATE

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. REGULA. Mr. Speaker, one of the satisfactions of serving in this body has been the excellent cooperation that has characterized the Ohio Delegation. I do not know of one instance wherein there has been a division on any issue important to Ohio.

There is always strong bipartisan support for projects and policies that benefit Ohio regardless of which district is directly benefitted.

DOUG APPLEGATE has been a very valuable member of the Buckeye team. Because of his leadership on the Public Works and Transportation Committee, he provided leverage that enabled each Member to achieve benefits for their constituents in individual districts and for Ohio.

DOUG has been a good neighbor in the Ohio 18th District which is next to the 16th and has always been receptive to teamwork as we served our constituents.

Mary joins me in wishing DOUG and Betty good health and a happy retirement.

JIM, YOU'VE LEFT YOUR MARK

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BARCIA of Michigan. Mr. Speaker, today I want to publicly salute and give thanks to State Representative James E. O'Neill, Jr., a Democrat who has tirelessly served the 95th District of Michigan, including over his tenure several communities in the Saginaw area.

Jim has been a good friend and colleague of mine for many years and I take great pride in acknowledging his fine contributions to the people of his district. Jim has had a diverse and distinguished career, from representing his county in the U.S. Army from 1951 to 1953, to teaching in the Hemlock public schools, to serving Michigan in the House of Representatives.

The name of James E. O'Neill, Jr., is synonymous with concern for excellence in education. As a teach, Jim instructed high school students in English, history and government and also found time to coach young people in football, basketball and baseball. The people who worked with Jim thought so highly of him that he was promoted to Hemlock Elementary and Junior High School principal in 1957, where he worked until voters elected him to the Michigan House of Representatives in 1966. He was responsible for securing significant funding for Saginaw Valley State University, my alma mater, helping to dramatically improve that excellent institution. He is truly a champion for education.

As a Representative, Jim serves his constituents as vice-chair of the House Appropriations Committee and sits on the State Police, Community Colleges, House-Senate Joint Capital Outlay, School Aid and Department of Education subcommittees.

Jim has lived in Saginaw his entire life, where he has raised two wonderful children, Margaret Ruth and James E. III. He now leaves the Michigan State House of Representatives where he has distinguished himself as one of the most effective legislators in the body's history. The people of the 95th District will be losing a skilled friend who has effectively worked on their behalf. In fact, the entire State House of Representatives will miss a noted leader.

I urge all of our colleagues to join me in wishing State Representative James E. O'Neill, Jr., the very best in his retirement, and thanking him for his most distinguished public service.

AVIS DESERVES ACCLAIM

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. HOYER. Mr. Speaker, as the chief House cosponsor of the Americans with Disabilities Act, it is a particular pleasure to rise today to commend Avis Rent-A-Car for its outstanding efforts and unflagging commitment to make its car rental services widely available to Americans with disabilities. A recent exampie is an Avis initiative making available specially equipped "Wheeler" vans to provide new options for customers who use wheelchairs.

Avis deserves special acclaim for quickly and amicably reaching a landmark agreement with the Department of Justice to provide to disabled renters a full range of vehicles equipped with hand controls and to take other steps to expand access of persons with disabilities to car rental services.

The degree of cooperation between Avis and the Justice Department is an excellent example of how American business is, in the words of the Department, bringing down the barriers to travel that affect the way people with disabilities work and spend their leisure time. In fact, the Justice Department determined that Avis had implemented many of the procedures outlined in the settlement agreement long before the parties agreed on all the terms.

Currently, the Justice Department is investigating allegations that a number of other car rental firms may have violated the Americans with Disabilities Act. I hope that these firms and the Justice Department will view the agreement with Avis as a model for future settlements and as an added stimulus to complete current negotiations. As the Avis agreement demonstrates, government and business can work together in a spirit of cooperation to achieve shared goals. When that happens, business and consumers are both winners, and the public interest is best served.

I hope that other industries will follow the Avis example and work to ensure that the Americans with Disabilities is implemented in a reasonable and effective manner.

OUR VETERANS OF COLOR, MEN AND WOMEN OF VALOR AND COURAGE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. PAYNE of New Jersey. Mr. Speaker, as we approach Veterans' Day, I would like to take this opportunity to recognize and pay tribute to the men and women who have fought for our country in the Armed Services, particularly our African-American veterans. This year marked the 50th anniversary of D-day. With the commemorations came some bittersweet remembrances.

For most of my life, I have heard of the stories told by African-American veterans of their treatment as second-class citizens in the Armed Services. In 1944, my uncle John Garrett was a Staff Sargeant and platoon leader of the 229th Port Company attached to the 1st Engineer Specialist Brigade of the 1st Army and on June 6, his contingent of 75 men was responsible for transporting ammunition to the landing Allied Forces. Now, a commander of the Crawford Crews Post 251 of the American Legion, he often tells how he and his platoon members merely wanted to prove their manhood, their pride and patriotism, and receive the dignity accorded men of war. Instead, the French bestowed medals on them while their own country did not, all because of the color of their skin.

Last weekend I attended a reunion of "Black Veterans of D-day and the Normandy Campaign" and marveled at the mixed emotions that were present. While stories of mistreatment were flying, there was a sense of hope lingering in the air. there are some positive things taking place. Our Secretary of Veterans Affairs, Jesse Brown, is African-American. During the recent Congressional Black Caucus Legislative Conference a brain trust and hearing on veterans was held. The brain trust was

well attended and informative. President Clinton attended a reception following the event and acknowledged the treatment of the African-American soldiers in the segregated units and how extremely well they performed their varied duties despite the negative behavior towards them. There was a general feeling at the reunion that there will be fairer treatment of the African-American veteran—male or female—in the future.

Mr. Speaker, I am sure my colleagues will want to join me as I pay tribute to these national heroes—our veterans—Norman Ashton, Noel Brooks, Harold Brown, Roscoe Colson, Harold Drew, Gordon Garrett, John Garrett, John Henderson, John Knox, Joseph Marshall, Lawrence Page, Jesse Parrish, Wilbur Smith, Eugene Summons, Nathaniel Wicks, Dorsey Williams, Edward Williams, and Norman Wilson and have United States flags flown over the Capitol, in their honor, on Veterans' Day 1994.

HISPANIC HERITAGE MONTH SEPTEMBER 15–OCTOBER 15, 1994

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. GEJDENSON. Mr. Speaker, I would like to take a moment to recognize a very important occasion, the commemoration of the Hispanic Heritage Month. Hispanic Americans came to American for the same reasons that my parents did—to seek opportunity, freedom, security and the chance to better their lives for themselves and for their families.

It is with great pleasure and pride that I share with you the names of just a few of the many Hispanic Americans in my district who have not only achieved their goals but continue to reach out and lend their experience, time and knowledge to others within the great State of Connecticut.

Mr. Manuel Diaz, Jr. is a University of Connecticut graduate; Member of the Windham Board of Education and Supervisor of the Laboratory at Windham Hospital.

Mr. Carlos Flores is an accountant and member, Board of Finance in Windham, CT.

Mr. William Garcia is Executive Director, Centro De La Comunidad in New London, an educational and social service organization for Hispanics which just celebrated its 25th anniversary. In 1969, Bill was a founding member of this organization as well as the previous president of the United Way, New London Pequot Foundation and New London Rotary Club.

Ms. Grissel Benitez-Hodge, formerly a member of the New London Board of Education, is Dean of upper class students at Wesleyan University and the current President of the Board of Directors of Centro De La Comunidad in New London, CT.

Ms. Yolanda Negron is the first Puerto Rican elected to the Board of Selectmen, 1992, Windham, CT. Prominent Puerto Rican political organizer for statewide and local political campaigns.

Ms. Josie Zemko is head of the language department at New London High, volunteers at Centro De La Comunidad to help recent Hispanic immigrants, as well as assists new Spanish speaking students at the high school.

Ms. Rose Mary Fuentes Loffredo is a respected member of the business community operating her own catering service, Siesta Catering. As a singer in a South American band, Rose Mary entertains and educates children in the public school systems about South American and Mexican music culture.

Ms. Leila Gonzalez Sullivan is President of the Middlesex Community Technical College. A leader and longtime proponent of bilingual education, she is well respected by her colleagues in the higher education community.

Mr. Speaker, while there are many more names to be recognized, I would like to thank all the leaders of the Hispanic community in my district for their untiring efforts and acts of selflessness as they aspire to the Hispanic tradition of achievement.

LEYLA ZANA

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Ms. FURSE. Mr. Speaker, I have spoken out in the past on the House floor about the egregious situation Leyla Zana finds herself in.

Leyla is the first and only Kurdish woman parliamentarian deputy in Turkey's history. She has been held in solitary confinement by Turkish authorities since March 2, nearly 7 months now. Her crime? Public speech, for which the Turkish government wants her sentenced to death.

Leyla was first arrested and severely tortured by the Turkish police in 1988 for engaging in peaceful demonstrations on behalf of prisoners against the barbarity of torture, and for respect for human dignity and the Universal Declaration of Human Rights.

I want to read from Leyla's September 15 letter to me and I ask permission to submit it in its entirety to the RECORD.

I came to realize that war and violence, inflicted by a society based on macho values—worship of power and destruction of the weak, had brought the Kurdish and Turkish peoples to the point of civil war and to the brink of social and moral disaster. I therefore resolve to take an active part in political life in order to send a different message * * *

In October 1991, I was elected deputy to the Turkish Parliament with 82% of the vote.

* * * during my swearing-in ceremony, a phrase I spoke in Kurdish, on friendship and coexistence between Kurds and Turks within the context of equality and of respect for the identity of the other [caused me to be] described as a "separatist," and "ally of terrorists," a "traitor." My photo was used in the target practice of the Turkish police * * *

I am determined to continue, by peaceful means, the struggle for peace between Kurds and Turks, for democracy, and for respect for human rights. These, I believes, are the universal values which must unite us, beyond differences of language or religion.

Mr. Speaker, I appreciate the leadership Congressman PORTER is taking on behalf of Leyla Zana, as well as the other five duly elected parliamentarians representing Kurdish populations who are also being detained. As elected officials, we all must speak out against this abuse of humanity.

Ankara, 15 September 1994.

Ms. ELIZABETH FURSE,

House of Representatives, Washington, DC.

DEAR COLLEAGUE, I read in the Turkish press that you are considering taking action to demonstrate your solidarity with me. I am very touched, and would like to express my warmest thanks.

I am the first and only Kurdish woman parliamentary deputy in Turkey's history. My political experience began outside the gates of the Turkish prison where my husband, mayor of Diyarbakir (the main Kurdish city), was imprisoned for 10 years and 8 months. Prisoners' wives organized peaceful demonstrations against the barbarity of torture, and for respect for human dignity and the Universal Declaration of Human Rights. For the activity I was harassed and persecuted by the Turkish police, who finally arrested me in July 1988. I was severely tortured for 59 days, and still bear the scars, both psychological and physical.

I came to realize that war and violence, inflicted by a society based on macho values—worship of power and destruction of the weak, had brought the Kurdish and Turkish peoples to the point of civil war and to the brink of social and moral disaster. I therefore resolved to take an active part in political life in order to send a different message, one of respect for human beings, their dignity and their inalienable rights, and of the need for dialogue about the deep problems in our society. In October 1991 I was elected deputy from Diyarbakir to the Turkish Parliament, with 82% of the votes.

My first clash with the Turkish political establishment, dominated by generals and men who deny the very existence of the Kurdish people, took place during my swearing-in ceremony in Parliament. A phrase I spoke in Kurdish, on friendship and coexistence between Kurds and Turks within the context of equality and of respect for the identity of the other, elicited a violent attack from the media. I was described as a "separatist", an "ally of terrorists", a "traitor", etc. My photo was used in the target practice of the Turkish police. After that, I barely escaped two attempts on my life. (In fact, eighty-four national and regional leaders of our Democracy Party have already been assassinated).

On 2 March 1994, on my return from a European trip during which I had been received by President Mitterrand of France and Jacques Delors, President of the European Community Commission, I was arrested along with five other deputies. Since then we have been held in preventive detention. We are criticized for our statements in Turkey and abroad, including those before the Helsinki Commission. The Turkish Government want us sentenced to death for our opinions. For 7 months I have been in solitary confinement. My only contacts with the outside world are my lawyers and a few authorized visitors.

In spite of these difficulties and the poor state of my health, I am determined to continue, by peaceful means, the struggle for peace between Kurds and Turks, for democracy, and for respect for human rights. These, I believe, are the universal values which must unite us, beyond differences of language or religion.

Any support from the United States is of great importance to us. I count in particular on the solidarity of my feminist sisters,

those admirable American women to whom the struggle for democracy, peace and equality is so greatly indebted. Come and be with us as observers of the trial. Write via the Kurdish Institute of Paris, which will see that the message gets to me.

Thanking you again, and awaiting your reply, I remain.

Sincerely yours,

LEYLA ZANA.

50TH ANNIVERSARY OF THE MASS REVOLT AT AUSCHWITZ-BIRKENAU

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. McDERMOTT. Mr. Speaker, October 7 of this year marks the 50th anniversary of the revolt of prisoners in the Nazi death camp for women at Auschwitz-Birkenau. A group of Sonderkommandos, prisoners who fueled crematoria with corpses, took a stand against their oppressors by blowing up a crematorium. Many Nazi guards were killed, and hundreds of prisoners escaped. This effort was undertaken by a group of very courageous women prisoners led by a young Jewish woman named Rosa Robota.

Over a period of months, the small group of women slave laborers who made fuses for the V–2 rockets stole small quantities of gunpowder which was later smuggled to the camp's underground and used to make primitive grenades. The heroine in this operation was 20-year-old Rosa Robota. Rosa and three of her suspected collaborators were arrested and indescribably tortured by the Gestapo for weeks. Rosa was the only person who knew the names of the members of the underground and the channels by which they communicated. Despite all of the torture she endured, Rosa revealed nothing. On January 6, 1945, Rosa Robota and her three comrades were hanged, just weeks before the camp was evacuated.

Mr. Speaker, it is important to recognize the heroism of these women as we commemorate the 50th anniversary of the revolt. Contrary to what many of us learned in elementary school, Rosa's story is one of many which illustrate two important points in history: (1) that the Jews did not follow like lambs to the slaughter but, in fact, fought back courageously, with every weapon at their disposal, and (2) the heroic Jewish women played a crucial role in anti-Nazi resistance.

A foundation has been established to honor this valorous young woman, and I would like to enter into the RECORD well-deserved recognition of her deeds and those of her comrades.

TRIBUTE TO WILLIAM PRESSLY COCHRANE

HON. TILLIE K. FOWLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mrs. FOWLER. Mr. Speaker, I rise today to honor the 80th birthday celebration of my constituent, not only to Florida's Fourth Congressional District, but to the U.S. House of Representatives as well.

Mr. Cochrane worked for the House of Representatives in various capacities after his arrival on Capitol Hill in 1955. For 17 years he served as the Assistant Parliamentarian until his retirement in 1979. During most of his tenure on the Hill, Mr. Cochrane, served under three separate Speakers of the House, Carl Albert, Sam Rayburn and John McCormack. Always devoted to his position and never one to play politics, Mr. Cochrane loyally fulfilled his responsibilities to every Member of the House, as many of you may remember.

Mr. Cochrane currently lives in Palm Coast, Florida, and I am very proud to have the opportunity to represent him in Congress. I salute his dedicated service to our country.

Again, it is with great pleasure that I wish William Pressly Cochrane a very happy birthday.

RECOGNIZING MS. ANNA HUNT BIVINS OF CLEVELAND

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. STOKES. Mr. Speaker, I rise today to recognize a remarkable and inspiring individual in my district in Cleveland, who both reminds and teaches us about two important keys to life—education and determination. Ms. Anna Hunt Bivins received her equivalency high school diploma this summer, 60 years after leaving high school without her diploma. That achievement is itself worthy of praise, but that is just part of the picture.

Ms. Bivins has raised 8 children, and 2 step-children, and more than 30 young ones call her Grandma. Her nurturing was not exclusively for her own children though, as she became a tutor in her General Educational Development class to help with their final exam. As a model of poise and self-respect in the Cleveland School District for 21 years, she shared her love for the kids by trying to keep them in school, from becoming mothers and fathers too soon, and by teaching them lessons of virtue and dignity.

But the most telling aspect of her story, Mr. Speaker, is that on the way to take her equivalency exam, Ms. Bivins was knocked down and attacked for her purse. She refused to give up her handbag, even when the attacker threatened to hit her, and held him off until another student scared off her assailant. While she was unnerved and unable to take her exam that day after studying for the GED for a year, this setback did not deter her from reaching her long-awaited goal: She later took that exam and received her diploma.

Mr. Speaker, let us all recognize Ms. Anna Hunt Bivins as someone from whom we could all learn a lesson. Just as she would not relinquish her purse to her assailant, Ms. Bivins would not give up her desire for education, nor would she give up on kids that some perhaps had written off. Her commitment to education, not only for herself, but for the students whom she loves, teaches our youth about being responsible, about achieving goals, and about not letting anything stop us from reaching those goals. Recently, the Cleveland Plain Dealer newspaper featured Ms. Bivins in an article that painted a wonderful portrait of hope.

I ask that this article be entered into the RECORD for my colleagues to read. Please join me in recognizing this outstanding citizen, Ms. Anna Hunt Bivins.

[From the Cleveland Plain Dealer, Sept. 12, 1994]

FOR WOMAN, 75, EDUCATION WAS WORTH GOING BACK FOR

(By Anjetta McQueen)

CLEVELAND.—It would be hard to say education is not important to Anna Hunt Bivins. After all, she had been out of school for 60 years and was mugged during final exams, but that did not keep her from getting an equivalency diploma. And nothing stops the 75-year-old grandmother from helping others get theirs.

"Learning is never-ending," Bivins said in a recent interview at her East Side apartment. "It's something you can always benefit by."

This summer, after a year of study, she received a certificate for completing the high school equivalency program. She was featured as the program's speaker of the year. All the while, she helped tutor fellow General Educational Development students in classes at Our Lady of Fatima Community Center, at E. 67th St. and Quimby Ave. in Hough. Recently, she has been recovering from a car accident injury.

Bivins, who dropped out of high school at 15, said she was glad to help a program that gave people a second chance. Two years ago, after rearing eight children and two stepchildren, the twice-widowed Bivins watched her last child graduate from high school and decided she should, too.

She started classes at Our Lady of Fatima.

"She was really a lovely student," said Linda Sullivan, the Cleveland schools' GED instructor at Our Lady of Fatima, who recalled Bivins bringing doughnuts, coffee and tea to class. "She inspired a lot of the younger students.

"And she kind of mothered us all."

For the most part, Bivins enjoyed her experience. The math was a little hard, she said, but she got through it. By July 1993, she was ready for her final test.

"Age brings wisdom," Bivins said, leaning forward to shift weight off her back. "I had sense enough to know this."

The exam was going to be easy, she remembered thinking as she walked down the stairs to the Cuyahoga Community College Main campus classroom, where the test was held. But lost in her thoughts, she didn't notice the boy until he had knocked her down and grabbed her purse straps.

"He threatened to hit me," she recalled. "I told him, 'You're just going to have to hit me.'"

"That young man needed to be in somebody's classroom," she said. "He wasn't more than 17 or 18."

The teen ran when one of Bivins' classmates came to her aid, but she knew she wouldn't be able to take the test.

"Back upstairs, I just fell apart," she said. "But I came back."

Bouncing back seems natural to Bivins, who spent most of her recovery time fielding phone calls from grandchildren and church friends.

"I've been slowed down on account of this spinal injury," she said. "I have to wear this

back brace most of the time. But it's not going to stop me from going to church or doing my work."

All around her neat apartment are signs of a vibrant, youthful woman tempered with classic Southern charm: In the living room, plastic coasters were stacked neatly on a glass coffee table with a full candy dish. An aerobic step, a ski exercise machine and a small stack of videos rested in another room.

On almost any afternoon in Bivins' home, one can also find a freshly baked cake filled with homemade jam or jelly and her latest sewing project pinned snuggly to an old dressmaker's mannequin.

Besides cooking and sewing, she also models, sells Avon cosmetics and teaches Bible classes at Unity Baptist Church on Kinsman Rd.

Her other hobbies include singing with a local gospel group called Flight to Glory and spoiling her grandchildren.

"Grandchildren?" she asked, spreading dozens of snapshots with smiling faces onto her dining room table. "Oh, I stopped counting at 30."

Growing up came in a hurry for Bivins in New Orleans, where she dropped out of the 10th grade to work in her father's store and married at 18 as a way out of the house. She said dropping out of school left her hurt and embarrassed.

"In those days, they didn't care whether you finished school," said Bivins, who added that all of her children finished high school. "During my day, it was the thing to marry young and grow up with my children."

Now, among the GED students whom she sees, there are still young girls whose life choices also made them miss out on high school.

"These are young women barely 30 years old, unmarried with five or six children," Bivins said "I ask them why do they do that. They just drop their heads."

Bivins, who came to Cleveland in 1947, spent 21 years urging students—girls especially—to do well and behave in school. She worked as a hall monitor for Cleveland schools, one of the few jobs she could get without a high school diploma.

"I was always telling them to be ladies," Bivins said "You know, to quit being so common * * * beer cans in the rest room, necking with boys in deserted corridors. * * *

"But I love those kids," Bivins said. "Many of them see me now and they say, 'Ms Hunt—they all still call me that, you know—I wish I had listened to you."

"Life is a teacher, and you're a fool if you don't pick up on it," Bivins said. "Even as a child, I didn't miss a class."

GATT IS A BAD DEAL

HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BROWN of Ohio. Mr. Speaker, I urge Members from the Midwest and other agricultural areas to listen to America's dairy producers. I grew up working on a dairy farm, and believe me, the last few years have not been easy for America's dairy farmers.

GATT will just make things worse. Free trade is a joke for the dairy farmer under GATT. Competitors from Europe and elsewhere will maintain a considerable advantage over American producers. These foreign producers are generously supplied by their governments with a strong trade tool: export subsidies.

If GATT passes, U.S. subsidized exports will be restricted to no more than 1 percent of milk production. But the European Union will continue to subsidize at 12 percent of production. Canada will continue to subsidize at 6 percent.

They call this free trade. It's not free and it's not fair. GATT is a bad deal for America's dairy farmers. What's worse, it's kicking them when they're down.

I LEFT MY HAT IN HAITI

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. DORNAN. Mr. Speaker, when walking your precincts back in Tacoma this month, here's a little ditty you can sing to yourself. It's a song made famous by Fred Astaire in the 1951 MGM musical "Royal Wedding." When you're humming this tune, remember that the self-excommunicated, Marxist, ex-priest Aristide is not worth one drop—not one drop—of American blood. Not a drop of the blood of wounded-in-action S/Sgt. Ron Holstead should have been shed in Haiti for Aristide.

I LEFT MY HAT IN HAITI

I left my hat in Haiti.

In some forgotten flat in Haiti. I couldn't tell you how I got there. I only know it was so hot there. She took my hat politely.

And wound her arms around me tightly.

But I remember nothing clearly. Except the flame when she came near me. Her eyes had the glow of surrender. And her touch, it was tender.

And with someone as fairy as that you forget about your hat. So if you go to Haiti.

There is a girl I know in Haiti, if you can find her you'll adore.

Just look around till you've found someone who has a blue gray fedora. I think of that gorgeous creature when I'm all alone. Whenever I do from down inside there comes a groan. That son of a gun in Haiti has got the prettiest hat I own. And when it is bleak and chilly and life is flat. I think of that Haitian dilly. And think I'd better go get my hat.

PAKISTAN'S UNACCEPTABLE POLICY

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. MENENDEZ. Mr. Speaker, the U.S. Department of Commerce has identified India as one of the most important emerging markets in the world. India is currently opening its economy in ways that were unthinkable only 5 years ago.

United States-India bilateral trade is increasing rapidly. Among other items, the United States is selling billion-dollar power plants and telecommunications equipment to India and in return India is selling the United States such products as clothing and computer software.

It is in America's national interests to support peace, prosperity, and democracy in India to insure that the economic liberalization which we have encouraged for years stays on track. But the rapid improvements of the Indian economy must be accompanied by political stability. As a member of the House Foreign Affairs Committee, I am concerned that our friend and ally, India, the world's largest democracy faces a wave of regional political instability.

Recently, troubling reports have surfaced which allege that India's neighbor, Pakistan, is covertly promoting instability in the Jammu, Kashmir, and Himachal regions of India. Specifically, the allegations assert that Pakistan is supporting anti-India Kashmiri insurgents as well as radical veterans of the Afghan war who engage in terrorist violence in the abovementioned regions. In fact, according to the U.S. State Department's "Global Report on Terrorism for 1994," there were credible reports of official Pakistani support to Kashmiri militants.

These terrorist gangs have forced some 250,000 Kashmiri Hindu Pandits and approximately 50,000 Kashmiri Moslems who openly support India into becoming refugees in their own land. Moreover, in recent comments, former Prime Minister of Pakistan and current opposition leader in Parliament, Nawaz Sharif, threatened India with the use of nuclear weapons should India more directly respond to the terrorism in Kashmir and the other provinces.

Such tactics can only lead to greater insecurity in both India and Pakistan. Should the situation deteriorate, the consequences could be horrible. It is important that our government immediately impress upon the government of Pakistan that the subversion of other states through state-sponsored terrorism, as recent reports suggest, is unacceptable policy.

India needs to focus on domestic issues such as the environment, literacy, health care, and continuing its progress in economic liberalization. In each field much work remains to be done. Countering subversion and terrorism takes the attention of India off these vital issues. America must help India focus its attention on domestic issues. It is my hope that all parties in the region would attempt to arrive at constructive solutions to these difficult problems.

COL. MICHAEL D. BROWNELL

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. DICKS. Mr. Speaker, Col. Michael D. Brownell retired from the U.S. Army on October 1, 1994, serving 5 years as staff director and senior policy advisor of the Reserve Forces Policy Board in the Office of the Secretary of Defense, and after completing a long and distinguished career of over 40 years of service to our Nation. He is a native of Seattle, WA.

Colonel Brownell enlisted in the Washington National Guard as a private at age 17 on September 22, 1954. He served with the 41st Reconnaissance Company in Bremerton, WA, performing such duties as company clerk, tank gunner, tank driver, and squad leader. Upon

entering the University of Washington in Seattle, WA, he served as a sergeant with the 286th Anti-Aircraft Battalion (90MM) of the Washington National Guard and the 334th Chemical Company of the U.S. Army Reserve.

Colonel Brownell was commissioned a second lieutenant in the U.S. Army Reserve on September 22, 1964. He was initially assigned as assistant personnel officer and as personnel officer of the Seattle U.S. Army Reserve School, and subsequently served as an instructor and assistant operations officer. He initiated race relations training at the school and received numerous accolades for his innovative work as unit race relations officer.

Colonel Brownell entered on extended active duty as a captain in June 1975 at headquarters, First U.S. Army, Fort George G. Meade, MD. His initial duty was as chief, Senior Officer Branch, Headquarters, First U.S. Army, with responsibility for managing Army Reserve general officer and colonel company positions throughout the First Army area. After serving 3 years at First Army, Colonel Brownell was selected as general officer management officer in the Office of the Chief, Army Reserve, a position he held for 6 years. He was then assigned to the Army Reserve Personnel Center in St. Louis, MO, in October 1984, serving as Chief of the Command Coordination Branch and as Chief of the Command Support Division.

Colonel Brownell returned to the Pentagon in August 1986 as a personnel staff officer in the Office of the Chief, Army Reserve, managing a variety of officer personnel programs, including a professional development plan for Army Reserve soldiers. He was later assigned as a personnel officer in the Office Accession Branch of the Office of the Deputy Chief of Staff for Personnel, Headquarters, Department of the Army, until his promotion to the grade of colonel.

Colonel Brownell was then assigned to the Office of the Secretary of Defense where he served as editor of the Reserve Forces Policy Board's annual report to the President and Congress entitled "Reserve Component Programs." This report articulates Reserve component issues to the Secretary of Defense, the President, Members of Congress, and the public. The Reserve Forces Policy Board is, by statute, the principal policy adviser to the Secretary of Defense on matters relating to the Reserve components.

Colonel Brownell also served as staff director of the Reserve Forces Policy Board's Personnel Committee during Operations Desert Shield/Storm. In that capacity, he developed and recommended policies on a broard range of issues that contributed to the readiness and effectiveness of the National Guard and Reserve forces during the Persian Gulf war.

While on active duty, Colonel Brownell completed the Army Command and General Staff College, the National Security Management Program at the National Defense University, the Senior Executives in National Security Program at Harvard University, and the Personnel Management for Executives Course. He continues to serve as a member of the faculty of the Army Training Center for the Personnel Management for Executives course.

As a civilian, Colonel Brownell received an Associate in Arts degree from Olympic College in Bremerton, WA, in 1956 and a bachelor of arts degree and a master of public administration degree from the University of Washington.

He was a staff member of the University of Washington for 10 years immediately following graduation, serving in a variety of roles in the University's Staff Personnel Office, as personnel manager of University Hospital, and as a manager of administrative services manager in the University of Washington Medical School. He later served 5 years as assistant personnel director for the city of Seattle and as adjunct professor of personnel management at the University of Puget Sound.

Colonel Brownell currently resides with his wife, Janell, in Alexandria, VA. He has two grown daughters, Sandra and Melinda; Sandi is a first lieutenant in the Army Reserve and Melinda is a Regular Army first lieutenant stationed at Fort Lewis, WA. Colonel Brownell is a member of the board of directors of the Northwest Ethics Institute and a former board member of the Pacific Northwest Personnel Management Association, the Washington Council of Public Personnel Administrators, the Washington State Hospital Personnel Directors Association, the Society of Research Administrators, and the Seattle Management Association. He is a life member of the Reserve Officers Association of the United States and the Retired Officers Association.

His decorations include the Defense Superior Service Medal, the Legion of Merit, the Defense Meritorious Service Medal with two Oak Leaf Clusters, the Army Commendation Medal with One Oak Leaf Cluster, and numerous other awards and decorations.

TRIBUTE TO DOUGLAS APPLEGATE

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. HALL of Ohio. Mr. Speaker, I rise to recognize the contributions of my distinguished Ohio colleague, Mr. DOUGLAS APPLEGATE, who is retiring as a Member of the House of Representatives at the conclusion of the 103d Congress.

I have know DOUG since we served together in the Ohio General Assembly and it has been a privilege to work with him. Throughout his career in government life, DOUG has served with distinction and honor.

DOUG has been a special champion of Federal workers. He recognized the value that they added to quality of life of the American people and he never hesitated to thank them. In an era of cynicism toward government, he considered politics to be an honorable calling. He recognized the importance of carrying out the will of the people through the political process. He performed his duties in that spirit, always with sensitivity to the common man.

As a member of the Committee on Veterans' Affairs, DOUG has been a diligent supporter of the men and women who served in our Armed Services. One of his contributions was his work to increase benefits for survivors of veterans who died of combat-related injuries.

I join with my Ohio colleagues and all Members of the House in offering our thanks to DOUG and best wishes for his happiness and good health in the future. We will miss him.

TRIBUTE TO NADINE MILFORD

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. RICHARDSON. Mr. Speaker, I urge my colleagues to join me in extending my congratulations to Nadine Milford from New Mexico. Nadine received a Public Service Award from the National Highway Traffic Safety Administration at the 12th Annual Lifesavers Symposium.

After a DWI (Driving While Intoxicated) crash that killed her daughter Melani (age 31) and her granddaughters Kandyce (age 9), Erin (8), and Kacee (5), Nadine chose to mobilize her State of New Mexico and change the status of DWI.

Nadine assembled a coalition that gathered over 80,000 signatures on petitions asking that the senseless, preventable crime of DWI be addressed in the New Mexico State Legislature in 1993. She attended all Committee hearings, spoke to elected officials and met with other victims and survivors of DWI tragedies. Through the cooperation of the media, the family's grief was brought into New Mexico homes each night.

Nadine garnered massive public support which resulted in the most comprehensive DWI reform in the history of the State of New Mexico. I congratulate her, admire her, and I thank her for being a true and devoted citizen of the Land of Enchantment.

CH2M HILL WINS ENVIRONMENTAL AWARD

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mrs. SCHROEDER. Mr. Speaker, it is my pleasure today to congratulate the Denver-based international consulting engineering firm of CH2M HILL for again winning a significant award from the Environmental Protection Agency. EPA's award recognized CH2M HILL's outstanding commitment to involving small, small-disadvantaged, and women-owned businesses in EPA's Superfund Program as subcontractors. I am pleased to note that CH2M HILL has won this important annual "Outstanding Prime Contractor Achievement" award five times since the firm was presented with the first such award in 1993.

CH2M HILL, an employee-owned family of companies involved in the domestic and international consulting engineering business, has nearly 6,000 employees working in more that 70 offices nation- and world-wide. CH2M HILL is a world leader in engineering service that helps clients apply technology, safeguard the environment, and develop infrastructure. Their work involves planning, design, and program

management for clients engaged in hazardous waste remediation, water, waste water and waste management, transportation, and related environmental fields.

In addition to being a world leader in environmental engineering, CH2M HILL's achievements in providing opportunities to small, small-disadvantaged, and women-owned businesses, as recognized most recently this year by EPA, demonstrate that the company is a leader in social responsibility as well.

TRIBUTE TO RONALD K. MACHTLEY

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. DUNCAN. Mr. Speaker, it has been my privilege to serve in this House for the past 6 years with the gentleman from Rhode Island, RON MACHTLEY.

RON is one of the finest men I have ever known. He is a man of compassion and high integrity.

If this Nation had more men like RON, it would be a much better place in which to live.

I have truly enjoyed getting to know RON over these past few years. His kindness, his easy sense of humor, his good grace in every way, has made it a pleasure to know him.

I am sorry that he is leaving this House, but I know that he will be very successful at whatever he does next. I hope he will continue in public service, because he has certainly served the people of Rhode Island with great honor and distinction.

IRAQI TROOP MOVEMENTS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. SOLOMON. Mr. Speaker, we have had some very disturbing news reports today, reports that bode very ill for national security as Congress heads for adjournment.

The news wires have been reporting all day that large concentrations of Iraqi troops have moved toward the Kuwaiti border.

Secretary of Defense Perry has said the movements are not routine and are cause for concern. One Defense official has called the troop movements huge.

In response, President Clinton has warned the Iraqis and has ordered the aircraft carrier *George Washington* to deploy to the Gulf.

In addition, we see that China has once again exploded a nuclear device, its third test in a year.

Mr. Speaker, it is clear that Iraq and China have gotten the idea lately that they can flout the will of the international community and thumb their nose at the United States. Why?

Because that is precisely the message that the Clinton administration has been sending them for 2 years, that's why.

This is the kind of behavior you get from dictators when you gut your defense budget, bog your forces down on some irrelevant island and pursue an overall foreign policy of sheer, unadulterated appeasement.

Let's look at the things this administration has been doing that might have encouraged Iraq and China.

First, our defense budget is a shambles. There is simply no question that we are back to the days of the hollow forces of the 1970's.

We have been cutting now for 10 years, and this President has forced through 2 years of draconian cuts.

The result: Reduced training. Spare parts running low. Operations scaled back.

Secretary Deutch's notorious memo of August 18, outlining all of the weapons systems that they are going to kill.

The Naval Reserve canceled all of its drills for the rest of the fiscal year just last month.

And several military leaders and analysts have remarked lately that we simply could not fight Desert Storm again today.

Second, we have 20,000 personnel and massive amounts of equipment bogged down on an irrelevant Caribbean island, trying to reinstall an anti-American Marxist dictator.

Third, the Clinton administration is pursuing a foreign policy of sheer, unadulterated appeasement.

There isn't a place in the world where this administration has shown the moxie to stand up for our real interests.

I have been warning about this all year long. Most recently, the administration caved in to Russian and French pressure to lift the sanctions on Serbia.

They have been hoodwinked countless times by the North Koreans, and just 2 days ago, we ordered the carrier *Kitty Hawk* to leave the area because the North Koreans demanded it.

And the Russians—well, there just isn't a thing in the world that this administration won't give the Russians.

I read this week that the Russian press, and that means the Russian Government, got the impression that the administration granted Russia a sphere of influence in the former Soviet space.

Add to this two cave ins on MFN for China and Wednesday's ridiculous concession to lift our military sanctions against China in exchange for that rogue regime's promise to stop selling missiles to its clients.

This disastrous, pathetic state of affairs is simply not lost on the world's aggressors, Mr. Speaker.

Indeed, the Iraqi and Chinese actions are quite logical if you think about it.

Why wouldn't they think this administration can be intimidated?

They are so incompetent they even have to let a former President violate the Logan Act to conduct their foreign policy for them.

It would be laughable, Mr. Speaker, but Iraq, China and several Haitian mobs have just reminded us that we are now definitely in the dangerous phase of the ridiculous thing that is the Clinton foreign and defense policy.

Mr. Speaker, maybe Congress shouldn't adjourn. Someone needs to get our foreign policy priorities straight.

Someone needs to stiffen the spine of this administration.

Someone needs to restore our defense budget.

And someone needs to get our forces out of this hokey mission in Haiti now.

As one analyst remarked recently, it is time for adult supervision of the Clinton foreign policy team.

PEACE IN KASHMIR

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BONIOR. Mr. Speaker, this week, the Washington Post carried an article detailing the terrible violence and suffering in Kashmir. This is not a new crisis. Over the past 5 years an estimated 15,000 to 20,000 people, many of them civilians, have been killed.

Sadly, over the past 2 months, the level of violence has increased. Ten to twenty people are being killed each day. In one 24-hour period last month, 56 people were killed. Likewise, torture, rape, and other human rights abuses are also on the rise. India now has half a million troops in Kashmir.

With so much bloodshed and violence, it is understandable that some people doubt that this conflict can be peacefully solved. However, it must be resolved because it has the potential to become a flashpoint for war, possibly nuclear, between India and Pakistan. The question then becomes where to start resolving the conflict?

A good first step would be a reduction in the daily carnage and violence. The Indian Government must allow international human rights groups free access to Kashmir. Only this way will we have a clear and accurate picture of the human rights violations being committed by both sides of this conflict. Only this way will security forces and militants be held accountable for their actions.

The Indian Government must allow the International Red Cross to visit prisons in order to provide medical care and hopefully reduce incidents of torture. Furthermore, it is essential that political prisoners are released who can provide leadership and moderation to end this crisis.

Finally, Kashmir must become a priority in the international community. Kashmir has not entered our everyday conscience because, for the most part, the electronic media has been kept out of Kashmir. I believe that if we were to see Kashmir on the nightly news, the resolve for a solution would be strengthened.

The path to peace is through negotiations—negotiations that include all parties involved, India, Pakistan, and the people of Kashmir. If we are to achieve a just and lasting peace, the people of Kashmir must have a voice in determining their own destiny.

FEDERAL AVIATION ADMINISTRATION ACT

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. OBERSTAR. Mr. Speaker, today I am introducing the Federal Aviation Administration

Act of 1994. This legislation is a major part of the continuing program of the Subcommittee on Aviation to reform the Federal Aviation Administration. Our goal is to enhance FAA's ability to act decisively and objectively to ensure the safety and efficiency of our national aviation system.

During the past year the subcommittee has taken important steps to reform FAA. In Public Law 103–305, we established a 5 year term of office for the FAA Administrator. This will help ensure that administrators stay in office long enough to learn the areas in which reforms are needed and, equally important, to be sure that needed reforms are carried out. In S. 1587, we adopted major government-wide procurement reform, including a pilot project for FAA. These reforms will greatly enhance FAA's ability to procure the equipment needed to modernize the air traffic control system. In addition, during the past 2 years we have been working with FAA to develop the administrative reforms needed to improve the agency's ability to manage high technology contracts.

The Independent FAA Act, which I am introducing today, will enhance FAA's ability to act promptly in carrying out all of its responsibilities. The Act will establish FAA as an independent agency in the executive branch. By eliminating unnecessary and time-consuming DOT oversight and review, we can improve FAA's ability to act promptly to regulate safety, to meet the needs of its customers, and to fully use the funds available in the Airport and Airway Trust Fund to develop the aviation infrastructure. FAA's responsibilities are basically technical, and should be carried out professionally and objectively. FAA should not be part of a Department whose policies vary with the overall political philosophy of the executive branch. The current DOT appears to agree with this assessment, since, as I will discuss, they are proposing to make the FAA's air traffic control system, the FAA's largest activity, largely independent of any executive branch supervision.

The approach of my bill is similar to that followed in the recently enacted law to remove the Social Security Administration from the Department of Health and Human Services and make it an independent administration. In signing this bill into law on August 15, President Clinton noted that his Administration has "embark(ed) upon a revolution within the Federal Government * * * to provide service to the public that matches or exceeds the best service available in the private sector. Establishing an independent Social Security Administration will enhance its ability to meet this goal and provide 'world class service' to all Americans."

My introduced bill also removes from the budget process the Airport and Airway Trust Fund administered by FAA. This change will improve the chances that the $5 billion a year contributed by aviation users to the trust fund will be spent on a current account basis for the intended purposes of developing the Nation's airports and purchasing capital equipment for the air traffic control system, not reserved in a growing surplus that helps to cover up deficit.

This legislation is not the end of FAA reform. A further task remains: to make necessary changes in the general laws governing FAA's operations; to improve FAA's ability to modernize the air traffic control system; to obtain the best qualified personnel to staff FAA's widespread facilities; and to carry out FAA's other responsibilities. During the period before the convening of the 104th Congress, we will be consulting with a wide range of interested parties and experts to determine what further legislation is needed. Early in the 104th Congress, I expect to introduce a broader version of today's bill, to include the necessary changes in the laws affecting FAA's operations.

I am pleased to note that the Chairman of the Senate Subcommittee of jurisdiction will be introducing similar legislation in the Senate. Senator FORD has been a longtime supporter of an independent FAA. We will be coordinating our efforts to develop a comprehensive reform package for the 104th Congress, as we did during the mid-1980s in sponsoring legislation to reestablish the FAA as an independent agency.

I believe that the approach of the introduced bill is much more responsive to FAA's problems than the Administration's proposal to divide FAA into two entities: a government corporation to run the air traffic control system; and a rump FAA to regulate the corporation and carry out the agency's other responsibilities. The Administration's proposal is too narrow because it attempts to reform only the air traffic control system and does not improve FAA's ability to carry out its other responsibilities, including the regulation of safety and assisting with the development of the Nation's airport system. In addition, the Administration's proposal has the potential for creating new problems which would impair the safety and efficiency of the ATC system.

The Administration's proposal does not make needed reforms to improve FAA's ability to develop needed safety and security regulations in a timely manner. While DOT oversight and review slow down virtually all FAA activities, the problem is particularly pronounced in the area of regulation. FAA's regulatory process is inordinately slow. These problems have persisted regardless of which party controls the executive branch. This suggests that the problems are not political, but institutional.

To cite some examples, in the mid-1980s, there was a strong need for FAA regulatory initiatives to improve the survivability of airline passengers in the event of a crash and fire. Rules were needed to require emergency escape path markings, seat cushions that would not readily catch fire, protective breathing equipment for use by flight attendants in emergencies, and improved cabin interior materials for new aircraft. When FAA tried to move on these important safety improvements, its rules had to run a hostile gauntlet of second-guessers at DOT and OMB, which resulted in their implementation being delayed for many months.

Another example of DOT negatively affecting the regulatory process can be found in late 1980s rulemaking establishing a requirement that commuter aircraft be required to carry ground proximity warning devices. These devices alert pilots when the aircraft was not configured to land safely as it approached the ground. DOT's objections resulted in a stretching out of the compliance period far beyond what was reasonable. Accidents occurred during the compliance period that could have been prevented by requiring timely installation of this safety device.

Delays in rulemaking have continued into the current administration. In 1990, Congress passed the Aviation Security Improvement Act which directed FAA to promulgate regulations requiring individuals with unescorted access to aircraft and secured areas of airports to undergo employment investigations, including criminal history records checks in appropriate cases. Almost 4 years have elapsed, yet final regulations have still not been issued.

On the issue of drug testing for airline employees, it has been clear for several years that there is a need to reduce the rate of random drug testing. In July 1992, the House passed legislation calling on FAA to begin a rulemaking to accomplish this reduction. FAA did not issue a notice of proposed rulemaking until February 1994. Thus far no final rule has been passed. A further example of inordinate delay has been rulemaking to establish flight and duty time limits for flight attendants. The issue was thoroughly discussed during the Reagan and Bush Administrations, which were philosophically opposed to the concept of such regulations. Early in the Clinton Administration, the Committee was assured that the Secretary of Transportation and the Director of the Office of Management and Budget supported regulations limiting flight attendant working hours. Despite this high level commitment, it took a year and a half to adopt final rules.

Numerous other examples could be cited.

In the Aviation Subcommittee's investigation of why FAA rulemaking takes so long, it has become clear that the excessive time required for FAA to negotiate with the large number of offices in the office of the Secretary of Transportation which are involved in the rulemaking process is a significant problem. I see no reason why an agency of 50,000 employees, headed by an executive level II administrator should not make final decisions on rulemaking within its jurisdiction without having to steer them through the paper-shufflers and second-guessers at the departmental level.

Another important area which is not dealt with by the Administration's reform proposals is the need to fully use funds contributed to the proceeds of the Airport and Airway Trust Fund, particularly for airport development. The Airport and Airway Trust Fund was established to furnish a mechanism for the users of the aviation system to contribute revenues which will be used in a dedicated revenue stream to develop our Nation's airports and the air traffic control system. In addition, the users pay a portion of the expense of operating the air traffic control system. The Trust Fund is not part of the deficit problem, since user contributions are more than adequate to cover the systems' needs. In fact, the problem over the years has been the budget and appropriations process, which has not permitted spending of all the revenues contributed by the users.

In the late 1980s, the surplus of unspent money in the Trust Fund grew to more than $7 billion. In 1990, an understanding was reached between the Administration and all

the congressional committees involved to embark upon a program to use this surplus to develop the aviation system, as originally intended. The surplus was drawn down to $4 billion at the end of fiscal 1993. Since then, the House and Senate have passed reauthorization bills which, if fully funded, would permit the surplus to remain at roughly this level. However, appropriation legislation has withheld authority from FAA to spend almost $1 billion of authorized funds for airport development.

My bill will help ensure that the Trust Fund is able to spend its receipts. First, by removing the Trust Fund from the budget process, we will remove the need for the Appropriations Committees to cut funding for aviation programs to meet general budget targets for transportation. Second, by making FAA an independent agency, we will prevent spending from the Aviation Trust Fund, which does not contribute to the deficit, from being reduced, as a trade off to permit funding of other programs covered by the overall budget of the Department of Transportation.

In addition to not dealing with problems of delay and full spending for airport development, the Administration's proposal to establish a government corporation for the air traffic control system [ATC] does not deal with some of the main problems faced by the ATC system. Moreover, the corporation proposal holds the potential for seriously disrupting the ATC system.

Before we consider the Administration's proposal, we need to step back and evaluate the overall performance of the ATC system. The system has problems, and much of my work in the Congress has been devoted to identifying these problems and pushing the agency to solve them. But we must not allow these problems to obscure the ATC system's strengths.

FAA now runs the world's best air traffic control system, which moves more than 450,000,000 passengers a year, with a high degree of safety and efficiency. The system is improving. Since 1982, air traffic delays have declined by 15 percent, while aircraft departures have increased by 39 percent.

In addition, the system has been extremely efficient. Between 1971 and 1992, FAA's cost for each instrument operation increased by 90 percent. This was far less than the increase of 241 percent in the consumer price index over the same period of time.

With an excellent system in place, we should be extremely reluctant to make radical changes which have the potential of disrupting the system. Unless there is a strong case to the contrary, the policy preference should be for focused reforms which deal with specific problems, while leaving in place the organizational structure which is working well.

The existing air traffic control system does not operate as an autonomous function within FAA. Rather, operation of the system requires the cooperative coordinated efforts of a number of divisions in FAA, including the divisions responsible for: air traffic control services, facilities and equipment, safety certification and regulation, airport development, research and development, and legal services. This interdependence was recognized by the experts who testified before the Commission to Ensure a Strong Competitive Airline Industry, most of whom agreed that the ATC system cannot be separated from other FAA functions because they are interdependent, (*Aviation Daily*, June 23, 1993).

The proposed breakup of FAA into an air traffic control system, and a rump agency with the rest of FAA's responsibilities, would disrupt organizational relationships and responsibilities which have been worked out over decades. Given human nature, a breakup of FAA would inevitably produce a period of jockeying for position and power which, at a minimum, would seriously distract employees. The end result of this struggle cannot be fully anticipated. However neat the organizational lines in the original plan, there undoubtedly will be unexpected problems affecting safety and efficiency.

This is not the first time corporatizing ATC has been proposed. An earlier proposal for a separate ATC corporation concluded after an in-depth study:

> Of all the options being considered, this one (a separate ATC corporation) raises the most serious possibilities for substantial disrupting a complex program which, despite major obstacles, has proven to be safe and reliable.[1]

[1] "Organizational Options for the Federal Aviation Administration," study by Herbert N. Jasper for the Transportation Research Board (1991).

Because of the disruptive effects of breaking up the agency, the study recommended against a major reorganization of FAA, if there were feasible alternatives.

> Reorganization * * * is never accomplished without some difficulty and the investment of resources, as well as the risk of unintended consequences. Therefore, one should be certain that the problems to be addressed can not be adequately treated within the existing structure before turning to legislation to effect a reorganization as the remedy.

I fully agree that we should not run the risk of disrupting our outstanding ATC system, unless there are serious problems which cannot be resolved by reforms which will keep the agency intact. The bill I am introducing today will permit reform without disruption.

The main concern I have about converting the ATC system to a corporation is the effect on aviation safety.

The corporation plan contemplates that system users, principally the airlines, will be saddled with a fee system to pay for the corporation. This means that the air traffic control system will be an expense for airlines, affecting their profit and loss. At the same time airlines will play a role in setting corporation policies and deciding how much the corporation will spend.

Do we really want to have a relationship between airline profitability, and ATC spending and other decisions affecting safety? Would prescription drug users feel comfortable with an FDA financed by the pharmaceutical manufacturers? Would shareholders feel good about a Securities and Exchange Commission financed by brokerage firms? To be blunt about it, when airline profit margins start to influence air traffic control practices, the safety margin may be eroded, and that would not serve the public interest.

One of the main justifications which has been advanced in support of a corporation is that this form of organization would produce a system which is more responsive to airline concerns and will reduce airline costs. This raises some disturbing scenarios. What if the airlines want to cut their operating expenses by reducing separation-in-trail requirements—the distance between planes—to allow more planes in the air? What if the airlines are having financial difficulties and want to reduce their air traffic control costs by cutting back on the number of controllers and increasing each controller's area of responsibility?

In the existing system, decisions on safety issues are made in the overall best public interest by the Federal Aviation Administration and the Congress, with input from system users. If we go to a corporation, how will the public be assured that ATC operations will be managed to protect the interest of airline passengers and ensure safety?

The answer to these questions that has been advanced thus far by the Administration is that there will be no safety problems because the operations of the air traffic control system would be regulated by the remaining FAA. In other words, a new level of bureaucracy would be created by establishing within FAA a new safety unit to regulate the air traffic control system.

Establishing this new regulatory system will require resolution of many difficult issues. Ultimately, the safety of the system will turn on whether the right solutions can be found. For example, which aspects of the corporation's operation will be considered safety issues to be regulated by FAA, and which issues will be considered operational issues to be left to the corporation? Will the hours a controller works or the size of the sector he or she manages be considered a safety issue to be regulated by the FAA? Or will it be an operations issue to be left to the corporation? What role will the airlines play on the corporation's board of directors or in making other decisions which could affect safety? How will FAA enforce its safety regulations against the corporation?

The basic question which needs to be asked is whether we should risk the uncertainties of creating a new system to promote ATC safety when we have in place an outstanding system.

The entire assumption that a government corporation would be more efficient than a government agency is based on an inappropriate use of private sector models. Normally, private businesses are considered to be more efficient than government agencies because private companies operate in a free market where competitive pressures force them to be efficient. By contrast the proposed ATC corporation would be a monopoly. It would not be subject to any competitive pressures to force it to be efficient.

A prime example illustrating that a conversion from a government department to a government corporation with a monopoly does not enhance efficiency, is the United States Postal Service. In 1972, the Postal Service was converted from a government agency to a government corporation, with a monopoly over letter mail. There were high hopes that the corporation would modernize and improve its service. Recent events have made it crystal clear that the change in the form of the postal service organization was no guarantee of increased efficiency.

With respect to changes in the laws governing FAA, the Administration's proposal for ATC focuses on changing the legal requirements governing procurement and personnel. These are important areas worthy of consideration. As we go forward with our discussions on further legislation, we will certainly consider changes in these areas. But I think we need to expand our horizons.

The last 2 years experience with the Advanced Automation System contract indicate the need for FAA to make substantial improvements in its ability to manage large contracts. FAA needs to shift its focus. Because of the revolution in computer technology, FAA needs to find ways to shift its role from that of a developer of technology, to that of a customer of off-the-shelf technology developed by others. FAA also needs to show more discipline in contract management, by freezing contractual requirements, by obtaining accurate information, and taking necessary action to ensure that projects stay on budget and within schedule. We will be seeking expert guidance on how FAA can best be encouraged to make management changes. Is it exclusively a matter of internal FAA management, or are there organizational and legal changes which would help enhance FAA's performance?

Similar issues are presented in procurement. I should note that I expect procurement to be less significant in the future than it has been in the past since much of FAA's modernization program is now under contract and the problem has shifted from procurement to contract management.

In the procurement area we need to consider ways to improve FAA's ability to make good procurements under whatever system is in place. FAA's recent actions in the Global Positioning Satellite [GPS] procurement show that the existing system affords many opportunities for the agency to streamline the process. In addition, the recently enacted government-wide procurement reform legislation will furnish important additional opportunities for streamlining.

For GPS, FAA proposes to complete the major procurement of differential stations in 3 years and 5 months. This compares to the average procurement time for major projects of 8½ years.

FAA has proposed to procure GPS technology expeditiously by streamlining internal procedures and by assigning professional personnel exclusively to the GPS procurement. Again, we need to look at how these improvements can be applied to other programs. Is this primarily a matter of good management? Can legislation play a part in improving procurement management and administration?

Thinking even more broadly, it has been said that the organizational culture of FAA does not encourage employees to focus adequately on the needs of users of the agency's services. While FAA's focus should not be limited to what its customers want, customers' needs should certainly be an important element. We should explore whether there is a need for organizational or other legal changes to ensure that customers' needs are given their proper weight.

In conclusion, the legislation introduced today is an important building block in the process of FAA reform. I look forward to working with my colleagues and the aviation community to continue the process and develop a comprehensive reform proposal for the 104th Congress.

STATEMENT OF ADMINISTRATIVE ACTION ON THE URUGUAY ROUND TRADE AGREEMENTS

HON. SAM GIBBONS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. GIBBONS. Mr. Speaker, on September 27, 1994, the President transmitted to the Congress the Uruguay Round Trade Agreements, an implementing bill introduced as H.R. 5110, and a Statement of Administrative Action. These documents were printed as House Document 103–316. I have received a letter from the U.S. Trade Representative dated October 3, transmitting corrections of a few printing and other technical errors in the Statement of Administrative Action.

Mr. Speaker, I ask that this letter be printed in the RECORD so that the statement as corrected will be reflected in the legislative history.

THE U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, October 3, 1994.

Hon. SAM GIBBONS,
Acting Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In reviewing the Statement of Administrative Action (SAA) accompanying the Uruguay Round implementing bill, H.R. 5110, we have found that a few lines of text were omitted from the end of several pages of the SAA due to printing errors. The omissions occurred on pages 20, 24, and 367 of the SAA and at the conclusion of the endnotes following the document.

In addition, on page 45, the words "soda ash" were omitted in the fifth line of the second full paragraph and in the second line of the third full paragraph. The same words erroneously appear in the third line of the sixth full paragraph on the page.

Finally, in the first full paragraph on page 77, the words "WTO member" were erroneously inserted in place of the word "country." The sentence should read: "Combatting subsidized competition in third country markets will remain a high priority for the United States for two reasons."

I am enclosing with this letter corrected copies of those pages of the SAA pages mentioned above. I hope that they will clarify the Administration's intent with regard to the matters discussed on those pages and will permit the Committee to take the corrections into account in preparing its report on the bill.

Enclosures.

* * * * * *

CORRECTED PAGE 20:

F. PRIVATE LAWSUITS

Section 102(c) of the implementing bill precludes any private right of action or remedy—including an action or remedy sought by a foreign government—against a federal, state, or local government, or against a private party, based on the provisions of the Uruguay Round agreements. This would include any such suit brought against a federal state, or local agency or against an officer or employee of any such agency. A private party thus could not sue (or defend suit against) the United States, a state or a private party on grounds of consistency (or inconsistency) with those agreements. The provision also precludes a private right of action attempting to require, preclude, or modify federal or state action on grounds such as an allegation that the government is required to exercise discretionary authority or general "public interest" authority under other provisions of law in conformity with the Uruguay Round agreements.

With respect to the states, section 102(c) represents a determination by the Congress and the Administration that private lawsuits are not an appropriate means for ensuring state compliance with the Uruguay Round agreements. Suits of this nature may interfere with the President's conduct of trade and foreign relations and with suitable resolution of disagreements or disputes under those agreements. Moreover, as section 102(c)(2) makes clear, through its approval and implementation of the Uruguay Round agreements Congress will have "occupied the field" with respect to any cause of action or defense that seeks, directly or indirectly, the private enforcement of those agreements. That means that private parties may not bring suit or raise defenses: directly under those agreements; on the basis of a successful judgment against a state in a suit brought by the Attorney General under the agreements; or on any other basis, including Congress' Commerce Clause authority.

In sum, the language of section 102(c)(2) is intended to make clear that Congress seeks the complete preclusion of Uruguay Round agreement-related actions and defenses in respect of state law in any action or proceeding brought by or against private parties.

The prohibition of a private right of action based on the Uruguay Round agreements, or on Congressional approval of those agreements in section 101(a), does not preclude any agency of government from considering, or entertaining argument on, whether its action or proposed action is consistent with the Uruguay Round agreements, although any change in agency action would have to be authorized by domestic law.

CORRECTED PAGE 24:

intends to maintain the existing policy advisory committee on environmental and conservation matters. The Administration also intends to seek the views and advice of the ACTPN and environmental policy committee with respect to environmental issues associated with trade policies or trade agreements, including issues related to implementation of the WTO; and for the environmental policy committee to include in its reports on trade agreements an advisory opinion as to any significant environmental effects of the agreement.

L. WORKING PARTY ON WORKER RIGHTS

Section 131 of the bill directs the President to seek in the GATT and the WTO the establishment of a working party to examine the relationship of internationally recognized worker rights, as defined in section 502(a)(4) of the Trade Act of 1974, to GATT and WTO articles, objectives, and related instruments. Section 131 sets out four U.S. objectives for the working party: to explore the linkage between international trade and internationally recognized worker rights, taking into account differences in the level of development among countries; to examine the effects on international trade of the systematic denial of such rights; to consider ways

to address such effects; and to develop methods to coordinate the work program of the working party with the International Labor Organization.

Section 131 also directs the President to report to the Congress within one year on the progress made in establishing the working party and on U.S. objectives with respect to the working party's work program.

M. COUNTRIES PARTICIPATING IN BOYCOTT

Section 133 of the bill calls on the Trade Representative to oppose the admission into the WTO of any country that participates in a boycott of the type described in section 8(a) of the Export Administration Act of 1979.

N. AFRICA POLICY

Section 134 of the implementing bill provides that the President should develop and implement a comprehensive trade and development policy for the countries of Africa. Section 134 also requires the President to submit reports to the House Ways and Means and Foreign Affairs Committees and the Senate Finance and Foreign Relations Committees and other appropriate Congressional committees within twelve months of enactment of the bill and annually for the next four years thereafter on its trade and development policy for the countries of Africa and on progress made toward implementing it.

CORRECTED PAGE 45:

which can be implemented through Presidential proclamation, this change must be made in a statute.

Sections 113 and 114 of the bill amend the Harmonized Tariff Schedule (HTS) and other provisions of U.S. law to permit the Secretary of the Treasury to liquidate or reliquidate entries of specified products and, on request, to refund any duty paid. These provisions are necessary to correct long-standing errors in classification of certain products in the HTS that are corrected prospectively in Schedule XX, or to correct omissions in the preparation of that Schedule.

B. ADDITIONAL TARIFF PROCLAMATION AUTHORITY

During the Uruguay Round, the United States sought the reciprocal elimination of duties among major trading countries in a wide range of sectors of key interest to U.S. firms. This zero-for-zero initiative consisted of the following sectors: pharmaceuticals, electronics, furniture, distilled spirits, medical equipment, non-ferrous metals, paper and paper products, wood products, soda ash, steel, agricultural equipment, construction equipment, scientific equipment, oilseeds, and oilseed products and toys. These products represent key U.S. import and export interests.

In some sectors, namely wood products, electronics, distilled spirits, non-ferrous metals, soda ash, and oilseeds and oilseed products, agreement on complete duty elimination was not achieved. Obtaining further reductions and elimination of duties in these sectors is a priority objective for U.S. multilateral, regional and bilateral negotiations.

The Administration was particularly disappointed over the failure of Japan to agree to further reductions of tariffs on wood products. Every effort will be made to negotiate reductions toward the elimination of the tariffs facing our exports in this sector.

Moreover, U.S. exports of items such as high value oilseed products would especially benefit from tariff reductions below that achieved in the Uruguay Round. U.S. interests have identified specific products that should be subject to intensified efforts to achieve duty reductions and elimination and the Administration intends to pursue negotiations on these products.

For those sectors in which the United States achieved duty elimination, acceleration of the phase-out of duties in certain sectors, such as paper, and paper products, should grant these U.S. industries improved access to key markets. The Administration will also pursue accelerated staging of tariff reductions as a priority objective with our trading partners, such as an accelerated reduction of the EU tariffs on paper and paper products.

A third area in which further progress is necessary is the harmonization of tariffs on chemical products. The Administration will make every effort to expand * * *

CORRECTED PAGE 77:

their agricultural exports do not impose a similar restriction on themselves and the restriction is not required by the Agreement on Agriculture. No similar statutory change is required for four U.S. export subsidy programs—the Dairy Export Incentive Program, the Sunflowerseed and Cottonseed Oil Assistance programs, and CCC dairy export sales—because there are no similar statutory restrictions on their operations.

Combating subsidized competition in third country markets will remain a priority for the United States for two reasons. First, the European Union, in general, has higher export subsidy ceilings than does the United States. Therefore, there will continue to be a need to protect U.S. export markets abroad from subsidized competition. Secondly, the Agreement on Agriculture requires further multilateral negotiations on trade-distorting agricultural subsidies and import protection in five years. The use of U.S. subsidies in the interim should help induce the European Union and others to agree on further reductions in those negotiations.

The CCC will also administer egg EEP initiatives in a manner to maximize benefits to the entire U.S. egg industry. In particular, the CCC will make efforts to enable the U.S. egg industry to maintain a strong presence in Hong Kong.

B. DAIRY EXPORT INCENTIVE PROGRAM

Section 153 of the Food Security Act of 1985 requires the CCC to operate a Dairy Export Incentive Program (DEIP). The program operates in a manner similar to the EEP, but is limited to dairy products. Section 411(b) of the implementing bill extends the DEIP through 2001.

C. CCC DAIRY EXPORT SALES

Section 1163(a) of the Food Security Act of 1985 currently requires the Secretary of Agriculture annually through fiscal year 1995 to sell for export not less than 150,000 metric tons of dairy products, including not less than 100,000 metric tons of butter and not less than 20,000 metric tons of cheese, out of CCC-owned stocks. Because export sales are usually at world prices, which normally are lower than domestic prices, the export sale of these products by CCC under section 1163(a) is likely to constitute a "sale or disposition of export by governments or their agencies on non-commercial stocks of agricultural products at a price lower than the comparable price charged for the like product to buyers in the domestic market," within the meaning of Article 9:1(b) of the Agreement. Accordingly, CCC dairy export sales made at prices meeting this standard are subject to U.S. export subsidy volume and budgetary outlay commitments under the Agreement.

CORRECTED PAGE 367:

infreqently. In certain cases, the United States has taken such action because a foreign government has blocked adoption of a GATT panel report against it.

Just as the United States may now choose to take section 301 actions that are not GATT-authorized, governments that are the subject of such actions may choose to respond in kind. That situation will not change under the Uruguay Round agreements. The risk of counter-retaliation under the GATT has not prevented the United States from taking actions in connection with such matters as semiconductors, pharmaceuticals, beer, and hormone-treated beef.

Finally, nothing in the DSU will affect application of section 301 against practices by governments that either are not WTO members or by WTO members to which the United States does not apply the Uruguay Round agreements. The Trade Representative will address section 301 investigations of unfair trade practices by such countries on a bilateral basis.

C. ANTICOMPETITIVE PRACTICES

Among the foreign government practices that section 301(d)(3)(B) of the Trade Act of 1974 defines as "unreasonable" are those that deny fair and equitable market opportunities, including the toleration by a foreign government of systematic anticompetitive activities. The Administration will enforce vigorously the "toleration of . . . anticompetitive activities" provision in section 301 when appropriate to address foreign anticompetitive behavior. The practices covered by the provision include, but are not limited to, toleration of cartel-type behavior or toleration of closed purchasing behavior (including collusive coercion of distributors or customers) that precludes or limits U.S. access in a concerted and systematic way.

The Trade Representative, in consultation with the Attorney General, will look to a variety of information sources in evaluating a foreign government's toleration of anticompetitive practices. Issues to be addressed include the existence of the anticompetitive practices and whether there was an unreasonable failure to take timely action against them. In making an assessment, the Trade Representative will consider whether the pertinent foreign government, and especially its competition authorities, have been made aware of the alleged practices and, if so, how they were informed, the relevant evidence that has been provided to, or is known to be available to, the foreign authorities, and the nature of response those authorities have made.

The evidence provided to, or known to be available to, a foreign authority normally should include, among other things, the identity of the enterprises allegedly involved and the relevant markets affected, a description of the specific practices, and an indication of their duration and pervasiveness. In keeping with the Congressional intent in adopting this provision, the Trade Representative will also take into account whether the anticompetitive activities are inconsistent with the foreign country's own laws, how systematic and pernicious those activities have been, and their degree of effect on U.S. domestic or foreign commerce.

CORRECTED ENDNOTES:

who owns more than 10 percent of the capital or profits interests in the partnership, or (3) in the case of a corporation, owns more than 10 percent in value of the voting stock of the corporation or all the stock of the corporation.

56. This method is also known as the frozen initial liability method.

57. Under this funding method, the normal cost is generally determined by dividing (1) the actuarial present value of future benefits less the sum of the actuarial value of the assets and the unfunded liability by (2) a weighted temporary annuity factor that spreads the cost of the plan over future years. If the sum of the actuarial value of assets and the unfunded liability exceed the present value of future benefits, the normal cost under the method will be negative.

58. For these purposes, plans with no unfunded vested benefits and plans not subject to title IV of ERISA are disregarded.

THE AMERICAN LEGION PRESENTS PRIORITIES TO CONGRESS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. MONTGOMERY. Mr. Speaker, on September 20, William M. Detweiler, newly elected national commander of The American Legion, appeared before a joint hearing of the House and Senate Veterans' Affairs Committees to present the legislative priorities and membership concerns of this essential and extremely active veterans service organization. In particular, its views on the future of the Department of Veterans Affairs (VA) health care system, educational benefits provided by the Montgomery GI Bill, Veterans employment programs and the VA's claims and appeals process.

I am pleased and proud to share with my colleagues Commander Detweiler's eloquent statement as follows:

PRESENTATION BY LEGISLATIVE PRIORITIES OF WILLIAM M. DETWEILER, NATIONAL COMMANDER OF THE AMERICAN LEGION BEFORE A JOINT HEARING OF THE HOUSE AND SENATE VETERANS AFFAIRS COMMITTEES, UNITED STATES CONGRESS, SEPTEMBER 20, 1994

MESSRS. CHAIRMEN AND MEMBERS OF THE VETERANS AFFAIRS COMMITTEES: Thank you for allowing the American Legion the opportunity to present its legislative portfolio for congressional action. Coming before you today is like "singing to the choir". Your committees are genuinely "veteran-friendly". Each member of these Committees has independently demonstrated a sincere commitment to America's veterans and their families.

Under the capable leadership of both Chairmen, the voice of the veterans community can be heard in the Halls of Congress. Although we may not always agree on how to best accomplish legislative goals that affect our veterans, the veterans community is fortunate to know that these committees are at least receptive to its comments.

I would be remiss in not taking this opportunity to say a special "Thank You" to those members of these committees that will not be returning for the 104th Congress. Senators Dennis DeConcini and George Mitchell and Representatives Doug Applegate, Don Edwards, Tim Penny, Dr. Roy Rowland, George Sangmeister, Tom Ridge and Jim Slattery have truly been "champions" for veterans and their families. The American Legion family salutes you for your service to this great nation and for a job well done. You will be missed, but our hope is that you will continue to advocate the need for proper care of our veterans and their dependents.

Today, I will outline some of The American Legion's legislative goals for the 104th Congress. There are many challenges ahead for these committees and the veterans community. I specifically refer to the future of the Department of Veterans Affairs (VA) health care system, educational benefits provided by the Montgomery GI Bill, Veterans employment programs and VA's claims and appeals process. There are no "quick fixes" or easy solutions to these problems. The real answers are buried in the conscience of a grateful nation and the need for Congress and the administration to responsibly face and work for solutions to these problems.

Just how grateful are we as a nation? Throughout the decade of the 80s, while VA received meager health care appropriations, the private health care industry experienced sky rocketing financial increases. While VA patients were being placed in categories for services that denied many veterans health care, social health care entitlement programs were growing at an incredible pace. While educational costs soared, the generous educational benefits enjoyed by World War II, Korean and Vietnam veterans came to an end and new veterans educational programs began that required cash contributions for participation and rendered less financial assistance. While Social Security disability claims are addressed in a matter of months, VA disability claims take years to resolve. While affirmative action hiring requirements were strengthened, veterans preference hiring and firing requirements were ignored.

The problems facing the veterans community are not fixed by reducing the number of health care professionals and closing hospital wings based on budgetary constraints. These problems are not fixed by telling veterans, even if they are willing and able to pay, that they make too much money to receive health care that they have earned through service to their country, in the very system that their tax dollars help to support. These problems are not fixed by creating new non-military programs for "paid" volunteerism with educational, health and child care benefits for community service. We can and must do better than that!

This nation cheered that returning Desert Storm veterans along the parade routes, gave out medals and mourned those who paid the ultimate sacrifice, yet it took the urging of the American Legion and action by these Committees to get the VA and the Department of Defense to hear the pleas of those veterans experiencing undiagnosed medical problems. Have we not learned from the mistakes of the past? Atomic veterans, mustard gas veterans and Agent Orange veterans can easily identify with the obstacles faced by the newest generation of combat veterans.

As a nation, we gasped in horror as the body of a young soldier was dragged down a dusty road in a village of Somalia. Shiny new medals, a flag draped casket and a military funeral do not meet the obligations this nation owes to that hero and his family. Abraham Lincoln's statement on the responsibility of this nation, "To care for him who has borne the battle, his widow and his orphan" is an ethical, moral and legal obligation.

Throughout military history, there are accounts of soldiers, sailors, marines and airmen risking their lives in service of their country and their comrades. It is this bond that every veteran experiences that justifies this testimony today. The American Legion just celebrated its 75th anniversary. The principles establishing on which this organization was established have not changed in 75 years. The legislative mandates that I am about to discuss with you are not only for the benefit of veterans and their families, but inure to the benefit of all Americans.

I submit to you that the Department of Veterans Affairs can meet the needs of veterans and their families with proper funding and a few changes in delivery of those benefits. The Veterans Health Administration desperately needs to change its medical delivery system to meet the demands for service. To accomplish these, several congressional mandates must occur:

(1) VA must have a guaranteed funding source to meet the costs of delivering health care to those entitled to treatment. The full continuum of health care services for service-connected veterans and indigent veterans must not be curtailed due to discretionary funding shortfalls.

(2) All veterans should have access to VA health care, regardless of their economic status. Those not entitled to treatment should still be eligible for health care. Third party reimbursement must be retained by the VA medical center at which the veteran received treatment for reinvestment in personnel and equipment. Medicare reimbursement for treatment of eligible, nonservice-connected veterans must be authorized.

(3) The current specialized care programs, such as, rehabilitation, prosthetics, spinal cord injury, blindness, aging, mental health and long-term care must continue to be provided by VA professionals.

(4) The current medical and prosthetics resource, medical educational affiliations and role as a back-up to the Department of Defense medical system must be retained.

(5) Funding must be made available to eliminate the medical equipment backlog and completion of the nonrecurring maintenance projects that directly limit delivery of health care services.

These bold changes would empower Secretary Jesse Brown to fulfill the administration's promises made to the veterans community concerning health care reform within the VA. Veterans across America are waiting for these changes.

In order to maintain current services within the VA, the American Legion has clearly addressed in its written statement the funding recommendations for fiscal year 1996. The request for funding $19.6 billion in medical care would allow the start of some of the health care reform initiatives I have just addressed. The others will require changes in public laws.

The American Legion has recently published An American Legion Proposal to Improve the Department of Veterans Affairs Claims and Appeals Process. This proposal contains a series of recommendations that are critical to resolving the current claims and appeals crisis. Your offices have been provided with copies of this proposal and additional copies of this proposal can be obtained through a call to our Washington Headquarters.

The American Legion commends your committees for your efforts on behalf of Persian Gulf veterans with undiagnosed medical problems. Hearings held by these committees and legislation generated by you have helped these veterans receive the medical attention they needed and deserved. Just a footnote, the Legion is now being contacted by Persian Gulf veterans from Canada and England that are experiencing similar medical problems to those experienced by our veterans.

Recently, the Environmental Protection Agency released a reassessment of dioxin report. The study reaffirms the association of dioxin and cancer. The American Legion believes that Secretary Jesse Brown and Congress should now take the necessary steps to add immune system disorders, diabetes, and disease affecting the reproductive health of female Vietnam veterans to the list of service-connected diseases. We believe that the cumulative body of scientific evidence is sufficient to establish an association.

I would also like to take this opportunity to thank those Members of the Committees who have encouraged and supported The American Legion in its efforts on behalf of the nation's World War II veterans, during the recent controversy arising out of the National Air and Space Museum's planned exhibit: "The Last Act: The Atomic Bomb and the End of World War II".

The exhibit remains, in our opinion, seriously flawed and contrary to the interest of the Nation, as well as the interest of all veterans. Nevertheless, we have agreed to delay our final judgment pending additional discussions and script reviews to be held in conference with National Air and Space Museum officials. I am to meet with them tomorrow at 9 am, and I sincerely hope that out of our discussion will come an historically accurate exhibit that all Americans can be proud of.

In conclusion, the American people, especially those who are serving on active duty, those who have served and those who will choose to serve must be reassured that the Department of Veterans Affairs will be available to assist veterans and their families. Whether they need health care, educational assistance, rehabilitation, prosthetic devices or compensation, VA is their government agency. No veteran will ever be denied benefits or services to which they are entitled or eligible to receive.

In short, the obligation of our Nation to provide benefits to our veterans is based in contract. To improperly fund and fail to provide the benefits that our veterans have earned by virtue of their contractual service to this country amounts to failure on the part of this Nation to meet its obligation under that contract. The system is not perfect, but together we can make it the best that it can be.

Thank you again, Messrs. Chairmen and members of these committees, for the chance to come before you today, and that concludes my presentation. I will be happy to answer any questions at this time. Thank you.

BPA CONSERVATION PROGRAM REINVENTION AND UMATILLA ELECTRIC COOPERATIVE ASSOCIATION

HON. ROBERT F. (BOB) SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. SMITH of Oregon. Mr. Speaker, the engine that drives the economy of the Northwest is the Bonneville Power Administration. Established in 1937, Bonneville markets and provides transmission for electricity generated principally at a series of Federal hydroelectric dams. It provides roughly 50 percent of the region's electric power and, through rural electric cooperatives, serves most of my district.

Currently, BPA is going through a reinvention process that will ultimately lead to new power contracts with its customers. A new, more competitive, electric utility industry is driving many changes within Bonneville. One of them is the way in which it carries out its mandate to achieve energy conservation savings. Moving away from regionalized conservation spending, Bonneville is proposing to more closely match those who pay for and those who benefit from individual utility conservation programs.

While I believe that Bonneville is moving in the right direction on conservation reinvention, I am concerned that it be implemented in a way that does not trample on the prerogatives of consumer-owned utilities. Out of a commendable concern that real conservation savings occur, some in the region have suggested that a strict command and control system of allocating conservation quotas be instituted. In addition, a system of penalties and benefits would be attached to individual utility performance.

Mr. Speaker, this type of accountability mechanism misses the point. Cost-effective conservation measures are, by definition, in a utility's best interest. Instead of instituting an expensive, burdensome, centrally controlled conservation program, we should be giving utilities the tools and information to make their own choices. Since they serve the least dense, least cost-effective areas, rural electric cooperatives are particularly concerned with choosing the lowest cost power options for the future—whether that entails generating or conserving power.

A burdensome accountability mechanism will take away the historic right of consumer-owned utilities to govern themselves. Because co-ops are governed by elected board members, you can bet that they take great care to choose the least-cost path in plotting their utility's long-term resource future.

I was reminded of this recently when I ran across the August edition of Rural Electrification Magazine. Included in its pages an article on Umatilla Electric Cooperative Association, which is the largest irrigation cooperative in the country. Its current and former general managers, Steve Eldrige and Russ Dorran, have seen the co-op through a time of rapid BPA rate increases. In order to keep its members competitive and in business, Umatilla needed to save itself and its customers money. Interestingly, it did so by employing wide-ranging conservation programs—particularly with regard to the energy and water costs involved in irrigating crops.

I ask that the excerpted article be printed in the RECORD following my statement. I commend the story of Umatilla Electric to my colleagues as a good example of the fact that people and organizations often make responsible decisions without heavyhanded Government mandates. Umatilla's board and management deserve to be commended.

THE WATER-ENERGY LINK

(By Robert Gibson)

On May 19, a cool, soaking rain started before dawn in northeastern Oregon. The rain got heavier driving east from Hermiston up into the rolling country around Pendleton, where the wheat fields disappeared into the clouds.

The rain brought satisfied smiles to the faces of the area's cattle and sheep ranchers, and for the dry land wheat farmers, it was a million-dollar downpour. Less than a week earlier, they fretted about losing their entire crop to a droughty spring.

But for the farmers closer to the Columbia River on either side of Hermiston, it didn't really matter whether it rained on May 19, or any day. These farmers, working land that was sagebrush desert just 20 years ago, don't wait for a soaking that may never come. They grow their crops with water pumped from the river or out of the ground. Here, electrically driven irrigation machines slowly revolve, turning 125-acre circles of dry land a deep, stunning green.

These machines have created one of the richest agricultural districts in the country. And they forced Umatilla Electric Cooperative Association of Hermiston to grow up fast when the irrigation boom hit in the early 1970s, and then to emerge as a national leader among utilities in innovative service to irrigators when that boom threatened to break apart in the energy and farm crisis of the 1980s.

Umatilla Electric sells more kilowatthours of electricity for irrigation than any electric cooperative in the country: 263,509 MWh in 1992, or 46 percent of its total sales.

"Without irrigation, there is nothing and there was nothing," says Russ Dorran, who retired as the co-op's general manager in 1991. "We get seven to eight inches of rain a year. This was always country folks just passed through on their way somewhere else."

Umatilla Electric sells more electricity for irrigation than many co-ops sell for lighting peoples homes, but it is not alone. There are more than 25 electric co-ops in the U.S. with more than 1,000 irrigation accounts, and more than 50 co-ops that take in more than $1 million a year in irrigation revenue. To keep this business, co-ops must keep promoting smart ways to get their consumers to use water and energy wisely.

Until about 1980, it all seemed so simple: The partnership of abundant water and cheap power was turning dry, bitter land sweet and lush in large expanses of the American West. The bounty it produced seemed limitless to the electric cooperatives and their farmer-members.

But then the geopolitical storms of the 1980's swept in. the price of energy rose, shockingly high in places, while in others apocalyptical warnings about the drying up of the waters were proving true. Everywhere, crop prices plummeted and the supply of farm credit shrank.

Overnight, the key to survival changed from using more and more water to conservation of both water and energy. Necessity spurred advances in irrigation science, and farmers and their electric co-ops became adept students.

Conservation soon became widely accepted as the best and most profitable way of doing business. Today, crop yields and quality are up and the utilities are financially strong again, even as the use of power and energy has proportionately declined. But no one takes anything for granted anymore.

Even though Umatilla Electric Cooperative Association irrigators have cut water use by 25 percent and power use by half over the last 15 years, they wonder if that will be enough to withstand the next likely jolt to their local economy: a last ditch effort to save the Pacific salmon by drastically cutting power production at the Bonneville Power Administration's dams on the Columbia River.

With the center pivots, the irrigated acreage in the co-op's service area grew tenfold,

from about 20,000 acres to today's 200,000. Frank Lamb and his partners bought their 10,000-acre tract in 1973 and started farming in 1974. It took about three months to get all the required water and irrigation permits, says Lamb, a process that "would take several years now" if new water permits for agriculture were even available; and they are not, neither in Oregon nor across the Columbia River in Washington.

Eastern Oregon Farming sucked water straight out of the Columbia with intake pipes six feet in diameter. For Eastern Oregon and the other corporate farms that came in, the water was the elixir for high-value crops never grown in great quantity in the region. Potatoes led the way (for a time, every McDonald's french fry came out of the fields outside Hermiston); then came peas, corn, alfalfa, onions, carrots—more than 20 crops in all.

The irrigated agriculture boom transformed the economy of the Hermiston area, and it transformed Umatilla Electric Cooperative Association. From 1971 to 1979, according to Steve Eldrige, the co-op's current general manager and former engineer, the utility saw its system demand increase from 28 megawatts to 188. The system went from being divided into five substations to 23, and the value of its physical plant grew from $6 million to $27 million. Staff was expanded, new departments like engineering and customer service created and the co-op borrowed lots of money from REA.

Then in 1976, Bonneville Power sent a letter to its wholesale power customers stating that in five years' time, the co-ops, public utility districts and municipalities were going to have to find other sources of power for any big new loads.

"We were growing at 20 percent a year, and there was still lots of new ground to farm, lots of water," says Eldrige. "It looked like there was no end to it."

The irrigation boom had a similar effect on Umatilla's sister co-ops and PUDs in the region, and their collective need led to the ill-fated decision by the Washington Public Power Supply System (WPPSS) to build five nuclear power plants at Hanford, Wash., about 60 miles north of Hermiston. Only one of the plants made it online; the rest were mothballed or shelved after costs skyrocketed.

WPPSS caused a tremor on Wall Street when it defaulted on $2.25 billion in bonds. The participants in WPPSS, including Umatilla Electric, had a huge debt to eat, and paying it off drove up the Hermiston utility's wholesale rates 600 percent between 1979 and 1984.

Farmers cried disaster and co-op employees recall a brief period of panic, filled with talk of bankruptcy. Umatilla Electric had its first and only layoff, 10 percent of the work force.

But it was also the beginning of the co-op's finest hour. Dorran convened an agribusiness task force composed of leading farmers and business people. Even as the doom and gloom of the WPPSS crisis crested, the task force realized that a way to emerge from the mess in good shape was to find ways to make more efficient use of both water and power.

"Most utilities at that time saw energy by itself," says Farahmand (Fred) Ziari. "UECA in 1981 did what no other utility had done; it recognized the importance of water as a resource. They saw that water and the management of that water was part of energy conservation."

Although water was still "free," the delivery cost was suddenly much greater. So Ziari became the agent of change, the one who had to convince farmers that they could reduce their costs by using less water and still get a good crop. (Umatilla Electric won a national energy conservation award for Ziari's work in 1986.)

As it turned out, the farmer could get not just a good crop with less water, he could get a great crop. Yields increased two, three, four times during the 1980s as area farmers began fine-tuning their irrigation techniques.

"We found out that when you over-irrigate, you push the nutrients down below the root system," says Frank Lamb. "That costs money and it degrades the quality of the ground water." It also can reduce crop yield and quality through plant diseases that thrive in soggy, damp soil.

Among the many changes urged by Umatilla Electric has been the switch from high-pressure sprinkler systems to low-pressure ones, reducing the amount of water sprayed and the horsepower of the electric motors required to move the water. Further conservation is achieved in certain crops with drip irrigation, which sends the water through plastic tubes and out tiny emitters by the droplet. More electric energy is saved through the installation of larger irrigation pipes or the relining of existing ones (smoothing a rough interior surface that causes friction).

Bryan Wolfe converted from high-pressure to low-pressure irrigation in the mid-1980s. "My motivation? Green stuff," he says. "It makes no sense to waste water or energy."

What have all the changes added up to? In 1978, the average Umatilla Electric farmer-member was annually applying 40 inches of water per acre with 3,000 kilowatt-hours of power. Now water consumption has been whittled to 30 inches an acre, and power consumption is down even more dramatically, to 1,400 kWh per acre. Farmers have had to invest some money to achieve these results (though a good many investments have been shared by Umatilla Electric and Bonneville Power), but they've also benefited by dramatically increased yields and better quality crops.

When Steve Eldrige came to work at Umatilla Electric in the 1970s, "it was a time when we had a sales-by-volume mentality, when we said electricity was almost too cheap to meter," he says. "Since then, we've seen a real revolution in the utility industry, and a tremendous change in the attitude of how we use water and energy. Twenty-five years ago, there was little concern about energy efficiency. Now, it's the number one thing we tell our members. And they view themselves as environmentally responsible, from how they build their houses, to buying high-efficiency water heaters and heat pumps to the farmers who follow the weather reports they get by computer."

Umatilla Electric Cooperative Association survived the 1980s because it was willing to look at the Northwest's greatest natural resource—the Columbia River and its tributaries—in a new way. Now a new Columbia River crisis—the survival of the Pacific salmon—threatens utilities in the region.

In recent years, millions of dollars have been spent at each dam to shunt the fish safely away from the Corps of Engineers' hydroelectric turbines. At McNary Dam near Hermiston a new $15 million bypass, looking like a carnival ride with its colored curving pipes swinging high above the ground, swirls the fish gently into barges which carry them down to the sea.

Nevertheless, fish counts continue to fall dramatically, and there is strong political pressure for a drawdown of the reservoirs—a release of more water over the spillways to speed the flow of the river. More water over the dam means less through the turbines and less hydroelectric power, which translates to higher electric rates.

John Hansell is checking a center pivot on a field of peas with one of IRZ Consulting's computer irrigation printouts in his hand. "We've been having to adapt what we do every year to gain efficiency," he says. "But if the electric rates go up again, and everything else remains the same, I don't know how we're going to survive."

DEPOSIT INSURANCE REFORM, REGULATORY MODERNIZATION, AND TAXPAYER PROTECTION ACT OF 1994

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. PETRI. Mr. Speaker, today I am introducing a fresh version of the Deposit Insurance Reform, Regulatory Modernization, and Taxpayer Protection Act of 1994. I expect that regulation of the financial services industry will be a major issue in the next Congress and I would like for the latest version of my bill to be available so that it may be examined and discussed by all interested parties over the next months.

Briefly, this bill will, as the title implies, reform the Nation's deposit insurance system and substitute private regulation for Government regulation in what is already an industry-funded system. It will take the taxpayer completely off the hook for any future losses due to bank or thrift failures, and it will dramatically improve the efficiency of the banking industry through substantial regulatory relief and lower insurance premiums.

An unwarranted increase in regulatory burdens and costs imposed on healthy banks and thrifts has caused an enormous shift in market share to the less taxed and less regulated channels of intermediation. However, these channels may, in fact, be less efficient and less capable of supplying credit to important sectors of the economy, such as small business. Additionally, Government regulation may have deterred banks and thrifts from seeking business in low-income and minority communities.

My bill is designed to solve these problems and more. The Deposit Insurance Reform, Regulatory Modernization, and Taxpayer Protection Act of 1994 will create a 100 percent cross-guarantee system under which each bank or thrift institution will enter into a contract with an ad hoc syndicate of banks, thrifts, pension, or endowment funds, insurance companies and the like to guarantee all of its deposits. Premium rates and safety and soundness requirements will be negotiated contract by contract and will not require Government approval.

The guarantors, who will have their own money at risk, will take over safety and soundness regulatory responsibility from the Federal Government. The specific contract provisions for this purpose will vary depending upon the condition and practices of the individual bank

or thrift, effectively ending one-size-fits-all regulation.

Each syndicate will employ an independent syndicate agent firm to oversee the performance of the guaranteed bank or thrift. The syndicate, through its agent, will be able to force changes in the guaranteed bank or even close or sell it if it runs into trouble. The agent's independence will prevent anticompetitive behavior.

Various rules for the spreading of risk will ensure the safety of the entire system, including the mandating of minimum numbers of guarantors for each bank, limits on the amount of risk undertaken by any one guarantor, and the inclusion of mandatory stop-loss contracts under which guarantors will pass any excessive losses through to their own second tier of guarantors.

The Government's principal role will be to make sure that contracts are in place and that all the risk dispersion rules are complied with. Backup Federal deposit insurance will be retained but never needed even in circumstances worse than the Great Depression.

The entire system will have to meet a key market test before it can really get started, since no contracts will become effective until a critical mass of at least 250 banks with at least $500 billion of assets has chosen to participate and has contracts ready to go.

Once the system is operating, banks' regulatory burdens will become far lighter, banks will have the opportunity to earn money as guarantors, and their own deposit insurance premiums will be far lower. Premiums will be lower because risk-related premiums will deter unsound lending and guarantors will act quickly to minimize losses if problems develop. For these reasons and many others, I expect this proposal to be attractive to all segments of the financial world.

This legislation has several important benefits for the economy. The taxpayers will be protected in the event of any future loss due to bank failures. A more efficient banking industry will help promote economic growth. And this plan should encourage better risk sensitive pricing of loans, which should moderate future speculative bubbles.

Finally, the cross-guarantee system will free banks and thrifts to better serve minorities and the poor. America and other industrialized nations have learned that volunteer armies provide a better national defense than armies of conscripts. The same should hold true for banking.

The Community Reinvestment Act [CRA], however noble its intent, essentially attempts to draft bankers to do what logic says at least some bankers should be willing to do voluntarily—provide sufficient credit and other banking services to low-income and minority communities because it is profitable to do so. We ought to be able to do better than CRA.

Never has this question been answered satisfactorily: What has deterred banks and thrifts from adequately serving these communities? Has it been discrimination or has it been something else, like the costs and inflexibility of federal safety and soundness regulation? The assumption behind CRA is that it's the former, or that the latter problem can't be fixed, and therefore compulsion must be the remedy. I believe it's the latter, burdensome regulation. I also believe that these problems can and must be addressed and that the profit motive will then produce far better service than compulsion ever can.

It should come as no surprise that semibanks, such as check cashers, currency exchanges, pawn shops, and finance companies, have expanded rapidly in low-income and minority communities while inefficiencies imposed by one-size-must-fit-all banking regulation limit the ability of inherently more efficient full-service banks and thrifts to serve these communities. There clearly is money to be made providing financial services in these communities. However, while bank substitutes are meeting legitimate market needs, they can never do so as efficiently as real banks that voluntarily specialize in serving these communities.

Modernizing banking regulation to give banks the same operating flexibility their nonbank competitors now have will bring more efficient banking services to low-income and minority communities. A volunteer army of banks—including some semibanks that today understandably will not subject themselves to burdensome banking regulation—will far better serve these communities than will compelling each bank and thrift to serve a sliver of these markets.

The Deposit Insurance Reform, Regulatory Modernization, and Taxpayer Protection Act of 1994 will give banks and thrifts the operating flexibility they need to serve low-income and minority communities profitably while also strengthening taxpayer protection from future banking crises, which themselves have largely been caused by government safety-soundness regulations.

Note that HR 3570 does not alter CRA in any way, so advocates of CRA's goals have nothing to lose in this bill. However, they have much to gain if it works as intended. If it works so well that CRA, by consensus, is no longer necessary, then so much the better for everyone.

It is these positive effects on the economy as a whole that are really the most important reasons for taking a good look at this bill. If we're going to get our economy moving again and get a handle on our many difficult problems, we need to fundamentally reform the way we do things in a number of key areas. Health care, welfare, and education are a few of those areas, but financial services is certainly a crucial one. I believe deposit insurance and regulatory reform are important keys to improving the efficient delivery of financial services.

Mr. Speaker, I ask that a short synopsis of the bill and an article from Bank Director magazine be printed in the RECORD at this point.

SYNOPSIS OF H.R. 3570—THE DEPOSIT INSURANCE REFORM, REGULATORY MODERNIZATION, AND TAXPAYER PROTECTION ACT OF 1993

INHERENT AND IRREPARABLE FLAWS IN FEDERAL DEPOSIT INSURANCE

As Roosevelt warned in 1933, federal deposit insurance protects bad banks as well as good, it puts a premium on unsound banking, and it has cost taxpayers billions of dollars.

As bank and S&L insolvency losses soared during the 1980s, regulators moved too slowly to deal with failing institutions. This inaction made deposit insurance losses even worse.

Deposit insurance mispricing caused a substantial misallocation of credit in the 1980s that has prolonged the recovery from the recent recession; the FDIC's new risk-based premiums still overcharge good banks and thrifts and dampen their willingness to lend. Consequently, some sound businesses still cannot get sufficient credit.

Deposit insurance must be priced to reflect the riskiness individual banks, but the FDIC cannot properly set risk-sensitive premiums because accurate prices can be established only in private, competitive markets.

Banking has increasingly become a captive of government regulatory micromanagement that cannot keep up with rapid changes in a financial world driven increasingly by electronic technology. Government regulation has become counterproductive and harmful to good banks and thrifts and to America's international competitiveness.

BASIC PRINCIPLES OF THE 100% CROSS-GUARANTEE SOLUTION

End taxpayer risk and bailouts by ensuring that private sector equity capital always protects ALL bank and thrift deposits from loss.

Let private markets set risk-sensitive deposit insurance premiums, based on *leading* indicators of banking risk, that will discourage unwise banking practices.

Shift "safety-and-soundness" regulation for banks and thrifts to those who bear the risk of loss, the owners of the private capital protecting depositors.

Also shift the bank closure decision to those guarantors bearing the risk of loss. These guarantors have the strongest incentive to minimize losses and therefore should control the risks they have assumed.

Use a "stop-loss" mechanism to spread the bank insolvency risk widely, and therefore thinly, over the equity capital of the financial world.

Retain federal deposit insurance as a never-to-be-used backup insurance, but only for deposits up to $100,000.

SPECIFICS OF THE 100% CROSS-GUARANTEE SOLUTION

Each bank and thrift enters into a contract with a syndicate of banks, thrifts and/or other well capitalized entities that guarantees the original contractual terms of all deposits and most other liabilities of the guaranteed institution.

Premium rates and other contractual terms are negotiated on a syndicate-by-syndicate basis and are NOT subject to government regulation or approval.

Numerous safeguards protect taxpayers against another deposit insurance bailout. A mandatory "stop-loss" mechanism passes part of any large insolvency loss to the guarantors' guarantors. Risk dispersion rules require a minimum number of guarantors for any one bank or thrift and limit both the aggregate risk assumed by a guarantor and the amount of risk any one guarantor assumes for any one bank or thrift.

Cross-guarantee contracts cannot be canceled unless the guaranteed bank or thrift first obtains a replacement contract or is acquired by another guaranteed bank or thrift. Once guaranteed, no institution can operate without a cross-guarantee contract in place.

Each syndicate retains an agent to monitor the financial condition of the bank or thrift it has guaranteed to ensure adherence to all contractual terms and to act as a buffer to protect the competitive secrets of the guaranteed institution.

A new agency, the Cross-Guarantee Regulation Corporation, regulates the cross-guarantee process, primarily to ensure that all

guarantors are guaranteed with regard to their cross-guarantee obligations and that they have sufficient capital relative to the risks they have assumed. Safety-and-soundness concerns for individual institutions shift to the syndicates. The bank regulatory establishment is then downsized as banks obtain guarantees.

A back-up fund (BUF) insures deposits up to $100,000, but only on a back-up basis. It should never experience a loss. Guaranteed banks can still post the FDIC insurance logo.

Weaker banks and thrifts have ample time to raise the capital needed to obtain a cross-guarantee contract or to merge with another institution. The FDIC has ample funds today to cover losses in the few institutions that might fail in this conversion process.

Phase-in provisions give smaller banks and thrifts up to ten years to obtain a cross-guarantee contract. The first contracts become effective when 250 banks or thrifts, with total assets of at least $500 billion, have approved contracts in hand.

A competitive market with an ample pool of potential guarantors protects against premium overcharges, ends concerns about capital adequacy in the banking system, and permits guarantors to accept or reject individual cross-guarantee risks as they see fit.

Although there should be no bank runs, cross-guarantee contracts protect any loan a Federal Reserve bank makes to a guaranteed institution experiencing liquidity problems.

[From the Bank Director, 1994]

CROSS GUARANTEES: A HORSE OF A DIFFERENT COLOR

(By Representative Tom Petri and Bert Ely)

Close your eyes and imagine a very different world than the one in which banks are governed by a federal deposit insurance system. Two prominent proponents of the cross guarantee system say it will make banking a business again while lessening the liability risk for bank directors.

Banking is not a dying business. It only looks that way because federal regulation is strangling banking while favoring non-bank competitors with less regulation and lower tax burdens.

As Bill Seidman, former FDIC chairman and now publisher of Bank Director stated in the Fourth Quarter 1993 edition of Bank Director: "Banks are losing market share because regulatory burdens have made them high-cost operators." He also could have said that banking regulations have made directors' and officers' insurance more expensive and made it harder for banks to recruit and retain directors.

In fact banking is a good business, and one that is important to the American economy. However, it needs to be freed of its regulatory shackles so that banks and their directors can conduct their banking business without fear of another regulatory reign of terror that indiscriminately treats all bankers as incompetents and potential crooks, which unfortunately is the attitude that pervades FDICIA (the Federal Deposit Insurance Corporation Improvement Act of 1991).

The raison d'etre for much of this banking regulation is federal deposit insurance. Therefore, there is little prospect of relief for banks and their directors without fundamental deposit insurance reform. Such relief would be provided by The Deposit Insurance Reform, Regulatory Modernization, and Taxpayer Protection Act of 1993 (H.R. 3570).

This bill would enact the 100% cross-guarantee concept for privatizing banking regulation and its attendant deposit insurance risk. It does not eliminate banking regulation; instead, it substitutes competitive, market-driven, customer-sensitive regulation for governmental edicts that often cause more problems than they solve. Market-driven regulation will, in turn, permit banks and thrifts to operate as real businesses, and not as extensions of the federal government.

THE DEPOSIT INSURANCE PROBLEM

Government banking regulation did not just happen; it has evolved over several centuries. Its principal rationale has been to prevent the failure of individual banks. Hence, capital requirements, lending limitations, and other safety-and-soundness standards are almost as old as banking. But, banking regulation has never eliminated bank failures; in fact, banking has been swept by periodic panics that have seen scores or even hundreds of banks fail because they were insolvent, or perceived by the public to be insolvent.

In the absence of deposit insurance, depositors and other creditors bear the insolvency loss of a failed bank. Banking panics also can cause widespread economic distress as bankers dump their investments and call in loans to fund deposit runs. In effect, bank failures can cause two kinds of problems: cash losses to individual creditors of failed banks and impaired performance of an entire economy.

Banks, like any kind of business, should not be protected from failure, yet the consequences of widespread failures are understandably feared by politicians and the general public alike. Hence the perceived need for deposit insurance. This insurance not only protects widows and orphans, but it also inhibits banking panics that can damage the entire economy.

Deposit insurance attempts to isolate the depositor protection problem by focusing insolvency losses on a deposit insurer, and possibly on creditors of a failed bank who supposedly can be stuck with their share of the loss without causing a banking panic. Bank regulation then becomes a tool for minimizing the deposit insurer's loss. So far, so good. The problem arises when government regulators, using government's police powers, attempt to prevent losses suffered by a government deposit insurer.

As Franklin Roosevelt observed during his first presidential news conference: "Government deposit insurance will guarantee bad banks as well as good banks, cost the [taxpayer] money, and put a premium on unsound banking in the future." In other words, it is government regulation and a government-run insurance program that is banking's problem, not regulation and deposit insurance, per se.

THE FAILINGS OF GOVERNMENT REGULATION AND INSURANCE

Government banking regulation/deposit insurance has an inherent, irreparable failing that is the root cause of its problems: It is a government monopoly. Monopolies can never deliver goods and services as efficiently or as effectively as private, competitive markets for the simple reason that competition spurs better performance because customers can decide with whom they will do business. Suppliers who perform badly, give poor service, or treat their customers on a high-handed, officious manner simply do not get the business, and fail, as they should.

Government regulatory monopolies are even worse than private monopolies, for several reasons. First, government monopolies rely on uniform rules and regulations, rather than custom-tailored and mutually agreed upon contractual terms, to influence the behavior of their "customers." Given the legitimate notion that all persons must be treated equally before the law, government regulations become one-size-must-fit-all rules that barely fit anyone at all.

In a fast-moving and complex financial world, government regulations increasingly distort banking as they lag behind rapidly changing realities. As Rupert Pennant-Rea, the Deputy Governor of the Bank of England, readily admitted recently to a group of bankers, regulators are always five years behind, and that is good, according to Pennant-Rea, for if regulators tried to stay abreast of technology they would stifle innovation. Of course, this delay means that government regulators will always lag in evaluating new risks that should be addressed in a more timely manner.

Second, government regulatory monopolies cannot use the pricing mechanism as a tool to influence customer behavior in ways that optimize economic performance. Prices, like other contractual terms, can be properly determined only in private, competitive markets where both buyers and sellers have choices. Banks have no choice, however, if they are dealing with a government regulatory and insurance monopoly.

The FDIC has implemented what it calls "risk-sensitive" insurance premiums, but they lack true risk sensitivity because of another failing of government monopolies: the politically powerful who are unhappy with how the monopoly has treated them will squawk, and get political relief. Understanding this reality, the FDIC pulled its punch and implemented premium rates designed not to offend. Hence, the power of pricing to promote good economic behavior and deter bad behavior will always by lacking in a government insurance monopoly, such as the FDIC.

Accurate, market-driven pricing is especially important in banking because the risk of insolvency to a deposit insurer should be incorporated in the interest rate a bank charges on every loan it makes. Properly pricing this insurance risk not only protects the insurer but also promotes the much greater social good of ensuring that the bank is extending credit in a manner that will not later cause broad economic distress. To a great extent, badly priced deposit insurance was the root cause of the recent, and still lingering, commercial real estate crisis. Like any other economic good, though, insurance can only be priced properly in a competitive, and therefore, private marketplace.

Third, government rule-making, by its very nature, is a highly politicized process that often produces unintended consequences worse than the problem that a particular rule or dictate is attempting to solve. Often these rules are simplistic or ignore economic realities. Two examples will illustrate.

Uniform capital regulations assume that all banks and thrifts have the same risk profile, yet banks and thrifts differ greatly in their appetites for and ability to manage risk. Further, some believe that whatever ails deposit insurance can be cured by imposing higher capital standards on banks and thrifts. Yet higher uniform capital standards serve primarily to drive out of banks and thrifts lower-risk assets that the marketplace says do not need as much capital backing. Consequently, the financial markets have become active securitizers of these lower-risk assets.

After the Great Depression, the federal government encouraged S&L's to ignore economic reality by engaging in an extreme

form of maturity-mismatching; that is, using short-term, readily withdrawable passbook savings to finance long-term, fixed-rate home mortgages. This worked only in a stable interest rate environment, yet the world is hardly stable—particularly when the country has a central bank, the Federal Reserve, that set America up for record-high interest rates in the early 1980s by depressing real rates of interest in the 1970s. Understandably, then, the S&L industry was a disaster waiting to happen by 1980 when interest rates jumped.

THE CROSS-GUARANTEE SOLUTION

Regulation and deposit insurance are not the problems for banking. Government regulation and government deposit insurance are the problems. Until now, though, a safe-and-sound private sector alternative has not existed. Numerous private sector deposit insurance schemes have been tried, but, with three noteworthy exceptions, these schemes failed because they neither priced properly nor diversified adequately the insolvency risk they assumed; worse, they relied on government regulators to keep banks on the straight-and-narrow.

The three exceptions, the deposit insurance mechanisms that operated in Ohio, Indiana, and Iowa before the Civil War, are antecedents of a sort for the cross-guarantee concept for privatizing banking regulation and its attendant deposit insurance risk. Unfortunately, federal banking legislation enacted during the Civil War effectively snuffed out these three plans, thus aborting the development of a protection mechanism that might have evolved into the cross-guarantee concept reflected in The Deposit Insurance Reform, Regulatory Modernization, and Taxpayer Protection Act of 1993 (H.R. 3570). As veteran banking consultant Carter Golembe once observed, when Congress enacted federal deposit insurance in 1933, over the strong objections of President Roosevelt and others who knew better, it modeled the FDIC on the many state deposit insurance plans that failed by then rather than on the three that worked. Such is the wisdom of Congress.

The cross-guarantee concept sounds complex, or even alien, largely because it relies on market forces, rather than government edicts, to promote safe-and-sound banking. H.R. 3570 creates a marketplace in which bank and thrifts will freely negotiate contracts that guarantee all of each institution's deposits and most of its other liabilities against loss should the institution become insolvent. Most of the guarantors under these contracts will be other banks and thrifts who have voluntarily agreed to be guarantors under a particular contract. Hence, the term "cross-guarantee" describes a system which essentially is an industry self-insurance mechanism. To broaden the pool of potential guarantors, the bill also authorizes non-depository guarantors, such as industrial corporations, university endowment funds, and very wealthy individuals.

Figure 1 illustrates the parties to a typical cross-guarantee contract. Under the bill, an ad hoc syndicate of guarantors will assume almost all of the guaranteed institution's insolvency risk, thus eliminating any need for depositor discipline. By protecting all deposits, the cross-guarantee system also eliminates the discrimination thousands of small-enough-to-liquidate banks and thrifts experience under the too-bit-to-fail reality of the industrialized world.

In return for providing insolvency protection, the guaranteed institution will pay its guarantors a premium or guarantee fee that will be determined under the terms of the contract. Presumably, this risk-sensitive premium, based on leading indicators of banking risk, will reflect the guaranteed institution's insolvency risk more accurately and timely than the FDIC's supposedly risk-sensitive premiums can ever hope to do. The net cost of cross-guarantees, including related compliance costs, should be much lower for banks and thrifts than the present cost of being federally regulated and insured, for two reasons. First, lower bank insolvency losses under the cross-guarantee system will lead to lower premium rates for most banks than will be likely under federal deposit insurance. Second, market-driven regulations will be much less costly to comply with than inappropriate government regulations.

Working through an independent, private-sector "syndicate agent," the guarantors will be able to monitor the guaranteed institution's compliance with the safety-and-soundness provisions set out in its cross-guarantee contract. These provisions will completely replace the government safety-and-soundness regulations under which banks and thrifts now operate. Hence, these provisions will reflect the business strategy the bank or thrift has selected; no longer will government regulation dictate banking strategies. Employees of the syndicate agent, sensitive to the needs and interests of both the guaranteed institution and its guarantors, will replace officious government bank examiners.

Of course, if the syndicate agent bungles or the guarantors fail to respond in a timely manner to danger signs flashed by the guaranteed institution, and it becomes insolvent, the guarantors may suffer a loss. Under no circumstance, though, will the federal government attempt to prevent the failure of an individual institution or protect guarantors and syndicate agents from their own follies. Of special importance to bank and thrift directors, H.R. 3570 bars guarantors from using the FDIC's extraordinary powers to sue directors for mistakes the guarantors or the syndicate agent made in overseeing the activities of a failed bank or thrift. The buck will stop with the guarantors.

Government regulation of the cross-guarantee marketplace will focus only on maintaining the stability of the entire banking system. Specifically, H.R. 3570 creates a small regulatory agency, the Cross-Guarantee Regulation Corporation (CGRC), to oversee the cross-guarantee marketplace. The CGRC will approve every cross-guarantee contract before it takes effect, but only to ensure that the contract meets certain statutorily prescribed risk-dispersion requirements designed solely to ensure that no failure of an individual institution will shake people's faith in the strength of the cross-guarantee system or cause Congress to be concerned about having to use taxpayer funds to bail out the system, as happened with federal deposit insurance.

The following, reasonably straightforward rules, which the CGRC will enforce, will effectively construct a "solvency safety net" under the entire banking system that will be stronger financially than our increasingly indebted federal government:

Every guarantor must itself be guaranteed by other guarantors. This inviolate requirement automatically constructs the solvency safety net that is then strengthened by the following requirements.

Each guarantor will benefit from a uniform "stop-loss" rule that will pass all of its losses as a guarantor over a certain limit through to its own guarantors. This loss pass-through will spread a large insolvency loss widely but thinly across the solvency safety net, thus ensuring that no loss will puncture this safety net, even in conditions worse than the Great Depression. The stop-loss limit has been set so that no guarantor will fail by virtue of being a guarantor.

The insolvency risk posed by each cross-guarantee contract will be spread over many guarantors. For example, any bank or thrift with more than $10 billion of assets must have at least 100 guarantors, no one of whom can assume more than one percent of the risk under that contract.

Each guarantor will be limited as to the maximum amount of risk it can assume under any one contract and in the aggregate. Using premium income as a proxy for the risk assumed, a guarantor's total premium income from all of its cross-guarantee contracts on an annualized basis cannot exceed 3% of its equity capital.

Together, these provisions will create a puncture-proof solvency safety net under all banks and thrifts, as illustrated in Figure 2. Strictly as a political facade, the bill creates a backup fund (BUF), that would honor the present federal deposit insurance commitment. However, no loss should ever reach the BUF. If such an event did occur, the federal government already would be defaulting on its own obligations because a horrendous disaster, such as a major East Coast earthquake or a large meteor strike, had devastated the American economy.

The cross-guarantee system is premised on harnessing market forces to deliver safe and sound banking to America. The transition to cross-guarantees reflects the philosophy. The cross-guarantee system, if enacted, will not activate unless at least 250 banks and thrifts with at least $500 billion of assets have first voluntarily obtained contracts approved by the CGRC. Only if this critical mass is reached, will the system activate.

If most banks and thrifts decide government regulation is preferable to the cross-guarantee system (certainly a dubious proposition), then not enough banks and thrifts will obtain contracts, and the system will not activate. Once it does, though, banks and thrifts will have up to eight years (for the smallest institutions) to become guaranteed institutions. Those not able to obtain a contract (which should be very few because of FDICIA) will effectively have failed. They will immediately be taken over by the FDIC.

THE MANY PAYOFFS FROM CROSS-GUARANTEES

The cross-guarantee system will be a win-win proposition for banking and for the economy because it will promote sounder and more efficient banking that will properly reward good bankers, and their stockholders/directors, while discouraging bad banking practices that hurt everyone.

Risk-sensitive cross-guarantee premiums, based on leadings indicators of banking risk, will jump for credit being used to inflate speculative bubbles that later will burst, causing great losses to lenders and their insurers and guarantors. In fact, had cross-guarantees been implemented years ago, America would not have experienced the recent, painful recession that it slowly exited. Specifically, cross-guarantee premium rates would have significantly reduced the amount of credit made available during the 1980s to developers of unneeded commercial real estate.

Cross-guarantees also will improve the efficiency of the financial system by eliminating incentives the marketplace now has to engage in "regulatory arbitrage;" that is, using electronic technology to lawfully circumvent banking regulation, specifically

uniform capital regulations. Regulatory arbitrage has been the primary incentive driving the growth of mutual funds, the commercial paper market, asset securitization, hedge funds, and derivative products. In effect, market-driven regulation of the cross-guarantee system will quickly eliminate the regulatory inefficiencies that foster such arbitrage. By escaping from regulatory inefficiency, banks and thrifts will be able to recapture much of the market share they have lost in recent years.

In particular, the credit enhancement provided by the cross-guarantee system (all guaranteed institutions will be AAA+++rated) will permit banks and thrifts to profitably lend to low-risk borrowers, such as high-quality corporations and home owners. No longer will banks and thrifts feel compelled to securitize their higher quality assets. Under cross-guarantees, they will be able to keep them in portfolio.

While the cross-guarantee system will benefit banks and thrifts of all sizes, it will be especially beneficial for smaller institutions, for two reasons. First, the bill requires that cross-guarantee contracts protect all deposits, and not just the first $100,000. This provision means that large depositors in small banks will not fear losing some of their money if their bank fails. Second, compliance costs for smaller banks and thrifts will drop substantially because competition will produce cross-guarantee contracts for smaller banks that will be much simpler than the existing regulations under which these banks and thrifts must now operate.

Cross-guarantees also will give banks greater operational freedom to pursue unique business strategies. One societal benefit of this freedom is that some banks will find it worthwhile to adopt an operating style suitable to serving low-income and minority communities. No longer will the federal government have to stiffen one set of regulations, the Community Reinvestment Act, to neutralize the growing negative effects of another set of regulations, one-size-must-fit-all safety-and-soundness standards.

GETTING TO CROSS-GUARANTEES

H.R. 3570 has been developed to the point that we are confident it will work financially and legally. That is the easy part. The hard part is enacting it, for it will reverse the growing politicization of the banking system. In effect, the bill will dramatically shift power over banking and credit allocation from the political process to the marketplace. This shift will be good for the country, and for banking, but bad for those inside the Washington Beltway who seek to direct the credit allocation process or otherwise profit from the heavy hand of government banking regulation. Consequently, those who will lose power or money under this reform will vigorously oppose it.

H.R. 3570 will become a reality only if bankers take the lead in building grassroots support for this escape hatch from increasingly irrational and harmful government regulatory micromanagement of banking. Can bankers meet this challenge?

TRIBUTE TO FATHER PHIL LAND

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mrs. MORELLA. Mr. Speaker, I want to say a few words in praise of Father Phil Land, a Jesuit priest, well-known for his work in economics, international development, and Catholic social teaching. Father Land died on January 20, 1994, having been associated with the Center of Concern in Washington, DC for the last 18 years.

His training and his assignments as a Jesuit Priest involved him in the developing social teaching of the Roman Catholic Church in the last half of this century. Phil taught economics for 11 years at the Gregorian University in Rome. For eight years, he served in the Pontifical Commission on Justice and Peace. In addition, Phil was one of the founders of Sodepax, a joint venture of the World Council of Churches and the Vatican. It was during this time that Phil assisted in the writing of Pope John XXIII's encyclical "Mater and Magistra", known in English as "On the Progress of Peoples."

Mr. Speaker, Phil Land enjoyed life. He took risks, he questioned, and he stayed open to change. He was loved by his fellow Jesuits and men and women from every walk of life. His face shone with happiness and humor. The title of his last book, just published, gives a hint of his wisdom and wit: "Catholic Social Teaching as I have lived it, loathed it, and loved it." Phil Land was a man for others. He is missed.

TRIBUTE TO JAMIE WHITTEN

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. LIVINGSTON. Mr. Speaker, I want to pay tribute to my chairman, my neighbor from Mississippi, JAMIE WHITTEN. The institutional memory of this House has suffered a great blow, in that we have lost one of our last links with World War II and the late 1940's. JAMIE WHITTEN faithfully and diligently served Mississippi and his country for over 50 years.

I am proud to have had his tutelage and his leadership. I can attest to his importance to American agriculture and farmers in Louisiana and Mississippi. Yes, he was our "Secretary of Agriculture" from 1949 to 1992. But, I remember Chairman WHITTEN most for the critical role he played in ensuring the passage of vital flood control and navigation projects for the entire Mississippi River and its tributary watershed. Without Chairman WHITTEN's leadership millions of citizens throughout the Mississippi River area might not have adequate flood protection.

Mr. Speaker, Chairman WHITTEN was a true leader who tirelessly worked for this country, often crossing party lines, to craft bipartisan alliances to champion favorite causes.

I join with many colleagues who were privileged to serve with Chairman WHITTEN in saying thank you Chairman WHITTEN for your service to the United States.

ON THE SITUATION IN IRAQ

HON. EDWARD R. ROYCE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. ROYCE. Mr. Speaker, I rise to highlight the crisis looming in the gulf. Saddam is on the move again; this is no small matter: He still has over a million people in uniform; 2200 tanks, and 2500 armored personnel carriers, and a host of planes and missiles.

Meanwhile we are stretched thinner than ever around the world, from Haiti to Macedonia. Our forces themselves are being diminished at a rapid rate: they are down nearly a quarter from 1992, and will be reduced by a third by 1999. Marine Commandant Mundy sums it up when he says "Our ability to maintain readiness is on the margin."

As I have said on this floor before, our fading international credibility is being further complicated by our thinning military capability.

Now, as we all know, our defense plans call for us to be ready at all times to fight two simultaneous regional wars, including one in the gulf. Currently we have two such contingencies facing us: Korea and Iraq; in fact, one could embolden the other.

Just last month Assistant Secretary Warner said that we should still be able to prosecute two contingencies nearly simultaneously. But he also stressed that peacekeeping and humanitarian operations would have to be sharply reduced if combat operations were to break out in major theaters such as Korea or the gulf.

Secretary Perry and General Powell have sounded similar warnings in recent days. The President should listen; we all should listen, or pretty soon that hollow sound you hear will be our military.

We also know the danger in Korea. But listen to these words about Iraq from CIA Director Woolsey, less than a fortnight ago:

* * * Iraq [has] not abandoned [its] goals of dominating the region, threatening [its] neighbors, subverting peace, and acquiring or developing weapons of mass destruction and the means to deliver them. * * * Iraq has the largest pool of scientific and technical expertise in the Arab world—over 7000 nuclear scientists and engineers alone. * * * His regime is still hiding SCUD missiles, chemical munitions, and its entire biological weapons program. * * *

Saddam Hussein continues to submit Iraq's people to tyranny—cruelly suppressing the Kurds in the north and the Shia's in the south. His is a murderous regime possessing and acquiring ever more potent weapons of mass destruction; Saddam is a threat to the region and to the United States.

We must take this seriously. Tonight CNN reports 50,000 Iraqi troops are on the move. Whatever the purpose—to quell domestic discontent, intimidate sanctioners, or to intimidate Kuwait—Saddam must be stopped, dead in his tracks, immediately.

No deals, no trades, no bailouts by former Presidents—it is time this administration learn the importance of clear and equivocal words and actions.

The Saddam Husseins and Kim Jong-Il's of the world need to be stripped of any delusions

they have about our willingness to suffer their aggressive behavior, their threats and their bluster.

Strong action now will save lives later. I urge my colleagues—and I urge the President—to speak clearly and forcefully on this threat—and the need to stop Saddam—immediately.

I have made available for my colleagues a brief paper that helps frame the current situation in Iraq.

[From the Center for Security Policy—Decision Brief, Oct. 7, 1994]

"I.S.O. JIMMY CARTER": BEST CASE, SADDAM EXPECTS TO BE REWARDED FOR NOT INVADING KUWAIT; WORST CASE, IT'S WAR

(Washington, D.C.): Saddam Hussein's threatening moves of the past few days—and the renewed threat they pose to Kuwait—should be a cold shower for President Clinton and his national security team. After all, it demonstrates in the most graphic way imaginable the contempt with which the world's despots now hold America and its leadership.

Like the other members of what the Center for Security Policy has called the Radical Entente[1]—folks like Somalia's Aideed, Serbia's Milosevic, Haiti's Cedras, North Korea's Kim dynasty, China's gerontocracy, and the Russian imperialists—Saddam has clearly read Mr. Clinton's policies: The United States is no longer seen as a deterrent to aggressive agendas; to the contrary, its hapless policies are now inviting and rewarding them.

CLINTON'S CHICKENS COME HOME TO ROOST

Let there be no mistake about it: The combined effect of presidential disinterest in security policy, the dismantling of vital defense capabilities and institutions and the chronic inability to define and adhere to a principled course of action in international affairs have left American interests and allies around the world dangerously exposed.

Saddam Hussein's latest military moves may signal the imminent resumption of hostilities with Kuwait and its allies. Alternatively, they may be a calculated move to secure the immediate lifting of economic sanctions against and other concessions to Iraq—a response he has reason to expect, notwithstanding the Clinton Administrations' initial bluster, given its own past practice and that of its diplomatic subcontractor, Jimmy Carter.

SO LEARN THE LESSONS, ALREADY

Either way, a few lessons that should have been learned long ago are now painfully clear: The United States could find very well find itself engaged in two simultaneous regional conflicts in distant parts of the globe. Thanks to the draconian cuts in Pentagon investment and operations and maintenance in recent years—cuts that go well beyond those contemplated by the Bottom-Up Review, a plan that itself would not permit the United States to fight two wars at the same time—the United States would be unable to cope with any appreciable problem in Haiti and mount a concurrent major operation in the Persian Gulf. It should go without saying that this situation also makes transparently obvious why it is absurd to contemplate further overtaxing the U.S. force structure by deploying American troops on the Golan Heights.

The need for America to be able to project power quickly to distant parts of the world is only increasing, not waning. The United States currently lacks the in-theater capability to attack and defeat a renewed Iraqi attack against Kuwait. It needs, for example, to be able to exploit the unique potential of the B–2 bomber to strike swiftly, decisively and anywhere in a country like Iraq. It also needs to have troops in the region capable of constituting a defense on the ground—not just at sea. The folly of past—and continuing—decisions deferring acquisition of greatly enhanced airlift and sealift capabilities is painfully obvious.

The importance of timely intelligence and the will to respond to early warning: According to press reports, the Iraqi troop build-up has been occurring for a week. If so, the fact that the United States has only begun to respond to this threat is a powerful reminder of: the continuing need for effective strategic and tactical intelligence in the post-Cold War world; the necessity for human sources and methods as well as sophisticated technical intelligence means; and the readiness to initiate long-lead-time actions necessary to respond—even if that requires doing so on the basis of preliminary or inconclusive information.

It was a gross strategic error to allow Saddam Hussein to remain in power at the end of the Gulf War.[2] The United States has only itself—and some of its more short-sighted regional allies—to blame for making this mistake. No effort should be spared now to bring Saddam's reign of terror to a swift end.

The prospect that Saddam Hussein was close to getting international sanctions lifted—and may yet do so—is further evidence of the recklessness of dismantling the United States limitations on the overseas sale of strategic technologies and the multilateral export control regime. There is already abundant evidence that Saddam Hussein is successfully rebuilding his military-industrial complex.[3] In the absence of a complete policy reversal by the Clinton Administration, the danger posed by Iraqi capabilities and those of other tyrants exploiting vanishing Western strategic export controls will become infinitely greater.

Last, but hardly least, the United States can no longer tolerate a situation in which it, its forces overseas and its friends in the Middle East (like Israel, Kuwait and Saudi Arabia) and beyond remain utterly vulnerable to missile attack. Saddam Hussein did not effectively exploit that vulnerability the last time. There is no guarantee that he—or his ilk—will not do so in the future. In fact, there is every reason to believe one or more of them will, with devastating consequences for American interests and allies.

THE BOTTOM LINE

The only way to deal with the present crisis is to mobilize and deploy significant ground forces to the Persian Gulf at once. Saddam is believed to be moving some 26,000 troops toward Kuwait. At least one-third that number should be dispatched immediately to the Gulf. Such forces are critical to restoring deterrence and giving the United States the wherewithal to defeat Saddam's forces should it be necessary to do so once again.

Under no circumstances should the United States try to "buy off" Saddam—with or without Jimmy Carter's meddling. This policy in North Korea, China, Bosnia and Haiti has already contributed to the present crisis. It will be infinitely worse if the U.S. now agrees, in the face of Saddam's latest blackmail, to lift sanctions, allowing oil sales, imports of sensitive technology, etc. The mind reels at what further outrages such a policy would inspire in the Persian Gulf and beyond.

[1] Footnotes at end of article.

FOOTNOTES

[1] For more on the Radical Entente, see the Center for Security Policy's Decision Briefs: Will the Senate Give Russia A Subsidy To Serve As the Radical Entente's 'Fed-Ex' Service? (No. 93–D 79, 15 September 1994) and A Good Week for the 'Radical Entente': Outlaw Nations Likely Emboldened By Ineffectual Western Responses (No. 93–D 28, 2 April 1994).

[2] In this regard, see the Center for Security Policy's recommendations contained in such products as: 'Wake-Up Calls' on Terrorism: Saddam's Plot, Clinton's Response Reveal Shape of Things To Come (No. 93–D 54, 28 June 1993); Clinton's New Mideast 'Containment' Strategy: Start By Punishing Saddam for Trying To Kill George Bush (No. 93–D 41, 21 May 1993); Saddam's 'Cheating,' Who's 'Retreating'? End of His Tyranny is Only Hope for Compliance (No. 92–D 83, 27 July 1992); Wanted: Saddam Hussein, Dead or Alive (No. 91–P 49, 12 June 1991); On To Baghdad! Liberate Iraq (No. 91–P 16, 27 February 1991) and Don't Let Saddam Get Away With Murder (No. 91–P 11, 14 February 1991).

[3] See for example an article entitled, "CIA: Iraq Dodges U.N. Monitoring," in today's Washington Times.

50TH ANNIVERSARY OF PRISONER REVOLT AT AUSCHWITZ

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. VISCLOSKY. Mr. Speaker, I rise today to commend and call attention to four brave, young women: Rosa Robota, Ester Wajcblum, Ala Gertner, and Regina Safirztain. These women were instrumental in fueling the only mass revolt in the history of the concentration camp, Auschwitz-Birkenau. These women were imprisoned and eventually murdered in what is referred to as "an earthly hell in Poland" and the most malicious concentration camp of World War II. October 7, 1994 marks the 50th anniversary of this monumental event which is being commemorated by the Rosa Robota Foundation.

In October of 1944, during this valiant prisoner revolt, a crematorium was destroyed, guards were killed and prisoners escaped. The pivotal heroine in this drama was a 20-year-old Polish Jewish woman, Rosa Robota. Explosives for the revolt were obtained by a number of young women working as slave laborers in the Krupp ammunition subsidiary "Weichsel-Union" at Auschwitz. This ammunition was then passed through Rosa Robota to the Sonderkommando and the camp underground. As a result of strong people like Rosa and her collaborators, the Jewish community can hold their head up high in knowing that, during a period of hardship and despair, their ancestors fought passionately for the civil rights of all Jewish people.

The Rosa Robota Foundation has been established to educate American citizens about the four heroic young women. Moreover, this foundation strives to contest historical lies and to prove that Jews did not go like lambs to the slaughter but fought back courageously with ingenuity and with every weapon at their disposal. In addition, the foundation emphasizes that heroic Jewish women played a crucial role in the anti-Nazi resistance.

The foundation was conceived of by members of the Mallenbaum family who are in the process of documenting their family relationship to Rosa Robota. Members of the honorary board include prominent national and local

elected officials, physicians, lawyers, clergymen and other activists and leaders. I am proud to serve on this distinguished honorary board. My goal as a board member is to educate American citizens about the bravery and heroism of the Jewish community during the tormenting period of World War II and the concentration camps created by Adolf Hitler and the Nazi regime.

I urge my colleagues to join me in commemorating October 7, 1994 as the 50th anniversary of the prisoner revolt in Auschwitz initiated by a brave, young soul named Rosa Robota. We can all learn from the passion and selflessness which Rosa utilized to courageously defend her fellow Jews, along with her ideology and virtuous beliefs.

CLINTON GLOBAL ABORTION PUSH SET BACK IN CAIRO

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. SMITH of New Jersey. Mr. Speaker, the real yet untold story of the recent U.N. population control conference held in Cairo was how, after months of scheming, plotting and arm-twisting—and packing the conference with a legion of Planned Parenthood operatives—the Clinton administration and its allies suffered a stunning defeat in their ignoble attempt to impose abortion on demand on the rest of the world.

While the final document—the so-called Programme of Action—was far from perfect, when all things are considered it was a remarkable victory for global pro-life forces and the approximately 100 countries throughout the world that legally protect the lives of their unborn children. While we were aware of the fact that the chairman of the main drafting committee was Fred Sai of Ghana, president of International Planned Parenthood Federation, it has now come to light that Planned Parenthood people were quietly salted away in dozens of delegations.

Nevertheless, led and inspired by a courageous, highly-skilled and tenacious Vatican delegation, dozens of countries from Central and South America and Africa, and Muslim states resisted both the bullying and the ever-present pressure of the abortion lobby. In the end, the document affirmed their sovereignty to protect and cherish the precious lives of unborn babies.

Significantly, despite opposition from the Clinton delegation at the preparatory meetings in New York and in Cairo, the delegates from around the world emphatically insisted in the document that "in no case should abortion be promoted as a method of family planning." This consensus language, which even the U.S. reluctantly swallowed in the end, is identical to the wording won in Mexico City in 1984 (at the last United Nations Population Conference) under former President Ronald Reagan.

But let there be no mistake about it. Mr. Speaker, this anti-abortion policy wasn't in the Clinton script for Cairo.

In March, the Clinton State Department underscored the extreme proabortion position the United States was promoting in an action cable—marching orders, if you will—sent to every U.S. Ambassador and envoy abroad. The cable confirms in stark, unmistakable terms what I observed both at the New York PrepCom III—preparatory committee meeting—in April and my onsite observations in Cairo from September 3–10.

Incredibly, the cable directed U.S. officials to lobby foreign governments for legal abortion, noting that:

> A comprehensive strategy begins with the need to ensure universal access to family planning and related reproductive health services, including access to safe abortion. The United States believes that access to safe, legal and voluntary abortion is a fundamental right of all women * * * the United States delegation will also be working for stronger language on the importance of access to abortion services.

Abortion President Bill Clinton's full-court press not only failed to establish a fundamental global right to abortion, but has actively triggered a serious backlash against the Government of the United States. The hardball tactics employed by the Clintonites, it turns out, were deeply resented in the developing world where the family is deeply revered and children are seen as blessings to be cherished and nurtured, not burdens to be eradicated. As a result of Cairo—America's moral leadership, prestige, and basic ethics are now being called into serious question.

From over a hundred conversations I had a the conference, I heard that while many delegates from the developing world admire America's prosperity, they want no part of our family breakups, explosion in crime, promiscuity, disrespect for authority, homosexual rights, or violence against helpless unborn children.

One person asked me why President Clinton was against children. More than a few remarked to me how arrogant and pushy these Americans seemed to be.

When I reminded delegates—and scores of foreign journalists who interviewed me as the lone prolifer in a U.S. delegation which included noted feminist Bella Abzug and the U.S. President of Planned Parenthood—that tens of millions of Americans are actively pro-life, and many in Congress are struggling to protect America's unborn children from abortion, I was met with smiles, handshakes, encouragement, and relief. One delegate even said, "Then there still is hope for your country."

While from the outside some of the debate in Cairo on the document's text might have been viewed as esoteric and tedious—the press was barred from the real work of the conference in the main committee—the Vatican and its allies refused to be deceived, intimidated—yes, they were jeered, or buffaloed by those who knew full well what were the hidden, actual definitions of terms such as "reproductive health" or fertility regulation."

The important modification, made by delegates, of the definition of "fertility regulation" is an example of this.

In the draft document which came out of New York in April, language was bracketed—which means it was in dispute—which would have declared a right to abortion as a method of fertility regulation. The term "fertility regulation," according to the World Health Organization, contains four elements: Family planning, abortion, breastfeeding, and delayed marriage. The delegates in Cairo, however, were not fooled by this code word for abortion and explicitly rejected the concept of an international "right" to abortion by changing the term "fertility regulation" to "family planning" which had already been defined in another section to exclude abortion.

However, despite these victories, the proabortion movement did make some inroads. For the first time, the Conference gave some legitimacy to abortion, when it is not against the law, and accepted the disturbing notion that unsafe abortion be regarded as a health issue to be tackled, as if to imply that abortion is ever safe. It should be obvious that newer and more effective means of destroying an unborn baby are never safe for the child who is killed, nor do they heal the psychological and spiritual wounds suffered by women who procure abortions. Urging governments to consider unsafe abortion in their countries also raises the risk that some may promote legalization as the answer.

Of course, all of this contradicts numerous U.N. and regional human rights covenants that regard protections for the unborn child as a basic human right. Article 4 of the American Convention on Human Rights states.

> Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception.

Even the 1989 U.N. Convention on the Rights of the Child acknowledges that.

> The child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth.

Moreover Mr. Speaker it has now become abundantly clear that, even during the debate on the text, some delegates may not have fully understood the nuances of this document because of translation problems. The Programme of Action was filled with "Americanisms" which were not readily understood by the French-speaking African nations, many Spanish-speaking Latin American nations, and others whose laws and constitutions protect the unborn and their mothers from abortion. When the drafting committee worked on the so-called compromises, translations from the English were often inadequate or simply unavailable.

Had men and women of conscience not vigorously and effectively objected, Cairo would have been a watershed event for the abortion rights movement. It was not. Still, no one seriously doubts that President Clinton's well-oiled population control machine will continue to "push the envelope" in follow up meetings, and at future U.N. conferences in Copenhagen and Beijing.

Nor is there any doubt that United States taxpayers will be forced by the Clinton team to subsidize a portion of the enormous new population control funding goals established in Cairo.

Nor will the friends of the family and vulnerable unborn children be lax, uninformed or unprepared to meet the challenge that lies ahead.

50TH ANNIVERSARY OF USAF SCIENTIFIC ADVISORY BOARD

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. DELLUMS. Mr. Speaker, I would like to bring to your attention the fiftieth anniversary of the USAF Scientific Advisory Board.

Fifty years ago, American technology ended a world war and saved several hundred thousand lives. Gen. Hap Arnold formalized the role top scientist played in advising the then Army Air Corps by creating the Scientific Advisory Group in December 1, 1994 and naming Dr. Theodore von Karman as its first chairman.

This group produced the renowned study, Toward New Horizons, that set forth many of the early research and development goals pursued by the Scientific Advisory Board that we commemorate today.

The mission of the Scientific Advisory is to provide the Air Force senior leadership with independent advice and counsel that will help the Air Force maintain technological superiority in air and space. Today's challenge for that group of renowned scientists is not unlike the original scientific and technical matters pertaining to air power.

The growth of American air and spacepower since WWII has paralleled the scientific and technological development of the United States' industry. The Scientific Advisory Board established a vision for aerospace research and development and then remained active in forging lasting ties among academia, industry, and the military.

The Scientific Advisory Board epitomizes those critical ties that foster innovative concepts and applications of science and technology for a strong national defense. The people of these United States deeply appreciate the contribution board members have made to preserving our freedoms and applaud their continued commitment to those ideals of self sacrifice in public service.

TRIBUTE TO NICK IOANNIDIS

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Ms. ROYBAL-ALLARD. Mr. Speaker, I salute Nick Ioannidis, a proud United States citizen and Los Angeles community leader who came to America from his native country of Greece in 1969, and all immigrants throughout the United States who will join together on October 28th to celebrate National Immigrants Day.

There is much to celebrate in the rich tradition of the American immigrant experience, but the element most worthy of celebration is the indomitable human spirit that motivates people from every nation to give up their homelands for the chance of a better life for themselves and their families.

This proud and diverse heritage is what makes us strong and it is what keeps us free; for it is those who have experienced life in a country that is not free who can best appreciate, and who will most valiantly preserve, our national freedoms.

It is particularly important to celebrate the contributions of immigrants to our society now, when immigrants are made the scapegoats for so many of our Nation's problems. To those who find it easier to blame immigrants for American social or economic problems than to examine the complex roots of these problems, I wish to remind them of a quote by Franklin Delano Roosevelt. He said, "Remember, always remember, that all of us—and you, and I especially—are descended from immigrants."

Congratulations to all immigrants for their achievements. I join you in celebrating October 28, 1994, as National Immigrants Day.

JOBS AND INVESTMENT ACT OF 1994

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. SANDERS. Mr. Speaker, I am pleased to introduce on behalf of the Progressive Caucus, the Jobs and Investment Act of 1994, which will begin a rational approach to job creation.

Millions of Americans are unemployed and uncounted, underemployed, or forced to take temporary work in low-paying jobs. The nation's physical infrastructure is deteriorating and our manufacturing base is fleeing overseas. In the face of this crisis, President Clinton abandoned even the scaled back $16 billion economic stimulus bill he supported, because of a Republican filibuster in the Senate.

The most rational approach to spur economic growth is a serious public investment program that pumps tens of billions of dollars into the human and physical infrastructure of the Nation.

For some months now, the House Progressive Caucus has been putting together this jobs/stimulus bill which we have introduced today. The heart of this bill is a $63 billion annual investment over the next 2 years in; (a) physical infrastructure; (b) human capital and; (c) targeted tax relief. These investments would be paid for by increases in progressive revenues beginning in the third year.

Mr. Speaker, this investment of nearly $125 billion over the next 2 years should result in the creation of between 3 million and 5.5 million jobs. Infrastructure improvements in the bill will also result in long-term economic and employment growth.

The physical infrastructure component of the bill will provide for much needed improvements in our Nation's transportation network including highways, mass transit, airports and rail. In addition, billions would be made available to upgrade water and sewer systems, to clean up the environment, and for investment in renewable energy and energy efficiency. Local communities would receive assistance through the Community Development Block Grant [CDBG] program, grants for improvements in school libraries, and funding for community development financial institutions.

The bill's human capital investments include targeted job training in the allied health fields, significant increases in adult, elementary and secondary education, as well as Head Start. The legislation also increases the monies available for a number of preventative health and migrant and homeless health programs. A new community health advisor program is also established. This program is designed to increase health care access to millions of inner city and rural people who are medically underserved.

The third component of this job/stimulus bill is tax relief designed to ease the burden on middle and low-income Americans and to provide them with home ownership opportunities. The first tax relief measure is a tax credit equal to 20 percent of a worker's social security tax (up to a maximum of $200 per worker). The second piece is a first-time homebuyer tax credit equal to 10 percent of the purchase price of a new home (up to a maximum credit of $6,000). A first-time homebuyer making $50,000 or less could be eligible for the maximum credit. For those making more, the $6,000 cap would go down by $100 for every $200 of income over $50,000.

Mr. Speaker, in order to maximize the stimulative effect of this package, the Progressive Caucus bill pays for these investments with progressive revenue measures beginning in the third year after enactment. Much of the economic trouble we are experiencing is a direct result of the failed policies of massive tax reductions for the very richest members of our society. Therefore, this bill, while seeking to remedy the problems in our economy, pays for the significant public investment by asking those who benefitted from the 1980s to pay more of their fair share.

Mr. Speaker, overall, this jobs/stimulus bill represents a bold attempt to deal with an economy facing serious structural deficiencies. We can no longer look to economic solutions geared solely to appeasing stock traders and bond holders. The needs of America's working men and women must also be addressed. This bill does just that. Millions of decent paying jobs would be created. Our nation's physical and human capital would be greatly enhanced, and middle-income and working people would get some much needed tax relief.

WHERE THE DOLLAR WILL GO

NEW INVESTMENTS IN OUR NATION'S INFRASTRUCTURE ($/YEAR FOR TWO-YEAR PERIOD)

$10 billion for repairing highways and bridges

$1.6 billion for improving and expanding mass transit systems

$1.0 billion for airport improvements

$1.0 billion to upgrade rail travel and freight shipping

$4.0 billion for construction of new water and sewage treatment facilities

$4.0 billion for economic development projects in major cities, towns, and neighborhoods

$3.0 billion for improving existing schools and libraries and building new ones

$1.0 billion for energy efficiency improvements in federal buildings

$1.0 billion for community development banks in low-income communities to stimulate targeted lending and local economic development projects

Total $30.6 billion/year

NEW INVESTMENTS IN OUR NATION'S NEEDY PEOPLE ($/YEAR FOR TWO-YEAR PERIOD)

$2.0 billion to train low-income Americans for careers in disseminating basic health care and disease prevention information

$1.0 billion for youth apprenticeship training programs serving 14–21 year olds

$2.5 billion for hiring new teachers, tutors, and specially-trained instructors to improve our schools

$4.0 billion for Head Start to cover all eligible 3–5 year olds

$900 million for community-based efforts to prevent AIDS, breast and cervical cancer, tuberculosis, and lead exposure

$400 million to expand migrant and homeless health centers

$100 million for states and communities to train local residents to provide health promotion and disease prevention materials

$100 million for scholarships and loan programs for doctors and nurse practitioners in under-served communities

Total $11 billion/year

NEW TAX RELIEF FOR WORKING FAMILIES ($/YEAR FOR TWO-YEAR PERIOD)

$16 billion tax credit equal to 20% of person's FICA contribution, capped at $200/person

$6 billion tax credit up to $6,000 for first-time homebuyers with annual income of $62,000 or less

Total $22 billion/year

GRAND TOTAL OF NEW INVESTMENTS = $63.6 BILLION

WHERE THE DOLLARS WILL COME FROM

NEW TAXES ON UNEARNED INCOME ($ IN BILLION/YEAR)

$12–20 billion from .25% tax each time stock ownership is transferred

$66.6 billion from terminating preferred tax treatment of capital gains relative to earned income

$1.5–2.2 billion from capital gains tax on inherited investment (i.e. eliminate stepped up basis at death)

GRAND TOTAL OF NEW TAXES = $79.5–$99.5 BILLION/YEAR

"HOW NOT TO IMPROVE YOUR HEALTH CARE"

HON. PETER HOEKSTRA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. HOEKSTRA. Mr. Speaker, Dr. Ian Munro's article, "How Not to Improve Health Care," which appeared in the September 1992 issue of the Reader's Digest, helps to explain why recent proposals for health care reform failed.

I ask that this insightful and prescient article be included in the RECORD.

[From the Reader's Digest, Sept. 1992]

HOW NOT TO IMPROVE HEALTH CARE

(By Ian R. Munro, M.D.)

Little Joel Bondy of Leamington, Ontario, was born with heart deformities that restricted the blood flow to his lungs. He needed open-heart surgery—soon—to live. The nearest equipped pediatric facility was the Hospital for Sick Children, four hours away in Toronto. But under Canada's national health-care system, commonly called Medicare, that hospital had closed hundreds of beds. For the remaining stripped-down services, there was a long waiting list.

After delays, Joel's desperate parents notified administrators they were taking him to a hospital in the United States. Amid embarrassing news reports about the boy's plight, the Hospital for Sick Children gave him an early surgery date.

But it was too late. Joel Bondy died four hours before surgery was to begin. He had waited nearly two months for his operation.

Kent Maerz has keratoconus, a disease of the cornea. Last August the 22-year-old Calgary student needed a corneal transplant within a few months to correct his rapidly deteriorating vision. Under Canada's Medicare, the operation would cost his family nothing. But the wait would be two to three years.

Maerz paid his own way to get a transplant at McIntyre Eye Clinic and Surgical Center outside Seattle, Wash., in February. The travel and the operation cost Maerz's family almost $5000. So far, the Alberta Health Care Insurance Plan has reimbursed them only $644. "If I had a choice, I wouldn't pay taxes for Medicare," says Maerz. "When I needed it, it didn't do me any good."

Today, many Americans believe the U.S. health-care system is dangerously flawed. Angered by the cost of private health insurance, which millions cannot afford, a strong majority—69 percent, according to a poll in the Wall Street Journal—think the United States should adopt national health insurance.

Legislation to create a system closely modeled on Canada's has 71 co-sponsors in the House of Representatives and broad union support. Sen. Paul Wellstone (D., Minn.) has introduced a similar measure in the Senate. But before Americans leap to national health care, they should look at how the Canadian plan, perhaps the purest system of national health insurance in the world, really works.

When a Canadian visits his doctor, the doctor bills the government. If the patient visits a hospital, the hospital pays for his care out of a lump sum of money the government gives it each year, and bills him nothing. That means the government pays in full for all health care—except for voluntary procedures such as face lifts—for every citizen. There is no private health care to speak of, even for the very rich.

Medicare is popular in Canada, especially among those who have not been seriously ill. After all, it appears to be totally free. In fact, it is very, very expensive.

The average Canadian already pays 46 percent of his income in taxes. But Canada's health-care spending is growing faster than inflation, faster than its population and faster than the country's gross national product. Today, the United States has the costliest health-care system in the world. But Canada's is second, and both countries' per-person costs have been rising at the same rate for years.

With Canadian taxpayers stretched to the limit, how has Medicare responded to its runaway costs? It has not delivered the unlimited care it promises. It simply spends less, even when patients need more.

A Magnetic Resonance Imager (MRI) takes pictures to determine the shapes and positions of tumors. Tennessee, with 4.9 million people, has more MRI scanners than all of Canada, with 26.6 million people. "There's a six-month wait for an MRI," says Dr. Walter Kucharczyk of The Toronto Hospital. "Some patients suffer because of the wait."

A lithotriptor uses sound waves to smash kidney stones and gallstones. The United States has more than three times as many lithotriptors per patient as Canada. It also has about three times as many open-heart-surgery and cardiac-catheterization-units.

Under Canada's national health-care system, operating rooms and surgical beds are dwindling. To save money, Canadian hospitals routinely close additional beds and reduce surgical capacity in the summer and around Christmas.

So patients wait. In Newfoundland the average wait for a coronary-artery bypass is one year.

To avoid making the critically ill wait too long, patients are ranked. "Emergent" cases—like heart attacks and car accidents-require care within 24 hours. "Urgent" cases are next in importance. Patients not actually in danger are classified "elective."

But many elective patients, while not dying, are in pain. Kenneth Hill, an orthopedic surgeon in Burnaby, B.C., does hip replacements for arthritis patients. The average wait for this "elective" procedure is 27 weeks. But without surgery, some of Hill's patients cannot even get off his examining table unassisted. "They can survive on painkillers," he says. "But the quality of their lives is impaired, and some don't have many years left."

Moreover, getting classified "urgent" doesn't necessarily speed treatment. On Saturday, August 25, 1990, a CAT scan revealed a mass in Stanley Roberts's brain. If the mass was an abscess, it could kill within days.

On Monday Roberts's doctors decided he needed an "urgent" stereotactic biopsy to diagnose the mass. But the nearest equipped hospital, Vancouver General, had shut down 13 neurosurgery beds for the summer and could not take Roberts until the following Tuesday—eight days later. With Roberts visibly deteriorating, his desperate son pleaded to speed things up. But the hospital would not open an operating room after hours and incur overtime costs for staff. By Friday, Roberts was dead of an abscess.

In the United States, admits Dr. Alan Hudson, president and CEO of The Toronto Hospital, "you'll get your X ray tomorrow and your operation the next day, and they'll apologize that they can't do them both right now."

Small wonder that many sick Canadians head for the border. In 1990, half the lithotripsies performed at Buffalo General Hospital in New York—602—were on Canadians. Even government officials seek care in the United States. When Quebec Premier Robert Bourassa developed a cancerous mole, it was removed at the National Cancer Institute in Bethesda, Md.

Border-crossing can help rich or desperate Canadians. But it cannot ultimately solve these other problems of Canadian Medicare:

1. Overuse. Because it's free, Canadians visit doctors' offices almost twice as often as Americans. The cost is driving taxes up and Medicare under.

Dr. William Weaver of Vancouver sees patients who roam from doctor to doctor seeking prescriptions for narcotics, at no cost to themselves. William Rudd, a colorectal surgeon in Toronto, was recently the 24th doctor a patient consulted for the same complaint. The malady? "An emotional disease, projected onto the body," says Rudd. "But the exam cost $110. Multiply that by 24 times and tens of thousands of people!"

Abuse of emergency rooms—expensive to run but free to use—is rampant. Doctors complain about parents who appear at night with children who have colds, because it is inconvenient to see a doctor during the day.

Some non-urgent patients arrive at emergency rooms in ambulances. The ambulance is free; taxis charge a fare.

"The problem," says Weaver, "is the foolish generosity of the system." Dr. Joan Charboneau, of Mississauga, Ontario, agrees: "If something appears to be free, people don't feel responsible for how they use it."

2. Special access. One of Medicare's proudest boasts is "equitability." The system is supposed to guarantee that no Canadian gets better health care than any other. But some irate Canadians say equitability is a sham. "Bureaucrats, politicians and senior businessmen jump the queues by phoning hospital administrators," says David Somerville of the National Citizens' Coalition. "It not even illegal; the hospital just says they're 'urgent.'"

Then there's the National Defense Medical Center (NDMC), a 244-bed hospital in Ottawa run by the Canadian military. Theoretically, it serves the armed forces. But according to a report by Auditor-General Ken Dye, 61 percent of its patients were nonmilitary—including members of Parliament, diplomats and senior bureaucrats.

NDMC has its own CAT scanner and a nationally renowned cardio-pulmonary unit. It is the only hospital in Ottawa equipped with a helicopter pad. "I don't think we'll get fundamental reform until those with the power to make changes feel the pain of the system themselves," Somerville says.

3. Patients mattering less and less. Dr. Charles Wright, a manager at Vancouver General Hospital, says administrators maintain waiting lists on purpose, the way airlines overbook. As for urgent patients on the lists who are in pain, Wright argues that "the public system" will decide when their pain requires ease. These are "societal decisions," he declares. "The individual is not able to decide rationally."

A patient at a Canadian hospital doesn't pay for his stay, nor is it paid for by his own insurance. Each patient is a drain on the fixed budget the hospital gets from the government. For this reason, Canadian hospitals have no financial incentive to offer good service. In fact, to save money, many rush, delay or shortchange care—deliberately.

In 1989 Ontario began opening mammography screening clinics for all women over 50. It was suggested that radiologists evaluate 100 mammograms per hour. Twenty per hour is normal. When radiologists protested, the suggestion was dropped. However, the fee per mammogram was reduced by almost half, so the pressure to "read" faster remained. "Would they want their mothers' mammograms rushed?" asks one radiologist in disgust.

4. Demoralized doctors packing up and leaving. I'm originally from England, which nationalized health care in 1948. By the time I was in medical school in 1960, an English child could wait two to three years to have his tonsils removed—and I knew I couldn't stay.

The first legal foundations of Medicare in Canada were not laid until 1965, the year after I emigrated. Another ten years would pass before Medicare began undermining medicine. In 1971 I joined Toronto's Hospital for Sick Children, one of the finest pediatric hospitals in North America. "Sick Kids" had 800 beds and no waiting lists. The equipment was superb. But in the mid-1970s the government's influence over health care intensified. By the mid-1980s, Sick Kids had only 630 beds. (Today it has 511.) My outpatients were waiting three months for CAT scans. I wanted to do research, but it was impossible to get the money. I could no longer do the job for which I was trained. In 1986 I left Canada for the Medical City Dallas Hospital In Texas, where I am today pursuing my research and performing surgery.

Across Canada, frustrated doctors are leaving. In 1990, despite tight visa rules, 8263 Canadian doctors were practicing in the United States. Since visa rules were loosened in April, that number is expected to rise sharply.

Some come to the United States seeking more money. Others want access to facilities and technology. Virtually all are convinced, as I was, that they can no longer deliver appropriate care in Canada.

It will be a sad irony if America adopts the Canadian system. In fact, Canadian officials are talking about moving away from national health care—charging patients fees for using emergency rooms and doctors' offices, for example, and limiting coverage for the wealthy. "The system is getting worse day by day," says Dr. William Goodman of Toronto. "America is now where we were 35 years ago—and you're making all the same mistakes."

When an individual's medical expenses become crushing, most people believe their government should step in. But to nationalize all health care as Canada has done would be to toss our system out of the frying pan and into the fire. Patients must be free to make their own arrangements with their own insurers and doctors, or there is no hope for American health care.

In the words of Toronto Globe and Mail columnist Terence Corcoran: "You can believe that socialized medicare is the most moral system in the world if you want. But the fact is that socialized medicare will not work."

THE GREAT FLOOD OF 1993

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. WHEAT. Mr. Speaker, I wish today to express my disappointment at the failure of this Congress to meet the challenges remaining from the Great Flood of 1993.

Late last summer, and again this January, the Congress approved money to assist flood fighting and recovery efforts in nine Midwestern States. This included aid for homeless families, money to rebuild towns and vital facilities, funds to repair damaged levees, and grants to States and localities that expended huge sums battling the rising waters. It was a massive effort, and has been largely successful in piecing back together the tattered economy of the Midwest.

The Congress also approved additional money to buy property that had been damaged by the waters from willing sellers who had tired of suffering repeated floods. These buyout projects have proven exceptionally popular. In Missouri, entire neighborhoods and towns are physically moving out of harm's way. Many farmers have abandoned their dangerous riverside operations and, with the help of the Government, have rebuilt their lives on higher ground.

However, a number of flood victims were not eligible for these early programs. While our efforts to repair the damage caused by the Great Flood were well-intentioned, they were not complete. Many Missouri landowners with damaged land did not qualify for Federal buyouts because their property was too heavily damaged, a condition that was certainly not their fault.

A few weeks ago, Senator MAX BAUCUS proposed a $100 million Missouri River floodway project to buy flood damaged property from willing sellers in the Missouri River Valley as part of the Water Resources Development Act. Landowners who had not been eligible for past buyouts and were left with useless property choked with silt would have received assistance under this bill. I repeatedly lobbied Members of the House to support this vital assistance plan for the people of Missouri.

Senator BAUCUS included in the bill some changes in the way floodplains are managed, ostensibly to reduce damage from future flooding. The Senator listened to objections to some of his efforts, and met many of the concerns, including many I held. For example, I would never have supported this bill had it made any changes at all in the way the Missouri River is currently managed. I am fighting for ample water flow levels for the Missouri River, to protect our farmers, shippers, and to ensure the basic economic viability of the downstream States.

I supported this bill as a noble promise to deliver assistance to Missourians who had been waiting, some patiently and some desperately, for the Government to help them as it had helped all other flood victims. I supported the Missouri River floodway project as the last, best hope for many Missouri landowners during this Congress. Some Senators disagreed, feeling that the floodplain management changes were more important than the much-needed aid for Missouri farmers. Thus, the bill containing the $100 million Missouri floodway project was unfortunately killed using a Senate rule.

That project, and the future of Missouri flood victims, were seized by politics. Flood victims are now hostage in a wide-ranging debate over the future of the Missouri River.

That debate can be helpful if it is conducted honestly. It is not helpful or fair that flood victims have to wait for the conclusion of the debate to receive sorely needed assistance.

I had hoped that we could enter next Congress knowing that the work of recovering from the Great Flood of 1993 was complete and we could turn our attention to the future. I wanted to begin work on a constructive plan that allows use of our floodplains while protecting the lives and property of people within the floodplain. Such a plan would nurture the diverse ecosystems found in and along our river, and would further protect the interest of the American taxpayer by emphasizing preparation for future flooding.

By failing to act on a bill that would begin reform of our floodplain management rules, Congress has failed to provide assistance to those flood victims still waiting for aid, and has failed to protect those who still live and work in our Nation's many floodplains from the destruction of future floods. In addition, we have not made changes necessary to guarantee to the American taxpayers that they will not have to bear the enormous cost of another flood recovery effort.

We must commit ourselves to addressing each of these questions swiftly, knowing that people still desperately await our help and that we must demonstrate leadership in order to protect the lives and livelihoods of these people from waters that will rise again. Decency and common sense require no less.

Despite the good-hearted but haphazard efforts of the Federal Government many people who had their places of work and their homes swept away by the rolling waters are still in need of help. Hundreds of landowners in my State, many of whom have their lands covered by several feet of river sand, want to voluntarily sell and move out of harm's way. Federal buyout programs, contrary to expectation, have been enormously popular. Why can't we extend buyout to cover these willing sellers?

Unfortunately, conflicting political agendas have created an adversarial atmosphere that too often labels people and sets them against each other: Environmentalists against farmers, river dwellers against Government officials and so on. Rather than cooperating to first complete the recovery process for flood victims and then set the future of floodplain management, we have become bogged down in suspicion, trapped by a web of peripheral detail.

Most reasonable individuals with an interest in river policy agree that both commercial and environmental concerns must be included with our discussions about the future. If we completely stop living and farming along the river our economy will suffer irreparable damage. If we choke and constrict our rivers to death, innumerable ecosystems supported by the rivers will die with them.

One thing is sure: If we do not cooperate in planning the future of our rivers and floodplains, people will suffer from our stubborn neglect. They will suffer with lost homes and businesses, in lost lives, and the American taxpayer will pay the price for uninsured land and poor hazard mitigation.

The Great Flood of 1993 demonstrated that our patchwork of levees and building codes, the scattered coverage of the National Flood Insurance Program, and the lack of any meaningful planning and control creates trouble for all our constituents; 70,000 homes were destroyed outright by the waters, hundreds of thousands more were damaged, 70 million dollars worth of damage was done to public roads and highways in my State. Agricultural losses of $1.8 billion were posted in Missouri alone; 840 of 1,456 Missouri levees were damaged, breached, or overtopped.

The bill for most of this damage, which amounted to tens of billions of dollars, was paid by taxpayers throughout Missouri and throughout America. If we do not act to prevent this level of damage from occurring again there will be another bill due, then another.

For the sake of the small business owners who spent a tortured year trying to wring help from an unresponsive bureaucracy, for the widow who returned to her farmhouse to find 5 feet of mud in her living room, for the good-natured souls who toiled in driving rain and beating sun to save the homes of people they never met before, I hope that we can come together and see that the cost in broken lives and homes is never so high again.

CLINTON JUSTIFICATION FOR INVASION RINGS HOLLOW

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BEREUTER. Mr. Speaker, several weeks ago President Clinton appeared on national television to tell the American people that that United States military force was necessary to restore the duly elected leader of Haiti. The American people were told in somber tones that it is wrong to tolerate a regime that did not recognize the democratic will of its people. "If General Cedras won't honor the election of Aristide, then the United States must invade."

But these noble sentiments seem hollow indeed when one looks at the way the Clinton administration shamelessly and for pure political expediency condoned the usurpation of the Democratic process in the neighboring Dominican Republic. This Member will remind his colleagues that Haiti shares the island of Hispanola with the Dominican Republic, and that this nation has been ruled by Joaquin Balaguer—who is blind, near-deaf, 87 years old—for 20 of the last 28 years.

In elections this summer, Balaguer stole the election. And this is not the first time that Mr. Balaguer has rigged an election. By preventing tens of thousands of opposition supporters from voting, the ruling junta in the Dominican Republic clearly and unambiguously thwarted the will of the people. Election observers such as our former colleague Steve Solarz made it clear that the elections were a fraud. Indeed, the National Democratic Institute, the democracy-building arm of the President's own party, called the elections fraudulent.

But, Mr. Speaker, it seems that the Dominican Republic was necessary for the Clinton administration's Haiti policy. You see, we needed the support of Balaguer and his cronies if we were to seal the border with Haiti. So instead of expressing outrage at the blatant usurpation of the democratic process, we give the Dominican Army $15 million for helicopters and vehicles so that they can patrol the border with Haiti. The Clinton administration may have complained a little, but in the end acquiesced for another 2 years of illegal rule in the Dominican Republic.

Mr. Speaker, already the weak rationalizations that President Clinton used to justify the Haiti invasion are being laid bare. First we are told that General Cedras is a war criminal; but now we are assured that he is a man of honor. And now we see that the President's desire to protect the sanctity of the electoral process is a sham.

This Member would simply say that the American people do not take kindly to crass hypocrisy for the sake of political expediency. Is it any wonder that the American people don't trust the Clinton administration's foreign policies.

FOR A FREE AND DEMOCRATIC IRAN

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. McCOLLUM. Mr. Speaker, I want to call to the attention of my colleagues one of the most balanced, if not the most balanced, publications on Iran. The Azadegan Foundation founded by Gen. Dr. Bahram Aryana and now ably led by Dr. Assad Homayoun, has done a remarkable job of reporting on conditions in Iran and the need for a free and democratic Iran. The following is the September issue of Focus on Iran. I am sure you will agree that Dr. Assad Homayoun is a thoughtful and visionary leader of the Azadegan Foundation and I hope in the near future one of the democratic leaders of a free Iran.

The text of Focus On Iran reads as follows:

[From Focus On Iran, September 1994]

SILENT TOO LONG

The purpose of Focus On Iran is to advance the cause of freedom and liberty of the Iranian People. For too long have their voices been muted by the self serving totalitarian regime of the clerics occupying the seats of power in Tehran. It will also serve to bring relevant information and analysis to the attention of the people of the free and democratic world so as to correlate the events with their national security and other vital interests.

In this presentation, we will endeavor to answer the following key questions regarding the nature and consequences of the activities of the current clerical regime, the aim being to illuminate the necessity for such a publication at this time, in order to make the voice of the oppressed and terrorized citizens of Iran heard by the general public as well as by the leaders and policy makers.

1. Why is a democratic Iran important to the world community?
2. Why is Focus On Iran necessary?
3. What are the potential consequences of the attitude and policies of the current regime in Iran?
4. What do we desire of our readers?

A FREE, DEMOCRATIC IRAN AND THE WORLD COMMUNITY

The most important reason for a free and democratic Iran is that it will provide the people their fundamental and essential human rights. Since the onset of the current revolutionary government in 1979, the basic political economic, and religious freedoms of the individual citizen has become very restricted. Arbitrary imprisonments and executions have become the order of the day and religious and political persecutions have become the basic tenets of the regime.

A stable and democratic Iran, concerned with the improvement and the wellbeing of its people through economic and social development, is less likely to be a threat to its neighbors and the adjoining region. Under these conditions. Iran could become an important factor for regional peace and stability on behalf of its own national interest and that of the international community. Closely related to Iran's role in the interests of the regional peace and stability is its potentiality as a significant force for controlling conventional/non-conventional weapons proliferation.

A politically threatened totalitarian regime such as present-day Iran can only depend on the greater number and force of its weapons arsenal for security, rather than consent and support of its citizens. The danger of the Tehran regime seeking the acquisition of nuclear, biological and chemical weapons to insure its retention of power is real to the region and the world at large. As a consequence of these developments, the national security and unity of Iran is at risk, and it is the Iranian people that will ultimately suffer.

A free and democratic Iran would respect the rights of all peoples not only within its borders but throughout the international community. Of particular concern is Iran's policy of supporting terrorism against individuals, groups, and even nation states. The campaign against Salman Rushdie, support of terrorism in Lebanon, Egypt and Algeria, the backing of the radical, fundamentalist regime in Sudan, and the recent acts of terrorism in Latin America, are examples of the activities of the radical clerics ruling Iran.

Finally, a free and democratic Iran can be a force for international good. This can be achieved through a reformed Iran's participation in regional collective security and arms control/limitation, and the various cooperative endeavors of the United Nations. The present totalitarian theocratic regime is virtually isolated from the international community and makes no contribution to the United Nations collective security and peace making/peace keeping undertakings. Iran's isolation and loss of international credibility comes at a time when its influence for stability and peace could be most effectively used in the Middle East, the former Soviet Caucasus and Central Asia, and Afghanistan. Iran's contribution to security and peace is particularly important in the Persian Gulf region, where no security is viable without its active participation.

THE NEED FOR FOCUS ON IRAN

Focus On Iran is essential to the cause of the Iranians seeking to express to the world their fervent desire for freedom, liberty and peace, and to expose the nature of the current clerical regime ruling Iran, their behavior regarding the treatment of their own people as pertaining to the violation of human rights, and their utter disregard for all international norms and standards. As noted above, Iran's gross violations of human rights has been well documented, especially in the American and European press. However, those reports and observations tend to be lost in the welter of world news, deemed by editors and media reporters to be of less importance of 'newsworthy' than other events.

Focus On Iran will make known to everyone the current regime's violation and buses of power, both inside Iran and in the international area. In this manner, the government will be held accountable for its actions. Their behavior will not be lost nor hidden to the world, and ultimately the regime will be forced to answer for its continuing human rights violations. special emphasis will be given to reflecting the views and opinions of the youth and women, a perspective not generally seen outside Iran.

Secondly, the international community must be made aware of Iran's threat to regional stability through it conventional/nonconventional arms build-up, and state sponsored terrorism. Focus On Iran will provide national leaders with the most up-to-date assessment and commentary on Iran's covert and overt military activities and threat: potential, regional and otherwise.

Thirdly, Focus On Iran will provide the oppressed Iranians a forum, as well as support and encouragement in their fight for democracy and freedom.

Finally, Focus On Iran provides Iranian patriots throughout the world an opportunity to contribute to, and support the political liberation of Iran from its despotic rule. It will serve as an information resource and conduit for those activities leading to Iran's ultimate liberation and freedom.

THE CONSEQUENCES OF IGNORING THE CURRENT REGIME

Two major consequences are most likely to develop, both of which have serious repercussions domestically and internationally. In the domestic environment, greater repression of civil rights and personal liberties will continue until this theocratic totalitarianism will parallel Hitlerism and Stalinism. The economy is in shambles, and the educational system grossly overloaded. The clerics have busied themselves with the expansion of the "Islamic International" and the propagation of "Khomeinsim", to the detriment of the welfare of the people.

In the international arena, one can expect to see a wider extension of state-sponsored terrorism and activities detrimental to governments deemed not favorable by the clerics. In the era of "post-cold-war" and demise of international communism, it would indeed be ironic if these radical clerics in Iran are allowed to sponsor a "fundamentalist international". Indeed, their threat to world peace and stability will be just as pervasive. To further elucidate our contention that the self-serving policies of the clerical regime are not only detrimental to the freedom and security of Iran, but are de-stabilizing to the region, and undermine world peace, we shall briefly review the activities of the regime in the fifteen years of its existence.

DOMESTIC NEGLECT

The domestic policy of the clerics can be summed up quite briefly as repression on the social front, neglect in the educational and public health arena, and chaos in the economic field.

Except for their ardent followers, the clerics do not discriminate when it comes to oppressing the people. The women have been forced back to the dark ages. They must cover themselves from head to toe in public. They are not allowed to bear witness in court, because their legal status is half that of a man. they are not allowed to wear make-up, go to mixed beaches or swimming pools, ride in a car with someone they are not married to, wear high heels * * *. The situation is so oppressive that a few months ago, an American trained doctor, Mrs. Homa Darabi burned herself to death in protest of the government's policies and treatment of women.

As for men, likewise, they are not allowed to wear short sleeved shirts. Neckties have recently been outlawed by the Spiritual Leader, who has decreed their usage a cardinal sin. They are not allowed free association in social or political groups unless sanctioned by the clerics. Political parties are not allowed to be active unless they subscribe to the radical philosophy of the regime. Persecution, imprisonment, and summary executions of political opponents is the rule "by the Grace of God".

Religious minorities are systematically persecuted. Christians, Jews, and Bahais have been assassinated or executed. In the recent past, five Christian priests have lost their lives. The Reverends Arastoo Sayyah, Bahram Dehghani, Mehdi Dibaj, Hayek Hovsepian Mehr, and most recently, Natavoos Mikhaelian have been murdered. Since the beginning of the revolution, many Shiite clerics not agreeing with "Khomeiniism" have been defrocked, exiled, and even executed. Any person perceived not to be adhering to their interpretation of the tenets of Islam, may be apprehended and punished. This could range from not fasting in the month of Ramazan to drinking alcoholic beverages, for which the punishment is normally flogging.

Many literary figures have been summarily jailed. Mr. Saeedi Sirjani, a noted and highly respected writer and researcher has been held for five months incommunicado. It has been reported that he has been tortured with the aim of extracting from his a confession with which the regime could damn him. Likewise, Mr. Niazi Kermani, another writer was detained without reason or due process of law. At one point, the businessmen of the "Bazaar" in Tehran seemed to enjoy a degree of immunity because of their past financial support of the regime. For them too, the tide has turned. Mr. Mohammad Hossein Khotani is one such businessman jailed without any reason or cause or due process.

The educational system of Iran has been destroyed. The greater majority of the eligible college age students do not get the opportunity for higher education because of the limited capacity of the universities and colleges, and the lack of trained teachers.

Last year, according to the government controlled press reports, 1,112,000 students participated in the college entrance examinations, competing for 138,486 available seats. Of the available seats, 40% had been reserved for the Islamic militia, Basij (Khomeini's red guards), and other groups associated with the regime. The purpose of these reserved seats is not to create a more educated militia, but to control the students lucky enough to be accepted.

Public health is on the verge of disaster. The number of hospital beds per capita has been declining steadily. The number of medical professionals as a percentage of population is rapidly decreasing. Infant mortality is on the rise, and the population growth factor has also increased to over three percent, one of the highest in the world. In 15 years, the population has increased from 36 million to 65 million today, and is projected to surpass 85 million by the turn of the century. Common drugs are at a premium, while more specialized drugs are non-existent. There is no serious planning to answer the immense problems of the young population in order to avert future catastrophe.

The economic picture is rather bleak. There are over 12 million unemployed. The rate of inflation, according to one conservative estimate is 60%. The Rial has depreciated from $1=R70 (1979) to $1=R2550 (today). The national debt stands close to $40 billion. The per capita income has fallen from around $2000 in 1979 to under $1000 today. The GNP has had a similar fate. Very little has been added to the industry that existed, and what existed is, for the most part, in urgent need of renovation and repair. What is being purchased from abroad, aside from what is related to the armament program, is a hodge-podge, without any cohesive planning, or priorities. The determining factor is not national planning, but personal relationships.

Capital investment, even in areas vital to the economic viability of the nation is neglected. The regime is neglecting its own life-line: oil. The oil industry, in order to remain productive, is in dire need of capital

equipment. If this gross neglect continues, according to Mr. Ardeshir Fathi, the current deputy oil minister, the wells will start drying up in fifteen years. Such mismanagement of the economy, as well as the immense spending on armaments without a clear national strategy, but solely based on their radical theocracy has brought about an economic crisis of immense magnitude.

Adverse economic conditions coupled with an oppressive social and political situation have brought about sporadic and spontaneous riots and rebellion throughout the country.

In the past two years, riots have broken out in the cities of Arak, Mashad, Najafabad, Shiraz, and on August 2nd and 3rd of this year, in Qazvin, and more recently in Tabriz and Zanjan. According to the latest reports, the Qazvin riots left 40 dead and several hundred injured. These riots are indicative of the fact that the people of Iran have reached the point of no return. They are fed-up with the regime of the mullahs, and would like nothing more than to replace them. They need the support of the world public opinion to succeed.

FOREIGN POLICY

For the past 15 years, the entire domestic and foreign policy of the current clerical regime has been to emphasize the Islamization and "de-Persianization" of Iran, and the promotion of the Fundamentalist International, or, to use a simpler term, "Khomeini-ism". This at the price of much needed political and economic reforms, and against the will of the majority of the Iranian people.

The clerical clique in Tehran views the world as a mosque which must be run by clerics who are inspired by the ecumenical revolutionary ideals of Ayatollah Khomeini. Tehran has achieved its goal of leading the militant Islamic drive to penetrate and exploit all regions susceptible to fundamentalism. The mullah-led leadership has constantly re-iterated its intention to liberate Jerusalem from the infidel, and shown its displeasure over control of Mecca by the Saudi regime. The Iranian government's indictment and pursuit of Salman Rushdie is indicative of their assumption of moral leadership of the entire Moslem world. In this regard, all clerics are unanimous. There is no such entity, as some specialists mistakenly contend, as a "moderate cleric". Their differences are on the tactics not the goal. All mullahs ruling Iran are dedicated to the Islamic International and the theory of "Velayate Faquih" as defined by Khomeini and his successors.

Hojjatol-Islam Rafsanjani, the "President", and Ayatollah Khamenei, the "Spiritual leader" have been repeatedly speaking of the "Islamic Block". They have come to envision themselves as leaders of a resurgent crusade against the west. They hope, ultimately, to precipitate a new round of crusades between the Moslem and the Judeo-Christian worlds. Toward this goal, and in order to paralyze the West, they have sanctioned every means including international terrorism, regardless of its consequences for the people of Iran.

FOCUS ON IRAN AND ITS READERS

Sooner or later, Iranian public opinion will overcome the odds, and its demand for the replacement of the clerical regime will come to fruition. The modern communications revolution has made the rule of force, at best, transitory. Once the world finally perceives that the majority of the people of Iran have been saying all along, ie: that the ruling clerics are not legitimate representatives of the people, then the international public opinion will support the Iranians in their quest for freedom and peace. It is the desire of the Focus on Iran to bring to its readers the urgency and necessity of their active participation by whatever means and to whatever degree of involvement they choose, in order to bring about the replacement of the current regime.

Focus On Iran, being the reflection of the voice and desires of the Iranian people—in essence the conscience of the Iranian people—would like to welcome their active participation in making themselves heard throughout the world as a force fighting for freedom and justice.

The past 15 tragic years have served to reawaken the Iranian people, and has forced them to re-evaluate their values, beliefs, desires and outlook on life in general and their own historic truth in particular. A cohesive nation was plunged overnight from its fast track (rutted as it may have been) to development, riches, and success, to an abyss where terrorism and terrorists reign supreme, where life has become a struggle for mere survival, and people have become cannon fodder in the quest of the clerics to advance their anti-Persian, primitive ideals.

We are the voice of these people, and we mean to make ourselves heard.

OBSERVATIONS ON THE LOBBYING PROFESSION

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. LAROCCO. Mr. Speaker, as the House of Representatives continues debate on the issue of lobbying reform, I call the attention of Members to the October 5, 1994, remarks of Mr. John Hunnicutt, chairman of the Bryce Harlow Foundation. I believe his observations on the lobbying profession, and his recollections of Bryce Harlow in particular, offer important insights for all of us to consider and reflect upon.

REMARKS OF JOHN HUNNICUTT, CHAIRMAN, BRYCE HARLOW FOUNDATION, ANNUAL HARLOW AWARD DINNER, OCTOBER 5, 1994

I want to take a few moments now to talk about a matter not often discussed in polite company—namely, our profession, corporate representation or lobbying.

Attacks on lobbyists are nothing new. They date back to the beginning of the Republic—the Roman Republic. It may have been Cicero, not Fred Wertheimer, who first inveighed against PACs and special interests.

But the attacks seem to me to be far more intense now, and far more reckless, than they have ever been before as I recollect my time in Washington.

One would never know from the nature of the discussion that the right to lobby is rooted in the first amendment along with freedom of religion, freedom of speech and freedom of the press; "Congress shall make no law respecting * * * the right of the people * * * to petition the Government for a redress of grievances."

For the past several years, in the context of legislative efforts to control the sale of hand guns and assault weapons, Congress has devoted many hours and much passionate debate to considering whether such steps would offend the second amendment's "right of the people to keep and bear arms." That issue has been discussed extensively on the nation's editorial pages, on TV public affairs programs and on the talk shows. Huge letter writing campaigns have been generated—on both sides of the issue.

Yet, while major changes have recently been made in the definition of lobbying and in the tax treatment of expenses for lobbying and associated activities, there has been no real discussion of the Constitutional protection afforded lobbying. Nor has there been any serious discussion of the legitimate—indeed, I dare to say essential—role that professional lobbyists play in the formulation of sound public policy. To quote Bryce Harlow: "Those who are effective and principled advocates of the interests of their companies and of the business community as a whole help government arrive at better-informed and, therefore, potentially better decisions. Good representatives of good business contribute a great deal to good government."

The past Congress has also seen the introduction of proposals to make other significant changes in the lobbying laws. Not all those changes are bad, nor should they be resisted by people who honorably practice our profession. The registration and reporting requirements in the 1946 lobby law are ineffective. We all know that. Definitions and scope of coverage are certainly worthy of discussion. Are there good reasons to include contacts with members but not with staff? Are there good reasons for excluding contacts with top Executive Branch officials?

But while we may be willing to participate in a reexamination of the lobby law, as government relations professionals we have the right, we have the obligation to insist that corporate representatives not be relegated to second class citizenship in relation to so-called "public interest lobbyists," who are also paid to represent a cause. We are not, again to quote Bryce Harlow, "a malign influence." "Good government" does not require isolation from the expertise of the private sector. One could argue persuasively that exactly the reverse is true.

We have the right and the obligation to insist that the Administration and Congress recognize that the public's right to know includes our right to know, as representatives of an essential segment of our society, how business will be affected by proposed policies. We have the right and the obligation to insist that the Administration and Congress recognize that the public's right to free speech and to petition for the redress of grievances includes our right and the right of our employers or clients to speak our minds regarding these proposals and to make our views known to government officials at all levels.

To be sure, we have the obligation to conduct our lobbying activities ethically, to present our views clearly, to support them with facts, and to tell policy makers the truth. We have the obligation to remain faithful to the public interest, to respect the views of others, to avoid cynicism about process, to trust and to be trustworthy. But we cannot allow ourselves to be marginalized in any policy debate by attacks made on our integrity by those who disagree with us. They certainly have the right to disagree with us. But they do not have the right to deny us our right to disagree with them, nor do they have the right to stigmatize our views as illegitimate.

Everyone who believes in the American system of government ought to be worried these days about the increasing incivility of

political discussion in this country. We see it in attacks on the President. We see it in attacks on Congress. We see it across the aisles in Congress. We also see it in attacks on lobbyists. There's a growing tendency for people on one side of an issue to demonize people—and especially interest groups—on the other side of that issue. This incivility, these attacks on institutions and on people on the other side of an argument, carry a cost, I believe, to the very process of government.

Now I know there are people who define politics as a blood sport—and enjoy the spectacle. They also say it is part of our political history and heritage. But I was taught and continue to believe that today's opponent on a particular issue may be tomorrow's ally on another issue. In the world of hardball politics, that may be an antique view. But it's a view worth preserving in my opinion. Indeed, the public interest is perhaps better served by Marquis of Queensbury rules than by the street alley brawling that too often passes these days for political discourse.

There's no one who more ennobled the honorable profession of lobbying than Bryce Harlow. I underline the word honorable. And no one practiced it with greater grace or civility. And few had a higher batting average.

Bryce moved back and forth from the private to the public sector. And while that might in today's world have drawn a load of brickbats alleging "conflict of interest," the fact, as anyone who knew Bryce Harlow would testify, is that Bryce served the public when he was in government and his employer when he was in the private sector—and he didn't confuse his roles.

What distinguished Bryce in both his public and private lives was that he always sought to identify the underlying public interest and to support policies that corresponded with the public interest. You didn't have to agree with Bryce but you always had to reckon with him. He could never be dismissed as "a lobbyist," dripping sarcasm as is too often the fashion these days. Bryce Harlow was entirely capable of telling his superiors in government or his employer that what they were proposing to do was wrong or politically unsaleable. His gift was that he profoundly understood the essential relationship between business and government, and he believed in its importance to the country.

I'm proud to have known Bryce Harlow. And there are other men and women in this room who also knew him and, I am quite certain, would agree with what I've said about him. However, it is not merely to honor Bryce Harlow but to honor what Bryce Harlow stood for, the excellence and effectiveness of his professional conduct, that we are here tonight.

The Bryce Harlow Foundation, established is 1981, is dedicated to: perpetuating a good government-business dialogue; eliminating the combative, adversarial nature of the relationship; promoting the professionalism of corporate representation, fostering integrity; and educating people, particularly students and new entrants into this profession.

* * * * *

women in this room, as well as our colleagues in this city (and in the state capitals) have a vested interest in the work of the Foundation.

Bryce Harlow's viewpoint on the affairs of government, is too often missing from today's discussion of lobbying.

My colleagues on the Board of the Bryce Harlow Foundation thank you for being here tonight.

TRIBUTE TO WILLIAM SIDELL

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. FILNER. Mr. Speaker, I rise today to pay tribute to the late general president of the United Brotherhood of Carpenters and Joiners of America—William Sidell.

Sidell was born in Chicago in 1915, the son of a carpenter. From his father, he learned the need for civic and social responsibility.

His career with the Carpenters and Joiners started with his apprenticeship with local 721 in 1920. Within the local, he worked his way up from recording secretary to organizer to president. He became secretary-treasurer of the Los Angeles County District Council in 1957 and served as executive board member of the California State Council of Carpenters. During the 1960's, he rose to first general vice president of the national executive board.

In March, 1972, upon the retirement of General President M.A. Hutcheson, he assumed the office of general president of the 800,000 members of the United Brotherhood of Carpenters and Joiners of America. He was reelected as general president in 1974 and 1978.

Although his duties with the Carpenters and Joiners kept him busy, Brother Sidell still managed to devote time to many civic and social interests. He served on the California Governor's Advisory Commission on Housing Problems, the Los Angeles Mayor's Labor-Management Committee, and the executive board of both the California and Los Angeles Committee on Political Education.

Sidell achieved what many of us strive to do in our lives—balance our professional careers with the need to give something back to our community.

We send our condolences to his family, friends, and brothers and sisters of the United Brotherhood of Carpenters and Joiners. They have lost not only a good friend, but a role model for all members of our community.

"INDIA'S DIRTY LITTLE WAR"

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BURTON of Indiana. Mr. Speaker, I would like to put into the RECORD a recent editorial from the New York Times about India's human rights abuses in Kashmir. I would like to commend the New York Times for paying attention to the atrocities being committed in this distant corner of the world, and urge other news media to do the same.

The Times' editorial was prompted by a report from Human Rights Watch/Asian entitled "Continuing Repression in Kashmir—Abuses Rise as International Pressure on India Eases." The report details the murder, torture, and rape of the Kashmiri people by Indian security forces and notes that India's trading partners have ceased pressuring India on human rights in order to improve economic relations.

The report states:

The human rights situation in Kashmir is getting worse at a time when international pressure on the Indian Government has all but ceased. Indeed, it could be argued that the increase in deaths in custody and other abuses over the last 6 months is not unrelated to the signals sent by India's one-time critics, notably in bilateral discussions.

Mr. Speaker, this is wrong. We must continue to protest the gruesome crimes being committed by Indian forces in Kashmir—gang-rapes, torture, murder, torching of entire villages. The Clinton administration must not be silent on this issue any more. When Congress returns in January, I will renew my efforts to cut India's aid until it repeals its repressive laws and stops the oppression in Kashmir. I will also reintroduce my resolution calling for U.N. sponsored plebiscite for the people of Jammu and Kashmir.

The Human Rights Watch report should be mandatory reading for every Member of Congress. I will not include the entire report in the RECORD, but I would like to include the appendix listing the interrogation centers in Kashmir where torture is practiced. My colleagues will note that it is a lengthy list.

Mr. Speaker, I would also like to comment on a related subject. It has come to my attention that several of my colleagues have prepared a letter to the State Department urging that Pakistan be placed on the list of terrorist states. This would be a terrible mistake.

Placing Pakistan on the list of terrorist states would drive Pakistan into the arms of terrorist states such as Iran and Sudan. Instead, we should be working to pull Pakistan into a stronger alliance with the United States and other Western powers. Pakistan is a democracy which has joined us in alliances in the Persian Gulf war, Somalia and Afghanistan. This is a relationship we should be building on instead of tearing down.

On the issue of nuclear proliferation, we should be pursuing a policy of limiting and reducing nuclear arms on a regional basis in South Asia. We must seek a regional agreement to eliminate nuclear arms—in Pakistan, India, and all other nations in the region. This is the only solution. Attacking only one country is unfair and ignores the reality in that area.

The Pressler amendment has not worked, and it should be replaced with a more realistic policy of regional diplomacy.

APPENDIX I

List of interrogation centers in Kashmir where torture is practiced:

In Srinagar district.—Sonwar Bagh Joint Interrogation Center (JIC), Raja Bagh JIC, Pantta Chhok BSF camp, Government Degree College Bemina (now a CRPF camp), Bagh-e Mehtab JIC, Badami Bagh Army camp, and Old Airport Army camp.

In Baramulla district.—Pattan Army camp, Doobgah CRPF camp, Wadoora College Sopore BSF camp, Government Degree College Sopore BSF camp, Government Degree College Sopore BSF camp, Sundarwani Bandipora BSF camp, Dawar Gurez BSF camp, Gulmarg (Baba Reshi) Army camp, and Singh Pora Baramullah Army camp.

In Budgam district.—Pir Bagh Intelligence Bureau Interrogation Centre, Kakao Rini Chrari Sharif BSF camp, Khan Sahib Army camp, Town Hall Budgam CRPF camp, HMT Zainakote CRPF camp, Ompura CRPF camp, and Chana Pora BSF camp.

In Anantnag district.—Doora Shahabad Army camp, Khanabal Police Lines, Baniball Army camp, Chattergul Brah BSF camp, Khundroo Army camp, Qazigund Army camp, Bijbehara Army camp, and Frisal Army camp.

In Pulwama district.—Kakapora CRPF camp, Balev Gund Army camp, Shopian BSF camp, Police Lines Pulwama, Boonarta Army camp, Awantipora Army camp, and Tral Army camp.

In district Kupwara.—Zangli (Kalimitti) BSF camp, Trehgam Army camp, Karnah Army camp rest house, District Police Lines Kupwara, Battergam BSF camp, Chowkibal Army camp, and Drugmullah Army camp.

In Srinagar city.—Raj Bagh Police/CRPF camp, Seki-Dafar CRPF camp, Pampora (Bypass road) Police station, Bagh-e-Ali-Mardan Army/BSF/CRPF interrogation camp, Sakura Army/BSF/CRPF interrogation camp, Tail-Bal Army/BSF/CRPF interrogation camp, Shalimar Army/BSF/CRPF interrogation camp, Shah Cinema Army/BSF/CRPF interrogation camp, Neelam Cinema Army/BSF/CRPF interrogation camp, Hawal Cinema Army/BSF/CRPF interrogation camp, Hari Niwas Interrogation Center (CRPF), Papa I (CRPF), Papa II (BSF), Red 16 (BSF), Gogoland—between the old and new airports (CRPF), Bagi Ali Mardan (Nowshera) (BSF), Lal Bazaar Police Station (BSF), Hotel Mamta, Dal Gate (BSF), and Shiraz Cinema, Khenyar (BSF).

[From the New York Times, Sept. 6, 1994]

INDIA'S DIRTY LITTLE WAR

A relentless, deadly struggle goes on and on in India's mainly Muslim state of Kashmir, where New Delhi is trying to crush forces seeking independence or union with Pakistan. The violence comes from both sides, but India's insistence on resolving a political problem by force has increasingly enmeshed it in a campaign of lawless state terrorism. The ugly results are documented in a new study by Human Rights Watch/Asia.

Regrettably, Washington, instead of raising its voice to defend human rights, has lowered it in an effort to improve commercial and diplomatic ties. The U.S. may have little power to deter India from repression. But the Clinton Administration should assert American disapproval more forthrightly.

Kashmir's political status has been disputed almost since the subcontinent was partitioned in 1947. A local Muslim uprising drew armed support from Pakistan. The Hindu maharajah then called in Indian troops who recaptured most of his lost territory. The two countries have confronted each other over tense cease-fire lines ever since. Meanwhile on the Indian side a promised plebiscite was never held and the state was formally incorporated into India in 1954. Separatist agitation continued on and off, flaring again into open conflict in 1989.

Some pro-Pakistani militant groups have reported to terrorist deeds like kidnapping, assassination and extortion and even to common crime. No political grievance can justify such acts.

But Human Rights Watch/Asia reports that Indian forces, which are obliged to follow higher standards, have also resorted to reprisal killings and burning down villages. They are also said to be executing many suspects without trial; 200 in the first half of this year and 50 in one month alone, according to local human rights groups. There are also many reports of torture and "disappearances," two other common features of state terrorism.

India insists has prosecuted some responsible for these crimes, but has offered no information about such prosecutions. The State Department, in its latest annual human rights report, said "there was little evidence that the responsible officials received appropriate punishment."

Until this year, American officials were equally candid in their public statements. But more recently, after New Delhi warned that continued human rights criticism could damage relations, the Clinton Administration has gone silent on the subject. Meanwhile, India has aggressively courted help from the likes of China and Iran to block condemnation by the U.N. Human Rights Commission

The Administration needs to find a firm and consistent voice on human rights, whether in powerful countries like India and China or puny ones like Haiti and Cuba. Selective denunciations carry no moral authority. Criticizing the weak but not the strong is bullying, not leadership.

Meanwhile India, which captured the world's moral imagination with Gandhi's nonviolent struggle for independence, is now in the unflattering company of countries that use deadly force in keep their unhappy citizens in line.

SENIORS SHUNNING COMPUTERS?

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. GINGRICH. Mr. Speaker, I would encourage my colleagues to read the following article by L.A. Lorek about the growing number of senior citizens who are making the transition into the age of the computer.

As we move closer and closer toward the 21st century, the technological advances that we are experiencing and will experience, will massively expand our capacity to educate ourselves. For this reason, we should be very technologically oriented and we should reestablish technological advancement as a key part of our future.

Mr. Speaker, I hope that all of my colleagues will take the time to read L.A. Lorek's insightful column.

[From the Birmingham News, Sept. 13, 1994]

SENIORS SHUNNING COMPUTERS? DON'T YOU BELIEVE IT.

(By L.A. Lorek)

FORT LAUDERDALE, FL.—Julian Tannenbaum. 63, tracks retirement investments and personal finances on his laptop computer in Delray Beach, Fla.

Lynn Osterman, 57, runs a real estate business out of her home with the aid of her personal computer.

Lou Michael, 91, published his memoirs on a desktop personal computer, at his home in Lake Worth, Fla.

Although they grew up during a time when typewriters still required carbon paper to make copies and computers didn't exist, adults age 55 and over is the fastest growing group of new personal computer owners.

Nearly one out of every three adults in South Florida, or 31.7 percent of the population, owned a personal computer. In 1993, according to the 1993 Scarborough report which tracks retail trends. That's up about 77 percent from 1990 when 18.6 percent of the local population answered yes to Scarborough's question.

But PC ownership among those 55 and over jumped in the same three-year period. In 1990, about 8.7 percent, or 82,500 adults, over 55 in South Florida owned a computer. By 1993, the number of PC owners in that age group was 169,000, or 19.3 percent of the population of adults 55 and over.

"It keeps me young," said Tannenbaum, who is taking a class at Computer Coach in Boca Raton to learn more about using Microsoft's Windows program.

"I want to keep in touch with today's generation," Tannenbaum said. "The best way to learn to use a computer is to forget everything you learned in the past and keep an open mind."

Osterman said she wants to use her computer to get on-line and exchange messages with her children and grandchildren.

"They all have e-mail," Osterman said. "For my generation, computers are something we're having to learn late in life, but we're adapting to them. I'm even learning some things about computers my kids don't know."

Computer sales to seniors are growing nationwide, said Paul Wheaton, spokesman with Dataquest, a San Jose, Calif.-based market research firm. Dataquest doesn't track sales based on age, but reports that consumers bought more than 5.3 million personal computers for their home in 1993, representing 36 percent of the market.

Several businesses such as Computer Coach in Boca Raton offer classes to teach adults how to use computers with prices starting at around $99 for five hours of instruction. Florida Atlantic University, Palm Beach Community College and Broward County School's Adult and Vocational Centers offer computer training geared for adults and seniors.

A drop in computer prices and easier to use consumer-based software has prompted more seniors to buy computers, said Jack Matisoff, 75, who founded Huntington Lakes Computer Club in Delray Beach four years ago. The club, which meets on the second Thursday of every month, has 50 members ranging from 55 to 79 years old.

Like other seniors, most of the Huntington Lakes Computer Club members use computers to track investments and for word processing, but the computer on-line services are also becoming very popular, Matisoff said. More than a dozen computer club members regularly exchange electronic mail with one another on-line, he said.

"We've got a lot of people interested in the latest technology and how to make it work for them," Matisoff said. "We try to keep the meetings down to earth so they can learn and not be intimidated."

More than 14,500 people have signed up for America Online's Senior Net, a non-profit group for computer users 55 and over. CompuServe's Senior Forum and Prodigy's Seniors Bulletin Board, both boast more than 200,000 subscribers each. In general, subscribers pay a monthly fee from $9.95 to $14.95 to access the forums.

Most of the on-line services aimed at seniors contain a wealth of information on Social Security, health and medicine, computers, finances, families, cooking and more. They also feature chat sessions in which seniors can meet and exchange information on a variety of topics from divorce to skydiving.

One of the most popular areas in which people post messages in Senior Net is called Generation to Generation, said Margaret Ryan, America Online spokeswoman. The

bulletin board contains thousands of messages with seniors and youngsters exchanging information on careers, wars, politics and music.

IN SUPPORT OF THE NEWARK-ELIZABETH RAIL LINK EXTENSION

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. FRANKS of New Jersey. Mr. Speaker, last month, the House of Representatives passed the fiscal year 1995 Transportation appropriations bill. Included in that bill was $107 million in funding to enable the ambitious North Jersey Urban Core transportation initiative to move ahead on schedule. A key component of Urban Core is the development of a light-rail link between Newark and Elizabeth.

Mr. Speaker, today I rise to lend my full support to a logical and critically important extension of the Newark-Elizabeth rail project to the city of Plainfield.

Plainfield is a city struggling to come back from two decades of economic decline. This extension could serve as the catalyst for economic revitalization and job opportunities for the people of Plainfield. It would provide the residents of the city and surrounding communities with a vital link to thriving centers of economic development and new jobs, such as Port Elizabeth and Newark International Airport.

Light rail is a modern version of the old trolley. Most light rail runs with just one or two cars, unlike regular trains that operate with many more cars. It is flexible and can be used on existing tracks. In the case of the Plainfield extension, the trolley could run on the old Central New Jersey tracks. It's also fast, clean, quick and efficient.

The benefits of a light rail extension to Plainfield are numerous and far-reaching.

First, I have always found it incredible that one of the busiest airports in the Nation, Newark International, has no direct rail service to the heavily populated areas of northern and central New Jersey. Construction of the Plainfield extension will provide the people of this city, as well as residents throughout Union and Somerset Counties, with a fast and convenient alternative to driving when they need to use this busy and still growing airport. By hopping on a trolley, people will be able to avoid the aggravation of fighting traffic, paying astronomical parking fees, and worrying about whether their car will be there when they return from their trip.

Next, the Plainfield trolley would be more than just a rail link, it would be a jobs link. The Elizabeth waterfront is on the verge of becoming a major commercial and retail center. IKEA is getting ready to break ground on a new "power center"—a 375,000 square foot extension of its facility that is expected to create 600 new jobs. The Orion Corp. is preparing to build a "super mall"—with up to 12 anchor stores and 180 smaller stores. It would be the source of literally thousand of new jobs. And that's only the first phase of the project. Orion has plans to construct even more retail facilities, as well as waterfront restaurants. Finally, Wakefern Corp. has plans to build 800,000 square feet of commercial and retail space.

The Elizabeth waterfront is poised for a major economic boom. For the city of Plainfield, which has been plagued by high unemployment, a direct trolley link to the Port of Elizabeth would open the door to economic advancement for hundreds, or even thousands of residents, who have been unable to find work.

Trolley service could also be the cornerstone for the economic rebirth of Plainfield itself. The possibilities are endless. New shops, restaurants, and office space, state-of-the-art manufacturing facilities—a city bustling with commuters and shoppers.

For Plainfield—which has had more than its share of hard times, false starts, and unfulfilled promises—trolley service represents the best hope of economic renewal. I remember coming to Plainfield as a child to shop at Teppers and the other exclusive shops that lined Front Street in Plainfield.

Trolley service can help launch a new era of prosperity. It has happened in other cities and it can happen here. Take Arlington, VA, across the Potomac from Washington, DC. Arlington was a city in economic decline until it linked up with Metro rail service in the late 1970's. Today, Arlington is on the upswing. Crowded restaurants, shops, apartment complexes, movie theatres, and businesses now stand where there were once boarded up buildings and vacant lots. The redevelopment actually follows the path of the rail line. Although this turnaround did not happen overnight—in fact it took over 20 years—it shows the dramatic and long-term impact rail service can have on a community.

Unlike starting up a bus line, the initiation of rail service signals a long-term commitment. It makes a community more attractive to real estate developers who are looking to invest in areas with a potential to grow and prosper. Investing in the community means more jobs and a more desirable place to live.

This rail line could be the spark that says, "Plainfield is back and open for business."

There's another equally compelling reason for moving ahead with this project: Improving the quality of the air we breathe. Our State—the most densely populated in the Nation—has some of the most serious air quality problems in the country. The major east-west highways in the area—Routes 22 and 78—are jam-packed at rush hour. They're not equipped to handle the expected surge in traffic as population in the region continues to grow and once the Elizabeth waterfront development is complete.

But that's only part of the problem. New Jersey is under a Clean Air Act mandate to reduce our dependence on the automobile. New Jersey residents could face some draconian changes in their commuting habits and lifestyles, as well as a massive loss of Federal highway funds, if we don't reduce air pollution by getting more cars off the road.

Expanding rail service, which minimizes pollution, is the logical alternative. It's the best way for New Jersey to reduce air pollution without sacrificing mobility. And under federal law, we simply have no choice.

While we may have few options in terms of compliance with the Clean Air Act, we do have a choice in determining what rail projects should be given priority.

New Jersey Transit, in its environmental impact statement on the Newark to Elizabeth rail link, is considering not only the trolley extension to Plainfield but also the concept of bringing light rail service to Summit, via Springfield. As the Congressman for Summit, Springfield, and Plainfield, I always want to do what is best for all communities involved. However, because of the overwhelming show of support for this project by the people of Plainfield, as well as the long-term economic benefits it can bring to this city and its environs, I believe it would be in the public's interest to build the Newark-Elizabeth rail link extension to Plainfield first, before extending it to other areas of Union County.

In addition, elected officials in Springfield, one of the stops of the proposed Summit extension, have expressed serious concerns about the project. Township Committeemen Jeff Katz and Joe Cappa have questioned the viability of additional mass transit service and believe that it would create a danger to residents, as well as a financial hardship. Given the reluctance of local officials in that area, Congress should be very wary about committing substantial taxpayer dollars to support a Summit light-rail extension.

I have long been a supporter of expanding mass transit opportunities for New Jerseyans. In fact, earlier this year I was successful in having the House of Representatives pass legislation providing funding to reestablish commuter service on the West Trenton Line in Somerset and Mercer Counties.

Mr. Speaker, as a member of the House Public Works and Transportation Committee, I will be working hard to bring trolley service to Plainfield. Not only would it ease traffic congestion, help New Jersey meet its mandate under the Clean Air Act and provide greater mobility for the people of Plainfield, it can be the catalyst for new jobs and new commerce—a new beginning for the Queen City.

TRIBUTE TO RITA MARTIN

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. SMITH of New Jersey. Mr. Speaker, on October 14, a large gathering of friends and admirers will pay tribute to a truly remarkable and caring woman, Rita Martin of Bridgewater, NJ.

For more than 20 years, Rita has been a stalwart leader on behalf of the sanctity of human life. She has been tireless in her commitment to defend the most innocent and defenseless members of our society. Her love of life and her abiding respect for human dignity are evident to everyone she meets.

Rita has been an outstanding educator, organizer, fundraiser, and lobbyist. Her gentle demeanor helps her to reach those who have not previously been open to her important message. She is tenacious in her quest to defend the vulnerable but she always treats friends and adversaries with the greatest respect.

Since her years as local fundraiser and regional director for the New Jersey Right to Life Committee in the early 1970's, Rita went on to become president of the committee. I was proud to serve on the board of directors during Rita's outstanding tenure. Members of New Jersey's congressional delegation and the State legislature were very receptive to Rita's persuasive message and often stood with her in defense of life.

"Riter" subsequently become cofounder and legislative director for Citizens Concerned for Life, New Jersey. She has brought the same dedication and insight to this ongoing assignment.

As founder and board chairwoman of the Pregnancy Aid and Information Center in Raritan, NJ, and Great Expectations in Somerville, NJ, Rita demonstrates her compassion for women in difficult circumstances on a daily basis. She has provided housing, clothing, baby accessories and a great deal of moral support to hundreds of women in need.

The Catholic Diocese of Trenton and, subsequently, the Diocese of Metuchen recognized Rita's unique talents and appointed her as their pro-life liaison. She has also served as a member of the Public Policy Committee of the New Jersey Catholic Conference. The State of New Jersey, recognizing Rita's sound judgment, appointed her to their Bioethics Commission.

Rita Martin is the recipient of the New Jersey Right to Life Committee's highest honor, the Guardian of Life Award. She has also been honored by the Knights of Columbus at their New Jersey State Convention, and she has been presented with the Benemerente Medal by Pope John Paul II.

Throughout her life, Rita has been richly blessed and she has been a blessing to many others. Her husband, Dave, and four children are very proud of Rita's selfless dedication and many accomplishments. Her five grandchildren, one of whom will arrive very soon, could not have a better role model.

Congratulations, Rita, on a tribute that is well deserved and longoverdue. I wish you and your family great happiness in the years ahead.

THE REPUBLIC OF CHINA CELEBRATES NATIONAL DAY

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BOEHLERT. Mr. Speaker, on October 10, the 21 million people of the Republic of China will celebrate National Day, commemorating the date in 1911 when this brave, intrepid nation was founded by Sun Yat-sen as the first republic in Asia.

This should be a joyous time for our friends, they have toiled long and hard to become an economic leader. They engineered a political transformation from authoritarian rule to a working democracy with legalized opposition parties and a free press. The ROC is the success story that the rest of the world's emerging democracies can learn from.

However, with all its economic and democratic success, the Republic of China is still treated like a virtual pariah in the international community. The ROC is not allowed to participate in the United Nations. Recently, our own President Bill Clinton refused ROC President Lee Teng-hui's request to stay overnight in Hawaii. All this, in hopes of not angering People's Republic of China—mainland China. The people of the Republic of China need and want our support and hospitality, not a slap in the face and a no vacancy sign on the door.

American economic and political interests in Asia are served by the stability of the Taiwan Straits. We must work with the President to forge a policy that enhances the ROC's legitimacy and international standing. We should no longer allow outdated and misguided political motives to tarnish the accomplishments this Nation has worked so hard to earn and deny the international respect the ROC so richly deserves.

In closing, I would just like to bid farewell to a distinguished public servant and friend from the Republic of China, the Honorable Moushih Ding. He has been promoted to the post of Secretary General of the National Security Council in Taipei. During his last 6 years here with the Coordinating Council for North American Affairs, Mr. Ding honorably represented his country and worked tirelessly to foster good relations between our two countries. He will be missed greatly. However, I look forward to working with his successor Mr. Benjamin Lu, the Representative of the Taipei Economic and Cultural Representative Office in the United States.

A RAID ON AMERICA'S PENSION FUNDS

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. SAXTON. Mr. Speaker, I have recently introduced an important piece of legislation, the Employee Benefit Plan Security and Protection Act of 1994. This bill will reiterate Congress's original intention that pension funds should only be invested in the best interest of the participants.

I have received hundreds of phone calls and letters from all over the country commenting on the importance of this issue. I believe that Congress needs to address this issue in the 104th Congress.

Below is an article that I wrote that appeared in the Wall Street Journal on September 29, 1994. I believe it helps explain why this legislation is needed.

A RAID ON AMERICA'S PENSION FUNDS

How many ways can the government lighten your wallet? The list is long, but a new threat just arrived: Your pension is now at risk. In a little-noticed passage of his 1992 campaign document, "Putting People First: A National Economic Strategy," President Clinton promised to create a "Rebuild America Fund," with a $20 billion federal investment annually for four years, leveraged with state, local and private-sector pension funds. Revenues from road tolls, solid waste disposal fees and public housing rents would "guarantee" a return from such investments.

Little was heard of this idea until this June when Labor Secretary Robert Reich issued a new regulatory bulletin to "clarify" the Employee Retirement Income Security Act of 1974, known as ERISA. For two decades, this law has protected participants in private pension funds by codifying the principles of the common law on the duty of a fiduciary, namely, to "discharge his duties with respect to a plan solely in the interest of the participants and beneficiaries and for the exclusive purpose of (i) providing benefits to participants and their beneficiaries; and (ii) defraying reasonable expenses of administering the plan."

Thanks to these protections, today some $3.6 trillion is invested in private pensions and another $1.4 trillion in public pension funds, about one-quarter of the stock and bond markets. The president is entrusted with the impartial administration of ERISA in order to assure the safety and security of participants' retirement incomes, but the Clinton administration wants to risk private pension money on high-risk, low-return political projects.

According to Labor Secretary Reich and his assistant secretary of labor for pensions and welfare benefits, Olena Berg, private pension funds should be "encouraged" to put money into "economically targeted investments." Funding ETIs means investing for "collateral benefits" like infrastructure, affordable housing, job creation, or enterprise development. Secretary Reich parses his words carefully to insist that ETIs are not "social investments" that pursue a political or social goal at the expense of maximum risk-adjusted returns. Yet this circumlocution turns out to be a distinction without a difference. Experience with the pension funds of public employees, which remain outside the scope of ERISA fiduciary, regulation, demonstrates why. Their track record on ETIs is dismal:

In 1980 the Alaska public employees and teachers retirement system funded loans of 35 percent of assets ($165 million) to make mortgages in the state. When oil prices fell in 1986, so did home prices and 40 percent of loans became delinquent or were foreclosed.

In the late 1980s the Kansas Public Employees Retirement System was held up as a model for its ambitious ETI investments. KPERS has since written off about $200 million in ETI investments.

In 1989 the Connecticut State Trust Funds invested $25 million in Colt Manufacturing Co. to save 1,000 jobs. In 1992 Colt filed for bankruptcy, endangering the whole investment.

Not all ETIs have been disastrous, but most have yielded subpar results. For example, by order of the Missouri Legislature, the Missouri State Employees' System used about 3 percent of its assets to put venture capital into small companies in Missouri. Three years and $5 million later, the program was terminated because of unsatisfactory returns and two lawsuits.

Statistical studies on ETIs support this anecdotal evidence. A 1983 study by Alicia Munnell, then with the Federal Reserve Bank of Boston and now a top U.S. Treasury official, found that public employee plans with targeted or social investments had assets that were significantly riskier, less liquid and earned lower yields. A 1993 study by Roberta Romano of Yale Law School found that the greater the political influence on the investment decisions of public employee pension funds, the lower the return. And a 1994 study by Olivia Mitchell of the University of Pennsylvania and Ping Lung Hsin of

Cornell University concludes that "public pension funds required to devote a portion of their assets to in-state investments * * * experienced lower investment returns."

ETIs are really PTIs—Politically Targeted Investment—and use the participants' money in ways that would not occur except for political pressure. Who pays for this party? You do. Lower returns imply lower incomes for retirees. Unless more is paid into plans from wages or other sources, defined benefit plans cannot fulfill their promises.

ETIs should be banned, not encourage. Yet the Labor Department has started an "ETI Clearinghouse" to begin operation before the end of the year "to help fiduciaries and investment managers choose appropriate ETIs" and to showcase "future opportunities and past successes" (not past failures).

Today, I am introducing a bill that will reiterate Congress's intent, laid out in ERISA, that pension funds be invested solely in the interest of their participants and beneficiaries. Mr. Reich, kindly take your "interpretative bulletin" and shelve it!

DUCKETT CREEK SEWER DISTRICT FACILITY

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. TALENT. Mr. Speaker, it is with pleasure and a great degree of pride that I draw to your attention the accomplishments of the Duckett Creek Sewer District facility, located in my district. Duckett Creek has been selected to receive the Environmental Protection Agency's 1994 national first place award for an outstanding Operation and Maintenance Program in the Medium Secondary category. EPA has singled out Duckett Creek for the facility's demonstrated-innovative and cost-effective achievements. This selection is the result of an extensive national competition, which recognizes the outstanding achievements by the local community and the wastewater treatment personnel.

I would like to take this opportunity to recognize executive director Thomas L. Szilasi and the chairman of the board of trustees David Cosby, for their hard work and leadership of the Duckett Creek Sewer District. It is also my honor to recognize the entire staff at Duckett Creek for their continued commitment to serving the needs of St. Charles County with excellence and professionalism.

Mr. Speaker, I join the many customers of the Duckett Creek Sewer District in extending a thanks for a job well done, and congratulations on receiving the richly deserved award from the Environmental Protection Agency.

THE IEA PROGRAM

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. COBLE. Mr. Speaker, a successful school-to-work training program is being conducted in Greensboro, NC, that can be replicated across the country in order to meet the needs of providing skilled workers to the home building industry. The Industry-Education Alliance [IEA], as the program is known, is a school-to-work training program for dislocated adults seeking jobs in the residential homebuilding industry.

The IEA program is offered through the Greater Greensboro Builders Association and Guilford Technical Community College. Assistance is also provided nationally by the Home Builders Institute, the educational arm of the National Association of Home Builders, and PAVE, the Educational and Training Foundation.

The only goal of the program is to help train these dislocated adults, turning them into skilled carpentry framers and place them in jobs in the building industry. By providing the students with quality classroom instruction and hands-on training at the work site from professionals in the home building industry, the IEA program helps students prepare for work in the homebuilding industry. In fact, 100 percent of the students completing the program have been placed in jobs in the homebuilding industry.

As we look for successful models in which to prepare young Americans for industries of the future, I urge everyone to examine the IEA program in Greensboro. It is an excellent example of the private sector (home builders) and the public section (local schools) working in partnership in order to prepare students for quality careers in the building industry. On behalf of the citizens of the Sixth District of North Carolina, we congratulate IEA for a job well done.

AGRICULTURE AND THE GATT

HON. JILL L. LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Ms. LONG. Mr. Speaker, earlier this year, a number of House Members and I, including Mr. DE LA GARZA, Mr. KINGSTON, Mr. POMEROY, Mr. EMERSON, and Mr. BEREUTER, introduced legislation to ensure that agriculture did not pay a disproportionate share of the implementing cost of the General Agreement on Tariffs and Trade. In fact, the legislation was cosponsored by over 55 Members of the House of Representatives—including a large majority of members of the Committee on Agriculture. Similar legislation was also introduced in the Senate by Senator DASCHLE, Senator PRYOR, Senator COCHRAN, Senator CONRAD, and others. In fact, every member of the Senate Agriculture, Nutrition and Forestry Committee—except one—cosponsored the legislation.

Since that time, Mr. Speaker, the Clinton administration has earnestly worked with concerned Members to ensure that American agriculture will reap all of the benefits of this important trade agreement. In this regard, Chief of Staff Panetta, Ambassador Kantor, Secretary Espy, and Acting OMB Director Rivlin have been most helpful.

As a result of this cooperative effort, most of the Members, along with a large number of agriculture organizations, who had some concerns about GATT and agriculture are now enthusiastically supportive of the implementing legislation.

I am inserting into the RECORD some additional material that further explains the assurances that were given by the administration, in addition to some other pertinent documentation. I do so for the benefit of my colleagues and all others who are interested.

THE WHITE HOUSE,
Washington, DC., September 30, 1994.

Hon. E (KIKA) DE LA GARZA,
Chairman, Committee on Agriculture, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The GATT implementing legislation now before Congress is one of the most important measures for the U.S. economy and global economies that we have had the opportunity to enact in recent years. It is the result of many years of bipartisan efforts, and is particularly important for our agricultural sector. Our projections are that it will lead to increased U.S. agricultural exports of $5–14 billion cumulatively over the next five years and the creation of 112,000 export-related U.S. jobs.

My Administration is also prepared to take further steps to support the agricultural sector as this legislation is being implemented. These steps are detailed in a letter to you from Secretary Espy and Acting Director Rivlin, and I would like to emphasize my support for them.

My Administration will refocus the Export Enhancement Program and the Dairy Export Incentive Program so they can be used for market expansion in addition to focusing on combating unfair trade practices. We will also propose increases over the next five years in the level of USDA "greenbox" and other programs that are not constrained by GATT.

On the domestic front, I want to assure you that I am strongly supportive of USDA's Conservation Reserve Program (CRP) and am committed to ensuring that it will continue. Finally, as described in the Espy-Rivlin letter, my next two budget requests will safeguard spending for agricultural programs.

I hope this helps to clarify my Administration's support for agriculture programs, and that I can count on your support in passing the GATT legislation and working to realize its benefits for American farmers and the entire U.S. agricultural sector.

With best wishes,

Sincerely,

BILL.

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET,
September 30, 1994.

Hon. E (KIKA) DE LA GARZA,
Chairman, Committee on Agriculture,
House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: The enactment of GATT is vital to the continuing economic expansion of the U.S., and particularly for expanding opportunities in the agricultural sector. Our estimates are that the implementation of the GATT agreement will lead to a cumulative increase of U.S. agricultural exports over the next five years of between $5 and $14 billion. These increased agricultural exports will result in a gain of 112,000 U.S. jobs by 2000.

In spite of these significant benefits, however, we know there remain concerns in

some quarters about the effects of projected reductions in federal spending on agriculture-related programs resulting from GATT's implementation. Therefore, we are making commitments in some additional areas that will reassure and further benefit the agricultural sector.

The Administration has decided, as part of the implementation of GATT, to refocus USDA's Export Enhancement Program (EEP) and Dairy Export Incentive Program (DEIP) so they can be used for market expansion and promotion, not just for combating unfair trade practices as is currently the case. The GATT implementing legislation we submitted to Congress on September 27th will effect this change in the EEP program, based on the language suggested by the Agriculture Committees in their draft GATT legislation. A parallel change to the DEIP program will be made administratively.

We also want to reiterate the Administration's commitment to use these and other export programs, as well as the Sunflower and Cotton Oilseed Assistance Programs, to the maximum levels allowed under GATT and U.S. law. Throughout the six-year GATT implementing period, we intend to request that Congress make available funds for these programs to the fullest extent permissible under GATT.

In addition, we will work with others in the Administration to develop and utilize an expedited interagency review process to ensure that sales under the EEP and DEIP programs are carried out promptly in a market-sensitive manner that fulfills the broader program focus described above.

The Conservation Reserve Program (CRP) has been another priority for the agricultural community. The Administration strongly supports the CRP program and will act to ensure its continuation. We have already taken action to extend our baseline CRP funding, in the Midsession Review of the President's FY 1995 Budget. In addition, USDA has announced that CRP participants with contracts that expire in 1995 can modify and extend their contracts for an additional year. The Administration will include a full continuation of the CRP in the FY 1996 Budget baseline, and will propose reauthorization and extension of the CRP in 1995.

The Administration also wishes to reassure the Committee that it is planning to maintain total discretionary spending on USDA agricultural programs at or above the FY 1995 level in the FY 1996 and 1997 Budget requests to Congress. In formulating future budgets, we will take into consideration reductions made in agriculture budgets in the past and during the GATT round.

To broadly support market development for agricultural products, the Administration will propose increases in "greenbox" and other GATT-allowed agricultural program levels by $600 million over the next 5 years. These programs will include a combination of direct spending, direct credits, and credit guarantees. Consistent with the draft GATT legislation prepared by the Agriculture Committees, this effort will include funding for the Market Promotion Program and other programs to benefit a wide range of commodities, including dairy, oilseed products, and high-value commodity products. In addition, funding will be included to support development of alternative uses for agricultural products.

One source of offsets to fund this increase this year of crop insurance reform. To the extent that those savings are not sufficient to fund this increased program level, funding for such agriculture programs will be proposed as additional agricultural spending in future budgets.

We appreciate your continued support and look forward to working closely with you on agricultural issues in the future.

Sincerely,

MIKE ESPY,
Secretary of Agriculture.
ALICE M. RIVLIN,
Acting Director.

October 5, 1994.

Hon. JILL LONG,
House of Representatives, Washington, DC

DEAR REPRESENTATIVE LONG: On behalf of the organizations listed below, we would like to take this opportunity to express our strong support for Congressional passage this year of legislation implementing the Uruguay Round General Agreement on Tariffs and Trade (GATT).

The economic well-being of U.S. agriculture is heavily dependent on its ability to complete in the international marketplace. This is underscored by the fact that agricultural exports account for nearly one-third of U.S. production and provide employment for nearly one million Americans.

It is anticipated that the Uruguay Round agreement on GATT will provide even greater trade opportunities for U.S. agriculture. According to recent estimates, U.S. agricultural exports are projected to increase by $5 to $14 billion over the next 5 years which, in turn, would create an additional 112,000 new jobs.

To realize this potential, however, will depend on the extent that U.S. agricultural policies and programs continue to be equally competitive with those of other countries, especially the European Union. Clearly, as history has shown, our foreign competitors will continue to use every available weapon allowed under GATT to maintain and expand their share of the world market. Without a similar commitment, U.S. agriculture will be at a significant disadvantage.

This is why we strongly supported legislation (H.R. 4675) which you introduced and which was unanimously adopted by the House Committee on Agriculture as part of its recommendations on GATT.

The Administration, consistent with H.R. 4675, has pledged its support for maintaining U.S. agricultural policies and programs, including funding, at the maximum levels allowed under GATT; announced its commitment to provide $600 million in additional funding for certain other GATT-allowable or "green box" programs such as market development and promotion, export credit, food assistance (P.L. 480 and TEFAP), as well as for developing alternative uses from agricultural commodities; and emphasized it will maintain and extend the conservation reserve program (CRP).

These actions will help U.S. agriculture remain viable and competitive in the international marketplace; meet the food and fiber needs of consumers at home and abroad; contribute to continued economic growth, jobs and an expanding tax base; and help fully capitalize on the potential market opportunities expected to result from the Uruguay Round agreement on GATT.

For these reasons, we want to take this opportunity to express our strong support of the Uruguay Round implementing legislation and to urge that such legislation be approved by Congress this year.

At the same time, we want to express our appreciation to you for your continued strong leadership on behalf of agriculture and rural America.

Sincerely,

American Farm Bureau Federation; American Forest and Paper Association; American Meat Institute; Coalition for Food Aid; International Apple Institute; National Association of State Departments of Agriculture; National Barley Growers Association; National Cattlemen's Association; National Corn Growers Association; National Cotton Council; National Council of Farmer Cooperatives; National Pork Producers Council; National Potato Council; United Egg Association; United Egg Producers; United Fresh Fruit and Vegetable Association; and USA Rice Federation.

MOVING BEYOND THE STATUS QUO: THE NEED FOR A BOLD NUCLEAR POLICY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. STARK. Mr. Speaker, the world has changed dramatically and I had hoped for a bold change in policy governing our nuclear forces. We have instead courageously committed ourselves to stay the course, polish our missiles, and wrap up a few loose ends.

For the benefit of my colleagues I would like to include in the RECORD an analysis of this policy change prepared by the Union of Concerned Scientists. The opportunity to win the peace is at hand and we should be actively negotiating further nuclear reductions.

CLINTON'S STATUS QUO NUCLEAR POLICY

(by Jennifer Weeks)

With the release of the Nuclear Posture Review [NPR] and the conclusion of the September 27-28 Washington summit, the Clinton Administration confirmed that its nuclear weapons policy is basically treading water. Although Russian President Boris Yeltsin has proposed additional nuclear cuts, the U.S. seems determined to ignore this opportunity.

Announcing that the administration would undertake the NPR in October 1993, then-Defense Secretary Les Aspin promised a "fundamental" reexamination of nuclear weapons policy, doctrine, force structure, and arms control issues. However, a year later, the final product called only for a few cosmetic changes to the nuclear forces inherited from the Bush Administration—retiring four nuclear submarines and 26 B-52 bombers—while retaining the 3,500 warheads allowed under the START II treaty. The NPR rejected adopting a policy of no first use of nuclear weapons.

Clinton Administration officials justified the decision not to seek nuclear reductions below START II levels as a precaution against a possible political reversal in Russia, which is drawing down its arsenal more slowly than the U.S. due to political and economic constraints. In Defense Secretary William Perry's words, "the small but real danger that reform in Russia might fail and a new government arise hostile to the United States, still armed with 25,000 nuclear weapons requires us to maintain a nuclear hedge."

Days after the NPR was unveiled, Russian President Boris Yeltsin presented a fundamentally different perspective in an address to the U.N. General Assembly. Speaking hours after President Clinton, Yeltsin indicated that Russia is prepared to reduce the role of nuclear weapons in its security policy. Yeltsin proposed negotiating a treaty among the five nuclear weapons states that would provide, among other things, for "further elimination of nuclear munitions and reduction of strategic carriers." He also called for strengthening security assurance to non-nuclear weapons states, in order to build support for extension of the Nuclear Non-Proliferation Treaty [NPT] in 1995.

However, the joint statement issued by Clinton and Yeltsin at the conclusion of their Washington summit expressed only a remote possibility of timely progress on further cuts:

"The Presidents instructed their experts to intensify their dialogue to compare conceptual approaches and to develop concrete steps to adapt the nuclear forces and practices on both sides to the changed international security situation and to the current spirit of U.S.-Russian partnership, including the possibility, after ratification of START II, of further reductions of, and limitations on, remaining nuclear forces."

Not only did the U.S. pass up a potential opportunity to achieve further Russian nuclear reductions; in addition, this highly qualified pledge is unlikely to satisfy growing international pressure for the nuclear powers to fulfill their obligation under Article VI of the Nuclear Non-Proliferation Treaty [NPT] to move toward nuclear disarmament. In mid-September, at a preparatory meeting for the April 1995 conference that will consider whether to extend the NPT, the non-aligned states announced that their support for the NPT will depend on "substantive progress" in a number of areas—including statements from the U.S. and Russia on how they will reduce their nuclear arsenals below START II levels.

Clinton and Yeltsin did agree to two significant actions at their September meeting. First, the U.S. and Russia will speed implementation of START II by deactivating weapons that are to be reduced under that treaty as soon as it is ratified, rather than over a period of years as specified in the treaty. This accelerated schedule could make it possible to implement START II more quickly, paving the way for additional reductions.

Second, at a meeting scheduled for December of this year, Vice President Gore and Russian Prime Minister Chernomyrdin will exchange data on aggregate stockpiles of nuclear warheads and fissile materials and on their safety and security. However, this step falls short of what is needed. The U.S. and Russia will ultimately have to exchange complete information on their nuclear inventories—including the sizes and locations of stockpiles and storage sites, and descriptions of various weapon facilities—to make this data useful for defense and arms control planning, and to prevent either side from setting aside a secret cache of nuclear weapons or materials.

To make nuclear reductions permanent and irreversible, Clinton and Yeltsin will have to take a number of further steps, including:

Reciprocal monitoring: Joint monitoring of sites in each country where weapons are dismantled and where components and weapon-usable fissile materials are stored would increase security at Russian nuclear sites and build confidence that both sides are reducing their arsenals on schedule.

No weapon "recycling": In his U.N. speech, Yeltsin called for an agreement among the five nuclear powers to bar using fissile materials from dismantled warheads in new weapons. If the U.S. and Russia agreed to dismantle all of the warheads they will remove from service under START I and II and to put the fissile materials under international safeguards, they would not be able to keep large reserve stockpiles of nuclear warheads (as both countries are currently expected to do).

Deeper cuts: The most effective way to reduce future nuclear threats is to lock in substantial nuclear reductions now. If the Clinton Administration is worried about a resurgent Russia—as the Nuclear Posture Review recommendations indicate—then it should do everything possible in the short term to bring Russia's nuclear weapons under control.

Hardliners in both the U.S. and the Russian governments oppose the types of steps outlined above, and likely were a major factor in the cautious tone of the September summit. Ironically, it is Yeltsin who seems most willing to oppose those voices against change; in his U.N. speech he stated. "We would like that there be no nuclear or other kinds of weapons of mass destruction in the world." In contrast, Clinton approved the NPR without comment just days before Yeltsin came to town, effectively removing deep cuts from the agenda. However, the Clinton Administration is strangely reluctant to take proactive steps to secure the Russian nuclear weapons and materials that it says are obstacles to further cuts.

Reform in the former Soviet republics will doubtless be a long, difficult process, and there is no guarantee that Yeltsin will be able to maintain stability in Russia. That is precisely why President Clinton should pursue every opportunity to reduce the nuclear threat from Russia today. Rather than continuing to fight a mini-Cold War, Clinton and Yeltsin should and can build a new security relationship—one that relies far less on nuclear weapons.

CLARENCE LONG: 22 YEARS OF SERVING THE PEOPLE OF MARYLAND

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. HOYER. Mr. Speaker, I rise today to honor the memory of one of our great leaders from my State of Maryland, former Congressman Clarence D. Long. Mr. Long died Sunday in Cockeysville, MD, but it is his dedication to public service to which I pay tribute today.

A self-described dirt farmer at the onset of the Great Depression, Clarence Long was truly a self-made man. He put himself through school during those trying times, earning Phi Beta Kappa at Washington and Jefferson College in 1932, and a doctorate in economics from Princeton in 1938.

After serving as a Navy Lieutenant during the Second World War, Clarence returned to Baltimore to be a professor of economics at Johns Hopkins University. "Doc" Long, as he was called, continued to teach while he worked his way into local politics, eventually becoming the acting chairman of the Democratic State Central Committee in 1961. He was elected to represent Maryland's Second District in the U.S. House of Representatives just 1 year later.

Congressman Long had an extremely good civil rights record during the 1960's, and in 1963 became one of the first members to hire an African-American staff member. He had a reputation for voting his conscience, which may have caused him trouble in a district that was less liberal than he was. Difference of opinion between himself and his constituency was not an obstacle for Clarence, however, he reportedly told fellow Baltimore Representative Parren Mitchell, "If you can't do what you believe in, you don't belong in Congress."

Independence of ideas was a major theme of Clarence Long's tenure in Congress. He served for 22 years because he was seen as a public servant of "Commitment, energy, and public service." He was an advocate of a strong American manufacturing base and a true friend of the working man. This reputation helped drive him to reelection year after year.

As a Congressman, Clarence Long was seen as a man of utmost integrity. He will be sorely missed by his wife Inez, his daughter Susanna, son Clarence III, two stepsons, Kenneth and Ronald, as well as the rest of Maryland to which he so dutifully served.

Mr. Speaker, I applaud the legacy Clarence Long has left for Maryland. May he rest in peace.

ATTRIBUTES OF THE REPUBLICAN CONTRACT WITH AMERICA FOR THE SENIORS OF OUR NATION

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mrs. VUCANOVICH. Mr. Speaker, I think the comments coming from the White House and Democratic leaders regrading the Republican "Contract With America" reflect their absolute terror that we have a plan which will actually deliver a balanced budget. Their desperate tactic to scare senior citizens, and this patronizing attitude toward the American people, is absolutely reprehensible. It is also a further example as to why the 40-year grip the Democrats have had on the Congress must come to an end.

Instead of increasing taxes on senior citizens, the Contract repeals them. Instead of limiting senior citizen's ability to work, our contract encourages seniors to lead full, productive lives. Instead of offering a health care package that destroys the existing Medicare system, the contract provides tax incentives for long-term care insurance. We cannot afford to allow the Democrats to continue their assault on our Nation's seniors.

RETIREMENT OF CONGRESSMAN ROMANO L. MAZZOLI

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BROOKS, Mr. Speaker, I rise today to speak of another colleague of mine on the House Committee on the Judiciary who has decided to retire from public service at the end of this session. Congressman ROMANO L. MAZZOLI of Kentucky's Third Congressional District has served with distinction in the Congress since 1971 and on the Judiciary Committee since 1975. RON is a diligent and hard-working Member of both the Judiciary Committee and this House whose careful attention to detail will be sorely missed by all of us.

As chairman of the Subcommittee on International Law, Immigration, and Refugees, RON MAZZOLI has been in the vanguard of all immigration legislation which has passed the Congress in the past 20 years. He has tried to balance both the rights of those legally seeking to become citizens of this country with the very important need to safeguard our borders. Our fond thoughts and best wishes go with Helen and RON as they return to Louisville for, I am sure, a productive career and life outside the Congress.

HUNT THEM DOWN

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. SERRANO. Mr. Speaker, I would like to share with my colleagues an editorial from the New York Times of October 4, 1994, on the very troubling anti-immigrant hysteria that pervades out Nation today. Let us not forget that we are overwhelmingly a nation descended from immigrants and it is to this fact that we owe our unparalleled democracy and prosperity.

HUNT THEM DOWN

(By A.M. Rosenthal)

When a nation sets out to persecute a segment of its population, to hound them down, mark them, deprive them of the human care it gives to others, tells them they cannot work to earn their bread, that nation takes a large step toward persecuting other groups who live within its borders. It follows as blood the wound.

In dictatorships, the first persecution is carried out by command, in full knowledge that other groups are on the list.

In democratic countries, the first persecution is usually the result of generalized public anxiety and uncertainty, manipulated and deepened by politicians who scavenge and batten on antagonism within society.

The antagonism becomes a political movement in itself, frightening into silence politicians who are aware of the dangers of the acceptance of any persecution of any group but willing to push that into the back of their minds.

All this is taking place in America—the anxieties being directed against a small slice of the population, the heightening by political propagandists, the submission of the political center.

The target is the residents of the U.S. who have come to this country in search of work or refuge without securing admission papers—the 3.2 million people called "illegal aliens" or "undocumented immigrants." Usage depends on whether you despise them or can muster up some memory of America's debt to the paperless.

Americans suffering from jumpy nerves about immigrants should demand that Washington spend more billions of their tax money to make the borders tighter, knowing total tight is impossible. And it is in democratic order for the Government to use its legal powers to deport illegals.

But it is not in democratic order for politicians to spread falsehoods about the economic "burden" of immigrants, legal and illegal, to use clubs of fear to drive out immigrants, or to saddle the country with immigrant-hunting computer banks and work licenses that will cut away at every American's liberty.

Immigration, legal and illegal figured in, adds up to an economic boon to America. The estimate of the Urban Institute in Washington is that they contribute $25 to $30 billion more money in taxes and jobs than social benefits paid out.

Benefits, On the West Coast, there is lots of political noise about removing them from illegals, to drive them out. Mean-spirited referendum items may pass but they will bring little economic benefit. The truth is that the dreaded benefit-swilling illegals now receive little more than the schooling for children upheld by the Supreme Court and emergency medical help.

And now, an immigration "reform" commission appointed by the Clinton Administration calls for a nationwide computer bank that would grant or withhold the permission to work. Every job applicant immigrant, naturalized or native born, would have to be computer-cleared as a legal resident of the U.S. fit for a work license.

Lovely. Tomorrow, the Government could ask the computer to hunt down every person who broke a law, had a bad credit rating or ever had a contagious disease to see whether he should be permitted to work. Will Americans really stand for this?

While we think it over, the "anti-illegals" crowd is moving against its next target: immigration itself, the concept of America as haven for refugees and a place of economic hope for some of those who stupidly failed to be born in America.

The anti's are so strong that many Republican and Democratic politicians who are opposed to them just keep quiet. As antidote, I give you two quotations.

One is from Mario Cuomo, Governor of New York. "I love immigrants," he said. "Legal, illegal—they are not to be despised."

And this is from New York City's Mayor, Rudolph Giulani.

"If you come here and you work hard and you happen to be in an undocumented status, you are one of the people who we want in this city. You are somebody that we want to protect and we want you to get out from under what is often the life of being like a fugitive, which is really unfair."

One of them is a Democrat and the other Republican. But when it comes to understanding America's roots and the dangers to them, you can't tell these fellows apart—my happy thought for the day.

REMARKS OF A.C. PARTOLL

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. HILLIARD. Mr. Speaker, I would like to submit for the RECORD the following speech by Mr. A.C. Partoll, addressing the Organization for the Protection and Advancement of Small Telephone Companies, on June 26, 1994.

Good morning, everyone. I'm very pleased and honored that you invited me here today to discuss the changes and challenges we face in this wonderful industry of which we are both a part.

In what may rank as the understatement of the week, we are at a very interesting—one might even say critically important—time for the telecommunications industry. Consider, if you will, that:

The technology that drives our industry is advancing more rapidly than ever before.

Even as we meet, the rules for governing it are being written and rewritten in Washington and the state capitals to encourage more competition, less regulation, and greater customer choice; and

The very shape of our industry is changing through mergers, alliances, and a coming together of our industry with other industries, like computing and entertainment.

I'd like to look at all of this with you this morning—and, in particular, to offer my thoughts as to what it may mean for small telephone companies and what small companies should be doing to prepare for this very different future.

I want, especially, to spend some time this morning discussing the issue of universal service. It is, as you well know, one of the cornerstones of public policy related to telecommunications. Yet, technology, competition and convergence are changing many of the underlying assumptions on which universal service policy has been based. I have some ideas—which I'll be getting to shortly—on how that policy needs to evolve so that it can continue to serve the needs of our customers and our society.

But, first, let's turn to technology. I knew 30-plus years ago I joined a great company and a great industry, when I learned that more than 100 years ago, on a hot, humid August afternoon, a tall, angular man, dressed in a woolen, vested business suit and wearing a white starched collar, poured acid on a plate, which spilled on his jacket and pants, and all he said was, "Mr. Watson, come here, I want you!"

Since that day, ours has been a technology-driven business. New technologies ever since have made it possible for us to deliver our

But the most recent wave of technology has taken us a step further. These developments—and I'm speaking about things like digital, fiber-optics; large network databases and high-speed signaling; voice recognition and video compression; cellular and PCS technology, and multimedia—have literally changed the face of our industry.

They have made possible new applications that profoundly affect the way our customers live and work. These applications have also spurred competition and have begun to bring players in our industry into natural partnerships with those in others.

As we at AT&T see the industry developing, those applications can be grouped into five segments:

Networked computing, which is the integration of multiple machines, data bases and networks. This networking enables people to have immediate access to a wide variety of geographically dispersed information, making new services possible.

Multimedia messaging, which comprises products and services that store, convert and relay information. This also integrates voice messaging applications with data and image * * * for example, e-mail, PC and fax systems.

Visual communications, which add the dimension of human expression to applications for business, education, entertainment and shopping. These will soon be economically attractive to customers.

Voice and audio processing, which will make possible continuous speech recognition and language translation. This will give people another easy, economical way to access people and information, as well as the crossing of cultural, geographic and language barriers.

Finally, personal communications services and wireless products and services are already allowing person-to-person communications—employing voice, data and image calls and messages—anywhere, anytime. With these applications. In fact, if I had to describe in one word the way our industry will be governed, that word would be "competition." The success of competition in benefiting customers for long distance services and customer premises equipment businesses has encouraged policy-makers to begin testing it in traditional local exchange markets.

Most recently, toll calling within LATAs has been opened to competition. We're seeing interLATA carriers begin to focus on this new market as a way of meeting more of the needs of their customers.

We will soon, I believe, begin to see the start of tests to determine if competition is viable in local exchange services. A test fundamentally, of the proposition which all of us have assumed for so long . . . that is, that the local exchange is a natural monopoly.

For such tests to take place, however, the states must remove current barriers to entry and create appropriate conditions in these traditional monopoly markets. My guess is we'll probably see these tests first in high-density areas.

As I said, the success of competition in other parts of the industry has encouraged—really, made inevitable—the coming of competition elsewhere in the industry. The day is rapidly approaching when every rate in the industry will be under competitive pressure to reflect the cost of service, for the first time, every source of cost in the industry will be under pressure.

What will be the impact? No one knows. But there are a few things that we can say with relative certainty:

Consumers will benefit from the increased innovation, wider choice and downward pressure on prices that come with competition.

New players will arrive on the scene.

Existing players will have to devise new business strategies to attract and retain customers and cut costs.

The pace of technological innovation in the local exchange will, if anything, accelerate.

With the growth of competition, the traditional role of the regulatory will change. Regulators will face new, and arguably more challenging questions than they confronted in the past. For example, are all local exchanges alike? If not, how do the differences affect their ability to support competition? To what extent is local exchange competition viable in rural areas? Will there be a carrier of last resort, and, if so, who will bear the cost of infrastructure development in rural areas?

Finally, we will need to find a way to ensure that the crown jewel of United States telecommunications, universal service, not only survives, but flourishes.

I'd like, if I may, to offer my observations on some of these issues, with particular attention, as I said earlier, to universal service.

If competition in the local exchange is to take hold, a number of conditions must be in put place. Among these is the need for cost-based and non-discriminatory prices for local exchange components and services.

But cost-based pricing of local exchange services, including access charges, would be a threat to the manner in which universal service is assured today. For those local exchange carriers charging less for local service than their costs, cost-based pricing could mean increasing prices for service beyond what some customers could afford.

So, we have what seems to be a dilemma. Local competition is desirable, but we won't have it unless we can remove subsidies and allow prices to seek levels that should prevail in competitive markets. If we do that, we place at risk the way we fund universal service.

This is demonstrated most poignantly when we look at the special problems of high-cost rural areas and the small telephone companies that serve those areas. AT&T has gone on record, in Congressional testimony, with the view that rural areas do have unique problems, and that such problems might best respond to approaches different from those applied in more densely populated areas.

I'm surely not here to today to announce AT&T's plan to solve these rural problems. However, as some of you know, we have been working with leaders of the Rural Coalition to better understand those problems and determine how the industry can best care for them in today's changing environment.

Our discussions have helped us to identify a number of issues that must be addressed:

Carrier of last resort in rural areas. As you know, subsidies help cover the cost of building infrastructure to serve high-cost areas. In addition, revenue from a few large customers often makes the difference in serving high-cost areas. If either of these is threatened, rural local exchange carriers see threats to their ability to meet their service obligations while remaining profitable.

High access charges in rural areas. As the interexchange carrier of last resort in many rural areas—serving a significantly higher proportion of high-cost customers than our competitors—AT&T is under tremendous pressure from the gap between access charge levels in rural and urban areas. We can't continue indefinitely to average high rural access charges into our nationwide costs and be competitive with carriers who don't have that burden or serve as great a proportion of high-cost customers. In addition to creating pressure on AT&T to deaverage toll rates, the disparity between rural and urban access costs keeps other long distance carriers away from rural customers and/or encourages cream-skimming of the few large customers in some rural areas. High rural access charges, combined with high billing and collection costs, give many of AT&T's optional calling plans little or no margin in rural areas. In sum, this disparity puts pressure on AT&T to deaverage nationwide toll rates, keeps many rural customers from having a choice among long distance carriers or having access to all of AT&T's optional calling plans, and puts small telephone companies in peril of cream-skimming by competitors.

Infrastructure sharing. AT&T supports enabling small companies serving rural areas to have access to technologies requiring economies of scale to be cost-effective. We oppose, however, using this access as a vehicle for one group of companies to control another; or to inhibit technological innovation by dictating switch design or architecture to manufacturers. Those who manufacture network telecommunications equipment should have to design to the needs of a marketplace made up of companies using infrastructure sharing.

Finally, there is the problem that I spoke about earlier. Today's subsidy mechanisms to support universal service are incompatible with competition in the local exchange.

I don't claim to have definitive public-policy solutions to resolve these issues. I do know that while AT&T supports full, open competition in our industry—including local exchange competition—it also supports—without reservation—the maintenance of universal service.

Let me share with you some of AT&T's current thinking on ways to meet these seemingly conflicting objectives so that you can react.

First, if customers are to realize the benefits of competition in the local exchange, we must reform and reduce access prices by assigning and recovering costs properly. Non-traffic-sensitive costs should be recovered on a per-line basis in charges to customers, or from a new Universal Service Fund, or from both, and not on a minutes-of-use basis. Traffic-sensitive costs should be recovered on a usage basis, either by trunk or by minute of use. Depending upon how this is implemented, it could mean increases in local rates.

This brings me to my second point. To preserve universal service, we should explore the creation of a new USF to which I just referred. This fund would subsidize subscribers who require income assistance. State and local authorities would determine who would qualify, based on a means test.

Third, to fund the new USF, we could implement a surcharge on all retail revenues of all carriers providing two-way telecommunications services.

Fourth, we should ask a neutral, third-party organization to administer the USF. This organization would match the subsidy to the subscriber, collect the funds from all participating carriers, and distribute the funds back to the carriers serving the eligible subscribers.

Now, none of what I just said is news to many of you. It's what AT&T has been exploring for some time now. Nonetheless, our discussions with representatives of small telephone companies through OPASTCO and others has persuaded me that more may be required if we are to preserve universal service in rural America.

What more?

For starters, I believe we should consider the possibility that it may not be appropriate to allow rates for local service to rise to their natural, cost-based level for all telephone companies. We suggested to Congress, as I mentioned earlier, that rural companies might require different treatment to address their unique problems. This might well be an area where different treatment is called for.

If this is so, we should also consider the possibility that the new USF should have

two objectives rather than one. The first I have already mentioned—the subsidizing of needy subscribers in a competitively neutral way. A second objective might be to find a way to subsidize the establishment of local exchange and access rates in rural areas that are comparable to those in areas served by the RHCs and GTE—again, in a competitively neutral way.

The devil is, obviously, in the details, and no doubt addressing the details will surface difficulties and differences to be worked out. But let me tell you what I think the end result could be. I think it is possible to develop a plan that accomplishes the following things, which I would hope virtually every telecommunications company in the land could eventually support:

True, open competition would exist in those exchanges capable of supporting it.

Rural subscribers would pay exchange service rates comparable to those charged to urban subscribers.

Access and long distance rates could both be reduced, thereby stimulating traffic for local and interexchange carriers alike.

Access and long distance rates in rural areas could be comparable with those in urban areas.

Customers of low-cost companies could continue to subsidize customers of high-cost companies for infrastructure development in a way that would not distort competitive markets.

Truly needy subscribers could be subsidized in both rural and urban areas, also in a way that would not distort the competitive market.

With the exception of the new USF, Life-Line, Link-Up and Telephone Relay Service, all subsidies, both implicit and explicit, could be eliminated.

It might even be possible that through gains in efficiency, total subsidy levels could be reduced.

Does that describe a world in which your company could continue to meet its obligations to rural America—and flourish in the process? I think it does. But what you think is what matters.

As I said earlier, we want to work with you to find solutions we can all support.

I promised you that I would also offer some suggestions for small telephone companies on getting prepared for the future. I do this with great reluctance, but with the best of intentions. I don't wish to make it seem that I know better than you how to run your business. But there are similarities between the road that my company has been on for the last ten years and the challenges that I see ahead for you—and the experience I've gained over that decade gives me some confidence that what I have to say might be of some value to you.

First, I think you might begin by accepting the reality, if you haven't done so already, that competition is coming to traditional local exchange markets. Trying to put the brakes on that train is not a practical strategy. "How can we make it work?"—not "How can we prevent it?"—should be the question with which you are concerned. I say that from the perspective of one who spent more than ten years, in the late 70s and early 80s, unsuccessfully trying to stave off competition in the interstate long distance market.

Second, you can support the work your leaders are doing with legislators, regulators and other parts of the industry to implement competition in a way that protects your interests and the interests of your customers.

Third, you can prepare your businesses for the new world by developing a game plan for operating in a fully competitive local exchange and long distance environment. Among the issues you should consider in this context are:

What advantages do I have over potential competitors?

How can I capitalize on those advantages?

How can I get my local exchange and access rates to a level where I will be less vulnerable to competition? What can I do on my own? What regulatory changes do I need?

How can I partner with other carriers to increase profitability by stimulating traffic?

Indeed, it occurs to me you should be asking yourselves these questions even if local exchange competition were not on the horizon.

In closing, let me say that I know it is inevitable that AT&T's actions will have an impact on you. I want to assure you, however, that despite our commitment to competition and customer choice, we support universal service, and we support small companies bringing Information Age technology and services to rural areas.

And we want to work with you to ensure that outcome.

Thank you.

U.S. CUSTOMS SERVICE MISINTERPRETS LAW

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. SHAW. Mr. Speaker, I rise today to point out an error that has been made by the U.S. Customs Service in regard to its interpretation of a law which was passed by this body last year.

Included in the North American Free-Trade Agreement Implementation Act, Public Law 103–182, amended 19 U.S.C. 58c(a)(5), Congress imposed increased customs user fees on commercial vessels and commercial aircraft to account for lost revenue which resulted from the elimination of certain tariffs and duties. I strongly opposed this increase last year. Now I understand that the U.S. Customs Service has interpreted the changes to this statute in a way that is not consistent with the intent of Congress. The Customs Service has used the changes made to section 58c(a)(5) as a basis for claiming authority to collect multiple fees for the same voyage. Customs is attempting to collect a separate tax from passengers who are on voyages which stop at more than one U.S. port and sail outside the customs territory of the United States between those U.S. ports. It was never the intention of Congress for the customs user fee to be imposed more than once per voyage.

The intent of the language change made last year under NAFTA was to apply the custom user fee to passengers on so called "cruises to nowhere." These cruises are not traditional voyages with multiport itineraries. They simply leave a U.S. port, go outside the customs territory of the United States, and then return to the same port with no stops at any intervening ports. Again, the purpose of the statutory change made last year was to apply the fee to these "cruises to nowhere" passengers and not to enable the Customs Service to assess the fee multiple times during the same cruise voyage.

Indeed, my colleague, the distinguished chairman of the Ways and Means Committee, has indicated that he too is concerned with this unfair interpretation. I believe, as he does, that since it was not the intent of Congress to impose the fee multiple times, no new law should be required. However, if the Customs Service should attempt to collect this fee multiple times, I plan to work with Mr. GIBBONS to enact clarifying legislation during the next session.

"UNDERSTANDING THE PITFALLS OF INTERNATIONAL POLICE TRAINING"

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BEREUTER. Mr. Speaker, as this body debated the wisdom of the Clinton administration's occupation of Haiti earlier this week we once again are rediscovering the fact that peacekeeping/nationbuilding is a highly complex, dangerous, and extremely costly undertaking. Experience has demonstrated that, when it comes to rebuilding an entire civil society—as the Clinton administration presently is attempting in Haiti and as the Clinton administration unsuccessfully attempted in Somalia—nothing is easy. Experience also demonstrates that the initial cost estimates for these sorts of operations tend to be grossly under-estimated.

This Member would point to one small aspect of the nationbuilding experience—the creation of an independent police force. Clearly any nation that is emerging from chaos or civil war needs a police force that will uphold order. Any new democracy needs a police force that will serve the people, not the dictators. To that end, the United States and the United Nations have supported the building of civilian police forces in nations such as Cambodia, El Salvador, Somalia, and the West Bank. From this experience, there are lessons that can be drawn and applied to Haiti.

To begin with, it is important to understand that even our best efforts to build a civilian police force can fail. Local inhabitants often are simply not up to the task. For example, the international community has spent several years trying to build a police force in Cambodia, and it is by no means clear that this effort will succeed. In Somalia, the international community recruited volunteers and began training, but they got no further. Mr. Speaker, the United States provided $30 million in equipment and technical assistance to build a civilian police force in Somalia, and we have absolutely nothing to show for that $30 million investment. Quite the opposite, the Somali warlord Aidid has overrun some of the storage facilities and seized police vehicles, sidearms, communications gear, and other equipment had been stored. Thus, not only does Somalia not have a civilian police force, but our ill-fated police training efforts have had the unintended effect of helping to arm the Somali warlords.

And police training is no easier and certainly no more cost-effective when it is performed by

the United Nations. Indeed, when the United Nations becomes involved in police training, it tends to draw upon or at least creates a very highly compensated cadre of international police officers. The average cop that works with the United Nations can expect well in excess of an incredible $100,000 in annual salary and benefits! The work may be important, but under the United Nations approach it certainly does not come cheap. And this Member would remind his colleagues that we pay one-third of the salary of each of these U.N. police trainers. I believe our constituents would be very upset with these salaries and I ask the administration to examine and justify or change this situation.

Mr. Speaker, this Member would caution that the training of Mr. Aristide's police force also will produce no end of frustrations and headaches. Yesterday it was reported in the media that the United States is paying the salary of General Cedras' police force, the very same police we invaded to Haiti to oust. Tomorrow we undoubtedly will learn of some other embarrassment. In short, building a police force is very difficult and expensive. The Clinton administration would be well advised to think very carefully about these difficulties and costs before embarking on such an effort.

DEREK T. WINANS, A MAN OF THE PEOPLE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. PAYNE of New Jersey. Mr. Speaker, before we adjourn the second session of the 103d Congress I would like to publicly recognize the life and work of a fellow Newarker and true gentleman. That individual is Derek T. Winans. Derek T. Winans is a man of integrity, discipline, courage, and kindness. We often talk about giving back to our schools, communities, religious institutions because we have been fortunate in our lives. Derek gives because it is first nature for him to think of his fellow man, oftentimes, before he thinks of himself.

Derek's life and work will have a profound impact on the lives of many Americans, in particular countless New Jerseyans, for many years to come. A Harvard College graduate, Derek has used his education and his compassion for the less fortunate to develop programs to benefit our community. Derek is the consummate public policy advisor. You will always find him with a legal pad and pen at work. Derek's sphere of friends and colleagues include the most fortunate and the least fortunate.

Mr. Speaker, many have come to depend on Derek T. Winans for his advice and support. We need more individuals like him to make our world a better place. I am sure my colleagues will want to join me in recognizing Derek T. Winans, a man of the people.

EXPENDITURE OF AID TO RUSSIA AND THE NIS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. HAMILTON. Mr. Speaker, I have been concerned over the slow rate of expenditure of assistance funds for Russia and the New Independent States [NIS]. That assistance has been authorized by the Congress for the explicit purpose of facilitating the process of economic and political reform. If the money is not spent, it cannot assist reform.

I have raise this issue many times with administration officials over the past several years. The administration has provided a paper explaining why obligation and expenditure of funds takes some period of time and that, in fact, the pace of spending funds is improving.

I believe the administration is making some progress, but additional steps are necessary to make sure that assistance funds are spent well and spent rapidly.

Perhaps the most important step the President can take to improve the effectiveness of assistance is to appoint a coordinator for assistance who sits in the White House. Only a coordinator in the White House can make sure that U.S. agencies are working together to spend funds wisely, effectively, and rapidly. I urge the President to fill this post as soon as possible.

The text of the administration's paper on NIS assistance follows:

FINANCIAL STATUS OF THE PORTFOLIO

Since 1992, AID has been appropriated $2.7 billion for NIS assistance program.[1] Obligation and expenditure of these funds has proceeded at a rapid pace. For example, our expenditure rate is 5 times faster than the rate of other TA programs. FY 94 is an extraordinary year, with appropriation levels increasing seven fold. Expenditures, under these unique circumstances, have slowed somewhat from previous years, but the overall pace remains sound at an estimated 33% of obligations. When obligations are adjusted to account for a few projects that have had slower expenditures (for example, we have not expended nuclear safety funds in Russia due to U.S. contractor concerns about accident liability), the estimated expenditure rate rises even higher.

LEGAL AND REGULATORY CONSIDERATIONS

The Freedom Support Act authorized a technical assistance and training program for the NIS. Recognizing that structural change in the NIS will cost hundreds of billions of dollars, the FSA established a program to mobilize American expertise to help the NIS countries tackle problems of structural change and make the best use of their indigenous resources. The nature of assistance under the FSA has direct implications for the speed of expenditures:

Both Congress and the Administration advocate long-term relationships, not consultants that fly in and out. This means that when long-term contracts are signed for 18–24 months, it will take 18–24 months to spend the money.

Training programs must similarly be funded in advance. Long-term training requires the full period of the training program to spend the funds. Short-term programs must also secure advance financing prior to selecting participants.

Even after Congress appropriates funds, assistance monies do not become immediately available. The Executive branch must notify, and the Congress must approve, program details. This approval process is taking several months.

U.S. Government competitive contracting rules apply to all NIS programs. Even when cut to the barest elements, they require 5–7 months to issue new contracts: to advertise activities, allow firms to submit proposals, and negotiate the contracts. Once contracts are in place, funds can be moved quickly.

FY 1992 AND FY 1993

In the first two years of the NIS program, appropriations totalled $650 million, and an additional $60 million was available from other sources. Of the $710 available for obligation:

$710 million has been fully obligated;

$554 million, or 78 percent, has been expended as of June 30, 1994; and

the remaining $156 million will be expended by the end of the year.

FY 1994

Appropriations made directly or transferred to USAID for FY 94 total $2.1 billion. Of this total, approximately $360 million will be transferred to other U.S. agencies, including USIA, Department of Energy, Nuclear Regulatory Commission, Department of Commerce, Peace Corps, TDA, OPIC and the Department of Agriculture. The remaining $1.74 billion will be obligated by USAID. To date:

Congressional Notifications for $2.05 billion have cleared the Congress. Of these, $1 billion cleared only as of early July.

Of the $2.05 billion available for obligation, $1.26 billion has been obligated or transferred to other agencies as of September 8, 1994. The remaining amount will fund large obligations such as enterprise funds for Western/NIS ($45 million); Central Asian Republics ($30 million); Russian American Enterprise Fund ($56 million); Fund for Large Enterprise Restructuring ($60 million) and EBRD ($27 million). These funds will provide equity and loan capital for emerging and newly privatized businesses. Most of these obligations should occur by the end of the fiscal year.

Cumulative expenditures are expected to reach $700 million by the end of the fiscal year. At the $700 million level—about 38 percent of obligations—the rate of expenditures in the NIS remains one of the best in the Agency.

FY 1995 AND FY 1996

In the coming two fiscal years, appropriations levels are expected to drop sharply from the FY 94 level of $2.1 billion to about $850 million. Based upon these figures, and an estimate of approximately $260 million which will carry over from FY 1994, the ratio of obligations to expenditures should change dramatically in the next few years.

In FY 95, expenditures are expected to total close to $1 billion, which is almost equivalent to the total obligations planned for this same period.

In FY 96, the annual expenditure rate should increase by another $500 million, to $1.5 billion, almost double planned obligations for the year.

[1] Another $300 million was directly appropriated to ExIm in FY 94 and DOD retained $55 million of the $979 million earmarked for NIS assistance in its FY 93 Supplemental. In February, a recision reduced the FY 94 level by $55 million.

MEDICAL MALPRACTICE REFORM ACT OF 1994

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BALLENGER. Mr. Speaker, I am pleased to introduce the Medical Malpractice Reform Act of 1994. This legislation takes a first step toward solving one of the major reasons for the high cost of medicine—malpractice lawsuits and the malpractice insurance that doctors must carry to protect themselves from bankruptcy.

Reports from the Department of Health and Human Services indicate that due to the large number of suits filed against physicians, most doctors have begun to practice so-called defensive medicine—ordering additional tests, consultations, or procedures to protect themselves. This defensive medicine is estimated to cost $17 to $21 billion annually, raising the cost of health care by that amount. In addition, the cost of medical liability insurance is so high in some fields that physicians are avoiding high risk specialties, such as obstetrics, where between 70 and 80 percent of all practitioners have been sued. In addition to raising health care costs, this threatens the mere availability of health services.

I certainly agree that we need to put a stop to the ever increasing amount of medical malpractice litigation. While the lawyers get richer, doctors and their patients pay the price. A recent Washington Times quoted former Health, Education and Welfare Secretary Joseph Califano who said:

> Congress dances around the medical malpractice protection racket for fear of alienating the American Trial Lawyers Association * * * In the Beltway bubble, the disgust of the American people with lawyers and the malpractice system isn't heard above the clutter of political contributions.

The Medical Malpractice Reform Act takes four simple steps toward reforming medical malpractice. The first step would be a cap on noneconomic and punitive damages. Patients would still be able to recover 100 percent of the cost of their medical bills, along with lost wages, and other out-of-pocket expenses related to medical malpractice. A cap of $250,000 would be placed on noneconomic awards.

Second, the bill requires disclosure of other financial benefits received from other sources so that juries may factor this into the total damage award.

Third, a limit is placed on attorney contingency fees and other costs under medical malpractice claims. This way, patients, not attorney's receive the majority of the awards. Currently, around 40 percent of every dollar spent on medical liability litigation actually reaches the patients.

Fourth, the bill allows for periodic payments of the claim. This payment would be guaranteed, but spread out over a period of time to preserve funds for medical treatment and future income needs.

PHOSPHOLIPIDS LEGISLATION

HON. TIM VALENTINE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. VALENTINE. Mr. Speaker, at the beginning of the 103d Congress Congressman LANCASTER and I introduced H.R. 879. One part of this bill has been accomplished in the GATT agreement. Today, we are reintroducing the other part of H.R. 879, which could not be addressed in the GATT negotiations. This legislation would correct an unintended reclassification which occurred when the harmonized tariff classification system [HTS] was implemented several years ago.

Kabi Pharmacia, a U.S. company located in Clayton, NC, imports pharmaceutical-grade, FDA-approved egg yolk phospholipid from its parent in Sweden. Kabi uses this unique phospholipid to manufacture its main product, Intralipid®, a unique intravenous feeding solution. The duty Kabi paid on the phospholipid from the late 1970's until 1991 was 1.5 percent, but, unintentionally, the HTS more than tripled the rate.

The purpose of our legislation is to restore the duty rate on the phospholipid to 1.5 percent and to correct the inequity of the unintended duty increase by refunding the increase to the Clayton company, from its imposition in 1991 until the duty for pharmaceutical components and products will become zero under the GATT agreement.

Mr. Speaker, the inclusion of the phospholipid—and Kabi's pharmaceutical-grade, FDA-approved soybean oil—with other pharmaceutical components and products for which duty is eliminated in the GATT accord accomplished one part of H.R. 879. Otherwise, the key components of Intralipid® would have remained dutiable while the end product, Intralipid®, would have become duty-free. This situation could have made manufacture of Intralipid® in Clayton uneconomical. I want to commend our Ways and Means Committee, the Office of the U.S. Trade Representative and the Departments of Commerce and Agriculture for their work on this important matter.

Mr. Speaker, the other part of H.R. 879 being reintroduced today is also very important as a matter of equity. No one has ever disputed that the duty increase for Kabi's unique phospholipid under the HTS was unintended. The revenue estimate for correcting this unintended reclassification is about $500,000. I am hopeful that a vehicle can be found to give just redress of this case to my constituents.

TRIBUTE TO EDWARD PATTEN

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mrs. ROUKEMA. Mr. Speaker, the State of New Jersey, this Congress, and our Nation have suffered a great and tragic loss with the passing of former Congressman Edward Patten. Congressman Patten died on September 17, 1994, at the age of 89. He will be greatly missed by all of us.

Mr. Patten's life was one of public service. He graduated from Rutgers Law School in 1927, and at age 27 became the youngest mayor in the history of Perth Amboy. He served from 1934 until 1940, when he became the Middlesex County Clerk, serving until 1954, when he became secretary of state under Gov. Richard Hughes, serving until 1962. Mr. Patten was president for many years of the Perth Amboy and Middlesex County bar associations.

Mr. Patten went on to win election to the 15th Congressional District in 1962, the first year that that district existed following the 1960 census. He was subsequently reelected every term through 1978. In Congress, he sat for many years on the House Appropriations Committee. He was a member of the Labor-Health and Human Services Education Subcommittee, where he was a strong champion of education. He was an impassioned fighter for expansion of Rutgers University and an advocate of Princeton University and particularly the Princeton Plasma Physics Laboratory. He was also a strong supporter of Roosevelt Hospital in Edison, where a three-story wing was named for him and his wife, Ann Quigg Patten, in 1991.

Besides being an honorable and respected statesman, Mr. Patten was a warm and congenial individual. A big man with a gentle smile, he built his personal reputation on his great sense of humor, his congeniality and compassion and love for those he served. He was truly one of New Jersey's finest sons. He will be missed.

TRIBUTE TO LUELLA BARON

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. LEVIN. Mr. Speaker, as this part of our session concludes, I want to take note of the life of a distinguished citizen of Michigan who passed away earlier this year. The world should know that we have not forgotten Luella Baron, who passed away on July 1, 1994.

Luella Baron was a leading citizen of Troy, MI. She was one of those rare individuals who give so much energy and dedication to civic activities. Luella devoted herself to her church, her culture, and her community. She founded the Italian Study Club in Troy, an organization dedicated to the preservation of Italian culture and music.

Luella directed a choir of mentally handicapped students that practiced weekly at the Troy Community Center. A teacher of music, Luella authored a book on teaching piano to the mentally handicapped. In the words of her daughter, Elisabeth, she "had a special gift for teaching the handicapped." It is an uncommon individual indeed who would dedicate her life to the education of those with special needs. Luella Baron was such a person.

While Luella's work resulted from her genuine care and concern for others, many organizations took notice and honored her exceptional efforts. She had received awards from

numerous organizations including the Oakland County Association for Retarded Citizens, the Troy Council on Aging, and Wayne State University. The Troy Chamber of Commerce honored Luella as the "Distinguished Citizen" of 1978.

She continues to be deeply missed by her family, her extended family, and her thousands of warm friends throughout Metropolitan Detroit.

CONGRATULATIONS TO THE DENVER REGIONAL TRANSPORTATION DISTRICT

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. SKAGGS. Mr. Speaker, as I travel my district and the State of Colorado, I sense increasing anxiety over the rapid growth we are experiencing. The West generally, and Colorado in particular, are growing at a pace that places severe pressure on the environment and poses some threat to the quality of life of which we are so proud.

Coloradans I talk to understand the need to meet the challenges of growth with alternatives that go beyond reliance on new road construction alone. They have a special commitment to maintaining a clean environment and fear the traffic congestion and delays which come with dramatic population growth. Support is building for more rapid transit alternatives, including light rail, car pool lanes, and high speed bus lanes.

Today I commend the Denver Regional Transportation District [RTD] for its effective leadership in pressing forward with critical new transit projects. The recent opening of the Downtown Express bus and HOV lanes, coupled with the inaugural runs of the new light rail system today, are testament to RTD's commitment to meeting head on two of the most vexing problems we face—air pollution and traffic congestion. Today's Grand Opening and those to follow in other high priority transit development corridors reflect strong public support and the wisdom of local and regional planners.

Hats off to RTD for the sound financial management that has delivered this project and the Downtown Express on time and on budget, and for providing the safe, clean, and efficient travel alternative that has earned its distinction as one of the best transit systems in all America. This is especially remarkable given that RTD's service area of six counties and 39 municipalities encompasses 2,300 square miles and 2 million residents—one of the largest transit districts in the Nation. Unlike most other metropolitan areas which have experienced sagging ridership in recent years, RTD has posted 7 consecutive years of growth and a 5.6 percent increase just last year. Ken Hotard, Chairman of the RTD Board of Directors, the rest of the Board, as well as Peter Cipolla, RTD's General Manager, and the entire RTD staff deserve high commendation for their achievements and commitment to meet the challenges of the future.

BENNETT X-RAY TECHNOLOGIES

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. HOCHBRUECKNER. Mr. Speaker, on Thursday, October 13, 1994, the Advancement for Commerce and Industry [ACI] will hold its annual Business Leadership Award Dinner on Long Island. This year's honoree is Bennett X-Ray Technologies of Copiague, NY.

Bennett X-Ray is one of the Nation's leading manufacturers of radiographic and mammographic equipment. Breast Cancer is a major health concern on Long Island and Bennett's revolutionary new Contour Mammography System has received international acclaim for its innovative design and advanced technology. The contour system consistently images more tissue than existing systems for better chance of detection as well as providing a more comfortable exam for the patient than any other mammography system. In recognition of these important achievements, Bennett recently received a U.S. patent for its system.

Bennett is a 1993 recipient of President Clinton's prestigious E award for excellence in exporting. The E award recognizes selected U.S. companies for their competitive achievements in the world market and for their contribution to the U.S. economy. New York Gov. Mario Cuomo and the Long Island congressional delegation were on hand last fall to present Bennett with that well-deserved award. The Governor has also praised Bennett as a "metaphor for economic development" in New York and throughout the whole country.

The evolution of Bennett from a family-run business in the 1950's to a major international provider of medical equipment in the 1990's is a true testament to the vision and business acumen of Bennett's CEO, Cal Kleinman. I am very proud that Bennett is a Long Island company and is being honored with the ACI Business Leadership award this year and Mr. Speaker I am very proud to salute Bennett for the great strides it has taken in the fight against breast cancer.

AN ACCURATE INTERPRETATION OF THE HYDE AMENDMENT

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mrs. LOWEY. Mr. Speaker, I note that in response to litigation pending in Federal courts across the Nation, Representative HYDE came to the floor to define his own personal views of the meaning of both the fiscal year 1994 and fiscal year 1995 Hyde amendment. According to Representative HYDE, nothing in the Hyde amendment prohibits States from enacting reporting requirements for rape and incest victims even if those State requirements foreclose the ability of women to obtain abortion under Medicaid. Indeed, my colleague goes further to make the claim that the Hyde amendment imposes no affirmative obligations on the States—in his view it is a permission rather than a mandatory requirement.

While my colleague is certainly entitled to his own view, I think it is important to clarify that his comments are not reflective of the language of the amendment itself, law in this area, nor the intent of Congress. In numerous decisions handed down over the last 15 years, Federal courts have found that States are mandated to provide reimbursement through their Medicaid programs for all medically necessary services for which Federal funding is available. Therefore, beginning in 1994, funds for abortion must be made available when a women's life in endangered and when the pregnancy is the result of rape or incest. This has been the law since last year's Hyde amendment became law. As Justice Scalia recently noted when denying a stay in a case from Louisiana, the premise underlying court decisions on this question has been:

> That Title XIX requires States participating in the Medicaid program to fund abortions—at least "medically necessary ones"—unless federal funding for those procedures is proscribed by the Hyde Amendment.

Justice Scalia continued;

> [t]he Courts of Appeals to address this question have uniformly supported that premise. We have already denied certiorari in two of those cases, and it is in my view a certainty that four Justices will not be found to vote for certiorari on the Title XIX question unless and until a conflict in the Circuits appears.

As we enact this year's version of the Hyde amendment, I presume as always that we are enacting language which comports with holdings of the Federal courts in this area.

Moreover, in contrast with versions of the Hyde amendment passed in some prior years, there is nothing in the language of either this year's or last year's Hyde amendment that allows States to enact second physician certification requirements or reporting requirements for rape and incest victims, particularly ones that inhibit the availability of funding for victims of these brutal crimes. For fiscal year 1994, Representative HYDE proposed versions of the Hyde amendment that would have allowed reporting requirements but these were defeated on procedural motions to adopted by this House. Sexual crimes including rape and incest are among the most underreported crimes in the country and State reporting requirements would make it impossible for many rape and incest victims to obtain both Medicaid funding for abortions and thus the necessary medical care they need. The actions of this House make very clear what was done. I want to ensure that there is no question at all about that.

TRIBUTE TO C. COURTNEY WOOD, EDMOND, OK

HON. FRANK D. LUCAS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. LUCAS. Mr. Speaker, I rise today to pay tribute to Mr. C. Courtney Wood, who is nearing the completion of his 1-year term as president of the Independent Insurance Agents of

America [IIAA]. Mr. Wood is a citizen of Edmond, OK, and owner of Courtney Wood & Associates, an independent insurance agency located in Edmond.

The closure of his term as the elected leader of the Nation's largest insurance trade association next week in Orlando will be the crowning accomplishment of Mr. Wood's many years of distinguished service to IIAA, his profession, and most importantly, to his 300,000 colleagues across the country.

His service to the national organization began in 1982 when he was elected to represent his state association, then the Independent Insurance Agents of Oklahoma, on the national association's board of directors. This election followed closely on the heels of his tenure as president of the Greater Oklahoma City local board and then as the top elected leader of the Oklahoma State association.

Courtney was elected to IIAA's Executive Committee in 1987 and served with distinction for 6 years before rising to the presidency. Over his long and distinguished volunteer career with IIAA, Courtney has immersed himself in a number of industry concerns, most notably the creation and development of the association's markets development efforts.

In addition to his dedication to his profession, Courtney has been an active participant in his church and various community organizations including the Edmond Chamber of Commerce, the Young Men's Christian Association, and service as a trustee of the First Presbyterian Church of Edmond.

I congratulate my fellow Oklahoman and concerned citizen for a job well done. I am confident his selfless service to this association, his professional peers and his fellow citizens of Edmond will continue uninterrupted well into the future.

NAFTA'S MID-TERM REVIEW

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BEREUTER. Mr. Speaker, the House of Representatives' hyperbolic debate on the merits of the Uruguay Round Trade Agreement on October 5, 1994, resembles its debate the previous year on the merits of the North American Free-Trade Agreement [NAFTA]. While both proponents and opponents have exaggerated the effects of NAFTA, Nebraska Columnist Cheryl Stubbendieck's article published in the York News Times reveals that Nebraskans have studied the facts and determined that NAFTA has already lived up to its expectations by greatly stimulating U.S. exports of goods and services, and especially agricultural commodities and products, to Mexico and Canada. Hopefully, Members of Congress will also recognize NAFTA's impressive results when they return at the end of the year to vote on the Uruguay Round Trade Agreement.

[From the York News Times, Oct. 6, 1994]

NAFTA AT SIX MONTHS: A POSITIVE REPORT

It's been six months since the North American Free Trade Agreements went into effect and the dire consequences NAFTA opponents had predicted haven't come to pass. What has occurred is just what proponents said: U.S. exports to Mexico have increased.

Overall, U.S. exports have risen by 17 percent during the past six months, to $24.5 billion. Extended to a full year, exports should reach a record $48.9 billion in 1994—an increase of $7.3 billion from 1993.

NAFTA proponents said the agreements would be especially beneficial to agriculture and this has been borne out. Farm exports have risen 11 percent in the first six months, from $1.93 billion to $2.16 billion. Again projected to an entire year, that number should reach $4.1 billion, half a billion dollars more than for 1993.

This year, U.S. exports to Mexico of many ag commodities and products have increased substantially. Feed grains, soybeans, cotton, tobacco, peanuts, soybean oil, sugars and sweeteners, red meats, poultry and fresh fruit have all seen increases in the half year since trade barriers were relaxed or removed.

Higher shipments of corn and soybeans are leading the increase, according to U.S. Secretary of Agriculture Mike Espy, who spoke to the Midwest Governors Conference in Lincoln in August. Corn exports were up 350 percent; soybeans, 61 percent; poultry, 26 percent; and beef and veal, 52 percent.

According to the Clinton Administration, these increased exports to Mexico—along with increases to Canada, the third partner in NAFTA—will mean up to 100,000 new jobs in the U.S. Opponents of NAFTA had preached that the U.S. would lose jobs to Mexico because of lower wages there. Instead, the competitive advantage the U.S. has for its ag products, particularly, has created jobs here.

The U.S. also has increased the amount of agricultural products it imports from Mexico, by 5.9 percent. For the entire 1994 year, imports should be around $2.9 billion. When compared with our exports of $4.1 billion, the U.S. will show a trade surplus of $1.2 billion in farm products. Compared with last year, we're buying more coffee, tea, snack foods and fruit and vegetable juices from Mexico—although coffee and tea were already duty-free before NAFTA worked its magic on trade barriers.

The six-month report on NAFTA should go a long way to ease the fears of opponents who said the U.S. would lose from the trade agreements. U.S. farmers haven't lost markets, instead they've increased their share. U.S. jobs haven't migrated to Mexico, instead, new jobs have been created here.

The news on NAFTA is positive, but there will likely be better news to come: the expected passage of the long-sought General Agreement on Tariffs and Trade will make NAFTA's effects pale in comparison, according to Espy and others, and will boost the economies of the entire world.

MARKING THE SEVENTH ANNIVERSARY OF THE DECLARATION OF KHALISTAN

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BURTON of Indiana. Mr. Speaker, I rise today to recognize the suffering and the perseverance of the Sikh people of Punjab, in northern India. With little notice from the world's media, and little protest from the world's governments, the Sikhs have suffered terrible atrocities at the hands of Indian security forces who have put a stranglehold on the entire province. Rapes, torture, summary executions, and disappearances occur on a daily basis. Since 1984, over 115,000 Sikhs have died at the hands of Indian Government police, paramilitary forces, and death squads.

Out of this suffering, an independence movement was born. On October 7, 1987, 10 years ago today, major Sikh organizations in Punjab and around the world declared the independence of Khalistan—their homeland. I rise today in part to mark this important and solemn day. The fact that this independence movement has persisted for 7 years under the withering oppression of Indian security forces is a tribute to the Sikh people.

I rise also to recognize the work of the Council of Khalistan, based here in Washington, DC, and supported by Sikh communities across the country. Dr. Gurmit Singh Aulakh, the president of the Council of Khalistan, has worked tirelessly over the last 7 years to bring the suffering of the Sikhs to the attention of the Congress, the administration, and the world community.

It was by the efforts of the Council of Khalistan that on January 24, 1993, Khalistan was accepted into the Unrepresented Nations and Peoples Organization, a well-respected international body dedicated to advanceing the peaceful aspirations of its member nations. Dr. Aulakh's work helped convince Congress to vote last year to censure India for its human rights abuses and cut its aid.

Mr. Speaker, I would like to say a few words about the horrible violations of basic human rights taking place against the Sikhs. According to "Dead Silence: The Legacy of Abuse in Punjab," published by Human Rights Watch/Asia: "Most of those killed (in Punjab) were summarily executed in police custody in staged 'encounters.' These killings became so common, in fact, that the term 'encounter killing' became synonymous with extrajudicial execution." According to one police officer interviewed by the report's authors, "Without exception, any person who is detained at the police station is tortured." Another police officer revealed that "Once I became a police officer, I realized that torture is used routinely. During my 5 years with the Punjab police, I estimate that 4,000 to 5,000 were tortured at my police station alone." There are over 200 police stations in Punjab serving as torture centers.

The Indian Government has also engaged in a campaign of intimidation and harassment against prominent Sikh leaders. Last month, retired Justice Ajit Singh Bains, chairman of the Punjab Human Rights Organization, was prohibited from leaving the country—at the airport—as he was preparing to travel to London to speak at a human rights conference. This distinguished jurist has been under constant government surveillance. This is the same Justice Bains who testified in 1991 against Indian Government brutality in Khalistan before the congressional human rights caucus.

More recently, Simranjit Singh Mann, a former Member of Parliament, was charged with two counts under the internationally condemned Terrorist and Disruptive Activities Act [TADA]. His crime was speaking in behalf of

self determination for Khalistan at a Sikh temple. Last year, he was arrested and imprisoned for 52 charges under TADA. The trumped-up charges were dropped only after strenuous objections from the international community.

Mr. Speaker, the torture, the murder, and the rape of the Sikh people must stop. It is time for the oppression to end. I urge all of my colleagues to support my legislation to cut aid to India until its oppressive laws are repealed.

I also want to pay tribute to the strength, pride, and endurance of the Sikh people on the seventh anniversary of the declaration of Khalistan. Like the United States in 1776, the Sikh people are entitled to freedom, democracy, and human rights—which include the right to life, liberty, and the pursuit of happiness. Do those words sound familiar?

Mr. Speaker, I would like to insert into the RECORD the statement of Dr. Gurmit Singh Aulakh, for whom I have the highest respect and admiration. I would also like to insert a letter to the President, signed by myself and 34 other Members of Congress urging him to take strong action regarding India's brutal treatment of the Sikh people.

[From the Council of Khalistan, News Release, Oct. 7, 1994]

SIKH NATION MARKS SEVENTH ANNIVERSARY OF DECLARATION OF INDEPENDENT KHALISTAN

WASHINGTON, DC.—"Today marks seven years since the Sikh nation boldly severed all ties with India and declared the free, sovereign, independent country of Khalistan," said Dr. Gurmit Singh Aulakh, President of the Council of Khalistan. "Since the Sikh nation set its eyes on freedom, we have never looked back. Independence sits clearly on the horizon, and nothing India can do will deter the liberation of Khalistan."

Though Sikhs mourn the murder of over 115,000 of their countrymen by Indian government forces since 1984, the struggle for Khalistan's freedom continues unabated. "All the brutal oppression India has managed to muster has not been enough to crush the movement for Sikh freedom," said Dr. Aulakh. "We have made great strides in the past seven years. The U.S. Congress and the international community now know the savage tyranny of the Indian government. Bills are regularly introduced in the U.S. Congress to protest India's occupation of Khalistan. Foreign aid to India has been cut by various donor nations. Every day the Sikh nation progresses toward the ultimate goal of a free and independent Khalistan. The story of our suffering under Indian occupation has exposed the so-called world's largest democracy as one of the worst violators of human rights in the world. India today stands as an international pariah."

Much of the credit for this success can be attributed to the Council of Khalistan which has worked tirelessly to advance the cause of Sikh freedom. Under the leadership of Dr. Aulakh, the Council of Khalistan has helped to make Khalistan an international issue. On January 24, 1993, Dr. Aulakh led a delegation of Sikhs to the General Assembly of the Unrepresented Nations and Peoples Organization and successfully petitioned for membership. Last year, under the urging of Dr. Aulakh, the U.S. House of Representatives passed an amendment to the Foreign Aid Authorization Bill (H.R. 2295), cutting 10% of U.S. developmental aid to India for its brutal violation of human rights against the Sikhs. President Bill Clinton signed the bill into action on October 1, 1993. And Today, 35 Members of Congress signed a letter to President Clinton, with the efforts of Dr. Aulakh, urging him to cut further aid to India, withdraw U.S. support for loans to India in the World Bank and the IMF and promote international sanctions against India if it refuses to allow self-determination in Khalistan.

"The movement for a free Khalistan gains steam everyday," said Dr. Aulakh. "The Indian government has killed thousands of Sikhs, but it cannot kill the spirit of freedom burning in the heart of the Sikh nation. India does not know what it is up against. The Sikhs are a freedom loving people and we support all those nations struggling to liberate themselves from Indian oppression. This includes the Kashmiris, the Christians of Nagaland, the people of Manipur, the Assamese the Tamils of Tamil Nadu and others.

"The Sikh nation has never altered its demand for outright freedom despite seven years of savagery," added Dr. Aulakh. The peaceful mass movement for the liberation of Khalistan cannot be deterred. I warn the Indian government to release the thousands of Sikhs it has wrongfully imprisoned, to cease its rape of Sikh woman and the torture of Sikh leaders. It is in the best interest of the Indian government to sit down with the leadership of the Sikh nation to demarcate the boundaries between Indian and Khalistan today. Freedom is the birthright of all nations, and the Sikh nation will wait no longer. Free Khalistan today. Khalistan Zindabad.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 7, 1994.

Hon. BILL CLINTON,
President of the United States,
Washington, DC.

DEAR MR. PRESIDENT: Since 1984, Indian government police, paramilitary forces, and death squads have killed over 115,000 Sikhs advocating freedom for Khalistan. Since 1978, India has refused to allow Amnesty International within its borders. Closed to human rights monitors, the Sikh homeland reels under Indian government oppression. We ask you to take action in support of the right to self-determination of Khalistan and against India's oppression of the Sikh people.

The government of India has persistently pursued means antithetical to international standards on basic human rights and freedoms to crush the peaceful movement for a free Khalistan. Recently, Sikh political leader Simranjit Singh Mann was charged under the Terrorist and Disruptive Activities (Prevention) Act (TADA). His crime was speaking for the freedom of Khalistan through non-violent means. The TADA laws have been roundly condemned by the world's most respected human rights organizations as mere government tools of oppression. Under TADA, the presumption of innocence is reversed to a presumption of guilt, the democratic freedoms of speech and association are denied, and the accused can be held without trial for over two years. TADA explicitly violates the International Covenant of Civil and Political Rights, and the United Nations Human Rights Committee has condemned these draconian laws as "disturbing" and "completely unacceptable."

In the past Mr. Mann has faced even harsher treatment. In the mid-1980's, Mr. Mann was imprisoned for four years and tortured with electric shock. Similarly, earlier this year, Mr. Mann was charged with 52 violations under TADA and imprisoned. After the U.S. Congress took action on his behalf, he was released and the false charges dropped. Mr. Mann has also had his passport confiscated by the Indian government which clearly wants to prevent him from telling his story to the international community. Furthermore, Mr. Mann has indicated that his life has been threatened by Indian police under the direction of the Punjab Chief Minister Beant Singh.

On September 15, retired high Court Justice Ajit Singh Bains, Chairman of the Punjab Human Rights Organization, was prevented from boarding a plane out of Delhi bound for the United Kingdom. The Home Ministry refuses to allow him to leave the country. His telephone has been tapped and his house remains under constant government surveillance. Justice Bains has persistently spoken out against Indian government brutality against Sikhs and should be remembered for the moving testimony he gave at a 1991 hearing of the Human Rights Caucus in the House of Representatives. Because he has never shied away from exposing Indian government oppression in the Sikh Homeland, Justice Bains finds himself its victim.

On May 25, the Indian government issued a top-secret order directing the postal service to detain all communications emanating from ten Sikh organizations, regardless of content. Ten senior journalists who have been critical of the Indian government have also been targeted for censorship. Two of the journalist listed, Mr. Shammi Sarin of the Sunday Mail, and Monimoy Dasgupta of The Telegraph have received death threats. The reporter who broke this story, Sukhbir Singh Osan, a Chandigar correspondent for the Hitavada News, reports that his phone is being tapped.

Indian government oppression against the Sikhs can no longer be denied. According to Dead Silence: The Legacy of Abuse in Punjab, published in May 1994 by Human Rights Watch/Asia, "The deliberate use of torture and execution * * * was not merely tolerated but actively encouraged by senior government officials." Recently, Gurkirat Singh, the grandson of Punjab Chief Minister Beant Singh, was accused of gang-raping a French woman in Punjab with the help of two friends and four bodyguards provided by the Indian government. There is speculation, because of Gurkirat Singh's relation to the Chief Minister, that the government is trying to silence the entire issue by sequestering the accuser until she can be flown to France. Sikh women regularly suffer rape by Indian security forces and death squads who use it as a tactic to strike a paralyzing fear against those who would speak out in support of Khalistan.

Mr. President, this state of affairs simply cannot be allowed to continue with the knowledge of the International community. Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, has kept you, the U.S. Congress and the International community up to date on the brutal atrocities committed against Sikhs engaged in the peaceful struggle for a free Khalistan.

Seven years ago today, on October 7, 1987 the Sikh nation formally declared the Sikh homeland of Khalistan a sovereign, independent nation. We are fully aware of the oppression Sikhs face seven years after their declaration of independence. We, the undersigned Members of Congress, ask you to persuade the Indian government through the State Department to:

1. Recognize the right of the Sikh nation to peacefully pursue its right to self-determination.

2. Allow a plebiscite in Punjab, Khalistan under the auspices of the United Nations so that Sikhs can peacefully decide for themselves their political future.

If the Indian government refuses to acquiesce to these basic concerns, we urge you to

1. Cut all direct U.S. aid to India.

2. Withdraw U.S. support for loan programs to India in the IMF and the World Bank.

3. Bring the issue of freedom for Khalistan and India's brutality against Sikhs to the United Nations and ask for international sanctions against the Indian government.

Mr. President, it is time that the United States send a message to the Indian government. In the name of freedom and democracy, we beseech you to act immediately.

Sincerely,

Peter Geren, John T. Doolittle, John J. Duncan, Jr., Peter King, William J. Jefferson, Dan Burton, Gary Condit, Gerald Solomon, William O. Lipinski, Chris Cox, Phil Crane, Collin C. Peterson, Arthur Ravenel, Jr., Christopher Shays, Dana Rohrabacher, Charles Wilson, Randy "Duke" Cunningham, Richard Lehman, Tom Bliley, Dick Zimmer, Robert K. Dornan, Dean A. Gallo, George Miller, Roscoe Bartlett, Jack Fields, Robert T. Matsui, Esteban E. Torres, Wally Herger, Ken Calvert, Richard Pombo, Edolphus Towns, Lincoln Diaz-Balart, James H. Quillen, Scott L. Klug, Bill Paxon.

TRIBUTE TO BERT AMMERMAN

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mrs. ROUKEMA. Mr. Speaker, I rise today to bring to your attention the fact that Bert Ammerman was recently honored as Principal of the Year by the New Jersey Principal & Supervisors Association.

Mr. Ammerman, of River Vale, is principal of Northern Valley Regional High School in Demarest, NJ. This award was based on his willingness to take risks to help students, his ability to anticipate and solve problems, and his success in improving the school's learning environment. Under Mr. Ammerman's leadership, students at Northern Valley have raised money for hurricane victims in Florida and for a janitor with 13 children who suffers from kidney failure. This year, they are raising money for a modified van needed by a graduate who broke his neck and is paralyzed from the waist down. Mr. Ammerman has also introduced novel techniques to supervise teachers, evaluating them based on individual growth among other innovations.

As New Jersey Principal of the Year, Mr. Ammerman will become New Jersey's candidate for the 1995 National Principal of the Year.

In addition to his work at Northern Valley, Mr. Ammerman is well-known as the president of Victims of Pan Am Flight 103, a national group that successfully fought for an indepdent investigation into the December 21, 1998, bombing over Lockerble, Scotland. Mr. Ammerman's brother, Tom, was killed in that bombing. Mr. Ammerman's efforts led to tightened airline security and passage by Congress of the Aviation Security Act of 1990.

Mr. Ammerman's excellent record of public service is to be commended. Individuals such as Mr. Ammerman are precisely the type of role models who should be in charge of the eduation of our youth.

TRIBUTE TO SOUNDVIEW HEALTH CENTER AND THE COMPREHENSIVE COMMUNITY DEVELOPMENT CORP.

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. SERRANO. Mr. Speaker, I rise to mark the 16th anniversary of the Comprehensive Community Development Corp. [CCDC] and the 13th anniversary of the Soundview Health Center [SHC], two community based nonprofit organizations providing vital medical and social services to the southeast Bronx.

As its name suggests, the CCDC is a diverse organization that oversees numerous constituent programs, including the Soundview Health Center, the James Monroe Senior Center, a diabetes program, a USDA surplus food distribution program, and many others. The CCDC is one of the largest providers of medical and social services—and one of the largest employers—in the southeast Bronx.

The Soundview Health Center provides a wide range of medical services, from prenatal care to blood pressure screening and from nutritional counseling to emergency care. The SHC handles over 60,000 patient visits every year, and continually creates partnerships with public schools, churches, civic organizations, and other community institutions to better meet the needs of the people of the southeast Bronx.

Mr. Speaker, 1 week from today, on Friday, October 14, the administration, staff and friends of the Soundview Health Center and the Comprehensive Community Development Corp. will gather to celebrate the many years they have been joined together by the invaluable work of these two organizations. I ask my colleagues to join me in saluting them on this occasion.

DOMESTIC VIOLENCE AS A PUBLIC HEALTH ISSUE

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BARRETT of Wisconsin. Domestic violence is an epidemic in our country. Each year 4 million women are severely assaulted by their current or former partners—domestic violence is the leading source of injury for women between the ages of 15 and 44.

For too long, we have addressed this violence only through the criminal justice system. It is more; it is a public health issue. Physicians, emergency room personnel and other health providers must enter the fight against domestic violence if we are to make a lasting change in violence in the home.

Public health stresses prevention and early detection, while criminal justice emphasizes arrest and punishment. The partnership between public health and criminal justice can provide the personnel, expertise, and deterrence that is needed to address not only the symptoms, but the cause of domestic violence.

The costs of waiting to address this epidemic are too high. Women and children suffer the cost of fear, depression, and often physical trauma. Our hospitals suffer the cost of continued emergency care.

We have passed the Violence Against Women Act. We have started to provide the resources needed to end domestic violence. As we continue to fight, it is fitting that we see the public health implications of the crime of domestic violence.

HUMAN RIGHTS ABUSES IN KASHMIR

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. WHEAT. Mr. Speaker, I rise to bring to the attention of my colleagues a recent New York Times editorial regarding the bloody dispute in Kashmir.

The ongoing conflict in Kashmir poses a serious threat to global peace. Perhaps nowhere on Earth is the potential for a nuclear confrontation more real today than on the Indian subcontinent, and nowhere are tensions more likely to erupt into war than over Kashmir.

As such, it is clearly in American interests to help ease tensions in the region and to work towards achieving a negotiated settlement that addresses the legitimate political aspirations and economic grievances of the Kashmiri people.

A systematic pattern of human rights abuses in the region has upset efforts to achieve these fundamental goals. As documented in the State Department Human Rights Report, and by numerous international human rights organizations, Kashmir has been plagued by a series of flagrant human rights violations.

Detailed accounts of summary executions, torture, rape, indiscriminate shootings, arbitrary arrests, and attacks on medical personnel and human rights monitors in Kashmir have become all to common in recent years.

As efforts to expand ties with India are considered, it is important to restate that compliance with universal standards of human rights remains high on our agenda, and our bilateral relations are contingent on real progress towards peacefully resolving the bloody Kashmir dispute.

Mr. Speaker, the people of Kashmir have suffered for too long. The people of India and Pakistan have stood too close to the brink of war for too long.

The time is now ripe to end hostilities in Kashmir and begin a real dialogue for peace, self-determination, justice, and respect for human rights.

[From the New York Times, Sept. 6, 1994]

INDIA'S DIRTY LITTLE WAR

A relentless, deadly struggle goes on and on in India's mainly Muslim state of Kashmir, where New Delhi is trying to crush forces seeking independence or union with Pakistan. The violence comes from both sides, but India's obdurate insistence on resolving a political problem by force has increasingly enmeshed it in a campaign of lawless state terrorism. The ugly results are documented in a new study by Human Rights Watch/Asia.

Regrettably, Washington, instead of raising its voice to defend human rights, has lowered it in an effort to improve commercial and diplomatic ties. The U.S. may have little power to deter India from repression. But the Clinton Administration should assert American disapproval more forthrightly.

Kashmir's political status has been disputed almost since the subcontinent was partitioned in 1947. A local Muslim uprising drew armed support from Pakistan. The Hindu maharajah then called in Indian troops who recaptured most of his lost territory. The two countries have confronted each other over tense cease-fire lines ever since. Meanwhile, on the Indian side, a promised plebiscite was never held and the state was formally incorporated into India in 1954. Separatist agitation continued on and off, flaring again into open conflict in 1989.

Some pro-Pakistani militant groups have resorted to terrorist deeds like kidnapping, assassination and extortion and even to common crime. No political grievance can justify such acts.

But Human Rights Watch/Asia reports that Indian forces, which are obliged to follow higher standards, have also resorted to reprisal killings and burning down villages. They are also said to be executing many suspects without trial; 200 in the first half of this year and 50 in one month alone, according to local human rights groups. There are also many reports of torture and "disappearances," two other common features of state terrorism.

India insists it has prosecuted some responsible for these crimes, but has offered no information about such prosecutions. The State Department, in its latest annual human rights report, said "there was little evidence that the responsible officials received appropriate punishment."

Until this year, American officials were equally candid in their public statements. But more recently, after New Delhi warned that continued human rights criticism could damage relations, the Clinton Administration has gone silent on the subject. Meanwhile, India has aggressively courted help from the likes of China and Iran to block condemnation by the U.N. Human Rights Commission.

The Administration needs to find a firm and consistent voice on human rights, whether in powerful countries like India and China or puny ones like Haiti and Cuba. Selective denunciations carry no moral authority. Criticizing the weak but not the strong is bullying, not leadership.

Meanwhile India, which captured the world's moral imagination with Gandhi's nonviolent struggle for independence, is now in the unflattering company of countries that use deadly force to keep their unhappy citizens in line.

A SALUTE TO MATT FLETCHER

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. GUNDERSON. Mr. Speaker, with the close of a Congress, many changes occur. Members of Congress, who have announced their retirement, complete the process of closing down their offices and moving home. New Members come to town with hope and enthusiasm, aiming to carry on where their predecessors have left off.

But not all change occurs at the Member level. Perhaps even more dramatic in terms of numbers and influence would be the changes occurring at the staff level. For it is today, and always has been, the professional staff that make so much of what we do possible.

Today, I want to pay special recognition to one of those staff members who will be leaving Federal service November 1. Matt Fletcher will conclude his service to the Congress on that date. He leaves as the minority staff director on the House Government Operations Committee. And when he leaves, we lose not only a dedicated member of our congressional staff—we also lose a wonderful example of what can be accomplished through dedication and hard work.

I knew Matt Fletcher as a friend, before I knew him as a professional colleague. Matt came to Washington, like so many others seeking congressional service. Yet, he asked for nothing on a silver platter—he earned everything through hard work and competence.

When we first met, shortly after my election to the Congress, Matt held down two jobs. Matt brought all the values of the midwest with him from Cedar Rapids, IA. Unable to achieve the congressional job he hoped for, he began working at the Republican Senate Campaign Committee. But because this did not cover his financial needs, he worked part time at Bullfeathers. It was here, through a friend, that we met.

We have always had much in common. We both came from midwestern families whose fathers sold Chevrolets. Our mutual interests in sports, Republican politics, and governing gave us much to discuss over our mutual tastes for beer. But it was his work ethic that impressed me the most. And so when an opening occurred on my staff, I asked Matt to consider joining my staff. When he agreed to do so, I and the Congress were the lucky ones.

Matt Fletcher began as a member of my staff in 1985, and soon became my legislative director. He not only coordinated the entire legislative effort for a very busy office, but he also provided specific issue leadership as well. In particular, Matt Fletcher will be remembered for making the Environmental Management Program on the Upper Mississippi River a reality. Matt was the one person who led the entire legislative efforts to make the goal a reality. Generations of Americans, young and old alike, will enjoy the multiple uses of the Mississippi River in large part because Matt Fletcher made it happen.

Second, Matt Fletcher, handled defense and foreign policy issues for me at a most important time in American history. With the cold war at breaking point, and numerous trouble spots in Central America—these were complicated and troubled times. As a legislator immersed in agricultural and education issues essential to my district, this was a clear case of the need of competent guidance from one's legislative staff. Matt Fletcher met that need.

One of the great things on Capitol Hill is that competence, hard work, and earned respect can pay dividends. By 1987, Matt Fletcher's abilities were hired by the Government Operations Subcommittee on Environment, Energy, and Natural Resources. It was this point in his career, when Matt's responsibilities were transferred from my direction to that of the Hon. BILL CLINGER—the ranking Republican on that subcommittee.

BILL CLINGER obviously recognized and appreciated the same positive traits in Matt, that I had come to take for granted. For soon, Matt's responsibilities had moved from subcommittee staff to full committee staff. And when Bill Clinger assumed the position of ranking Republican on the full committee, he asked Matt Fletcher to serve first, as Deputy Staff Director, and in 1992 as Minority Staff Director. He will hold that position until the time of his departure.

For those of us, who know him, and have worked with him—Matt's departure from Capitol Hill will leave a large gap. He brought to his work a sense of caring, compassion, respect, and diligence too often missing in this business. He understood the essential role of partisanship in our democracy. But he never played political games for pure partisan purposes. He understood the role of oversight in an open multibranch government. But he never pursued oversight for pure harassment purposes.

On a personal level, Matt has been the kind of professional staffer everyone would want to know, and work with on their staffs. No one has been more loyal, honest, and dedicated to the work of his office and his boss. No one has been more committed to the successful work of Congress as an institution. No one has been more liked by the Members he worked for, the professional colleagues he worked with, or the public he worked to help.

I will miss him on Capitol Hill. And I thank him for his service here. But we will continue to be personal friends. And I wish him all the best in his future. No one deserves it more than Matt Fletcher.

FORWARD FUNDING OF PUBLIC BROADCASTING

HON. JOE SKEEN

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. SKEEN. Mr. Speaker, as a member of the Appropriations Committee, I have great respect for the dedication that my colleagues have to their work on this all-important committee. They make tough funding decisions everyday that often affect popular programs.

Having said that, I want to express my concern about a precedent-setting decision that was incorporated in the appropriations bill for

the Departments of Labor, Health and Human Services, and Education for fiscal year 1995. That legislation rescinds $7 million from previously appropriated funds to the Corporation for Public Broadcasting [CPB]. This action effectively compromises the committee's longtime support of forward funding for CPB.

The forward funding concept was initiated some years ago to help public broadcasters make long-term plans for infrastructure improvements and to help raise funds to support public broadcasting from non-Federal sources. By any measure, forward funding has worked to fulfill these goals.

By rescinding this money, many public broadcasters—including those in my congressional district—will see their budgets cut accordingly. They may have to put off some services and some infrastructure improvements until the next year.

I want to offer my support and wholehearted endorsement for the concept of forward funding of public broadcasting. I hope that when the Appropriations Committee considers appropriations for the Corporation for Public Broadcasting next year, that it will be able to follow through with the committee's previously committed funding level.

JAMES MATTHEW BROADUS III

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. MILLER of California. Mr. Speaker, the environmental and natural resources community has lost one of its best minds and most generous spirits with the untimely death of Dr. James Matthew Broadus III, director of the Marine Policy Center at the Woods Hole Oceanographic Institution, on September 28, 1994.

Jim was a brilliant scholar who we counted on for superb, rigorous analysis and objective policy recommendations. He was a man of technical excellence and creative vision. As director of the Marine Policy Center from 1986 until his death, he inspired his excellent staff to produce some of the finest work in the field. Under Jim's leadership, the Marine Policy Center has become one of the most respected environmental policy institutions of its kind.

An internationally recognized researcher with a doctorate in economics from Yale, Jim published extensively in top journals in the fields of economics, law, science, and public policy. He was one of the those rare individuals who could translate highly technical information to policymakers and the public. Jim's findings have been applied to a broad range of domestic and international policy problems. His impact has extended well beyond ocean and coastal issues.

We will remember his terrific sense of humor, his intellectual integrity, his lasting contributions to the work of Congress, his dedication to his students and staff, and his eye for all things genuine. To Jim's wife, Victoria, and his children, Matthew, Tory, and Joseph, our hearts are with you. We hope that you recognize the profound impact that Jim made and the esteem in which he was held. We hope this awareness will help you in this time of great loss.

AMGEN, THOUSAND OAKS, CA, BIOTECHNOLOGY COMPANY, SELECTED TO RECEIVE THE 1994 NATIONAL MEDAL OF TECHNOLOGY

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BEILENSON. Mr. Speaker, in 1980, only 14 years ago, Amgen—a start-up biotechnology company—set up business in Thousand Oaks, CA, with a few talented people and a vision.

Amgen now has more than 3,300 people employed worldwide, with more than 2,700 of them in Thousand Oaks, which I have the honor of representing. The visionaries who created Amgen did so in the belief that the infant science of biotechnology would ultimately yield breakthrough medical treatments.

Now, with the U.S. Department of Commerce's recent announcement that it is awarding the 1994 National Medal of Technology to Amgen, the company's pioneering role in biotechnology and its success in bringing remarkable medicines to patients around the world have been officially recognized.

On October 25, the President will present to Amgen this prestigious National Medal of Technology, making Amgen the first biotechnology company to be so honored. The Presidential Citation to Amgen reads:

For its leadership in developing innovative and important commercial therapeutics based on advances in cellular and molecular biology for delivery to critically ill patients throughout the world.

The National Medal of Technology is the American equivalent of the Nobel Prize. The award recognizes the recipient's excellence in technology innovation and commercialization. Amgen's breakthrough medicines Epogen and Neupogen provide lifesaving and improved quality-of-life benefits to hundreds of thousands of kidney dialysis and cancer patients.

Amgen recently dedicated a new 225,000 square-foot research facility at its Thousand Oaks headquarters complex in which its outstanding group of research scientists are working on new technologies for product candidate discovery and preclinical development and a network of academic and corporate collaborations to identify new medicines through research and testing.

Amgen is harnessing innovation to eliminate or alleviate many of the most serious life-threatening illnesses. Amgen scientists are trying to develop drugs to treat crippling neurological conditions such as Alzheimer's, Lou Gehrig's, and Parkinson's diseases and inflammatory disorders like asthma and rheumatoid arthritis. Amgen is conducting clinical trials with an interferon that may provide a safer and more effective treatment for hepatitis C viral infection. And, research by this company may be the source of relief and even cures in the area of inflammation and diseases such as rheumatoid arthritis, adult respiratory distress syndrome, and asthma.

After only 14 years, Amgen has emerged as the world's leading producer and manufacturer of important medicines based on cellular and molecular biology. All of us in southern California are proud of Amgen's accomplishments—the National Medal of Technology is only the latest in a series of high honors and awards for the company and its employees.

Mr. Speaker, I commend Amgen and its chairman, Gordon M. Binder, for this latest honor and for Amgen's record of outstanding service to the community.

SALUTING THE 50TH ANNIVERSARY OF THE POLISH-AMERICAN CONGRESS

HON. JACK QUINN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. QUINN. Mr. Speaker, I rise today to salute the 50th anniversary of the Polish-American Congress [PAC]. Fifty years ago this past May, the PAC was formed as a constitutional assembly in my district of Buffalo, NY.

From its inception, the Polish-American Congress has demonstrated commitment and support for the sovereignty of Poland and Polish-American causes. The PAC worked tirelessly to help the Poles regain their freedom and to promote the cultural heritage and ties to the Polish-American community.

Formed toward the end of World War II, the PAC was a symbol of Polish-American commitment to the war effort against Nazi Germany and Imperial Japan and support for oppressed Poland. The PAC was therefore deeply disturbed by the terms of the Allied agreements of Poland and Eastern Europe. The Soviet takeover and communization of Eastern Europe laid the grounds for the unacceptable treatment of the people of Poland. The PAC united Polish-Americans and advanced efforts to help Communist-enslaved Eastern Europe.

PAC delegations documented conditions and treatment of Polish refugees and denounced them to the world. The PAC lobbied for the admission of 140,000 displaced Polish persons into the United States in 1947 and continued immigration efforts allowing thousands of new Polish emigres into the United States over the next 40 years allowing families to be reunited.

The PAC backed the creation of Radio Free Europe as a voice of truth for the people of Eastern Europe. PAC-advocated investigations of the Soviet regime and its security police found them responsible for the atrocity of Katyn Forest.

Major steps were made with the Helsinki Accords of 1974 which spelled out a set of human rights—political dissent, freedom of association, and emigration—for the peoples living under Communist rule in the USSR and Eastern Europe.

Support for the Solidarity Trade Union Movement, extraordinary efforts at fundraising and humanitarian aid initiatives provided the relief and materials necessary to help the Polish people during the economic and political crises which occurred during the marshal law years.

All of this incredible support and dedication lead to the triumphant moment in 1989 when Poland became the first Eastern European country to gain a non-Communist government in 40 years.

Besides helping to bring about change in Eastern Europe, members of the PAC serve as a cohesive force in the United States by celebrating their cultural heritage. The PAC is involved in such activities as recognizing important Polish historical figures and events and promoting cultural initiatives such as Polish-American Heritage Month, as observed each October.

Mr. Speaker, PAC delegates are gathering in Buffalo to celebrate the 50th anniversary. PAC continues to be a strong voice for the Polish-American community and Poland itself.

I urge my colleagues to join me and salute their dedication to the cause of freedom and human rights and offer the PAC as an example of the spirit of democracy.

The Polish-American Congress is one of the most important and effective organizations of its kind. I am very proud to be able to represent the congressional district where the PAC was born and recognize the PAC here on the floor of the House of Representatives.

ATTACK-DOG JOURNALISM

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. DORNAN. Mr. Speaker, it has often been said, and rightly so, that if a man loses his good name he loses everything. And with the advent of attack-dog journalism it has become harder and harder for those of us in public office to defend our good names and reputations. When accusations are made they are front page news. When those accusations turn out to be false, the corrections—if you get one that is—will be tucked away deep in the bowels of some obscure section that nobody reads. As former Secretary of Labor Ray Donovan said after being acquitted on bogus charges, "Where do I go to get my good name back?"

I remember when terrorism specialist Steve Emerson totally demolished, beyond a shadow of a doubt, Time magazine's outrageous story on the now infamous phony October Surprise conspiracy theory. Emerson proved that Time had been shamelessly used by agent provocateurs and con artists. Yet, incredibly, Time stuck by its story. When a major news magazine refuses to admit its most obvious and blatant errors, something is drastically wrong. But it is a perfect example of how difficult it is to get satisfaction from the media.

I have certainly had my troubles with the Los Angeles Times over the years. It seems they simply cannot get over the fact that the people of central Orange County would want to be represented by a conservative, and they have done their best over the years to see me defeated, all to no avail. During that time the L.A. Times has written many stories about me. For the most part they have been somewhat fair, though many have been biased. But in a certain few cases they have exhibited a reckless disregard for the truth and have distorted facts to conform to their biased notion of who BOB DORNAN is. Tonight, I want to take some time to set the record straight on three falsehoods that the L.A. Times continually perpetuates. For the sake of my honor and my good name.

Recently, I was explaining to an L.A. Times reporter who was writing a short political piece on me, why I have always been leery of speaking with L.A. Times reporters during in all of my eight previous House races. Now in race number nine I am on my guard again. I have never really had a skilled, focused, mature and competitive Democratic opponent. So young L.A. Times reporters take it upon themselves every election year to go after me, and close up the point spread in my re-elections. The result? Times articles on me always become the number one weapon used by my opponents in their campaign literature and phone banks. Every even numbered year I ask the L.A. Times reporters, "Why? Did God designate you and the L.A. Times to attempt to take me down? To defeat me? To end my political career?"

I advised Times editors on the House floor during special orders that I was going to correct some major distortions and lies they have printed in the past before they repeat them again this October. There is an article from October 10, 1992 that contains several lies about BOB DORNAN. The Times prints quotes from my opponents that are not true, adds quotes that are untruthful, hearsay statements from people I've never met, and then rolls these lies over every 2 years into a running negative profile that makes me so unbelievable, colorful, and flamboyant that Gen. George S. Patton, dead or alive, could not match the image the L.A. Times has created of me.

Three of the most outrageous lies were repeated in a short profile feature done 3 weeks before the election of 1992. I am now going to try to correct the lies contained therein once and for all. They spring from the 1980 general election, the 1982 primary, and the 1986 general election. I now publicly ask the L.A. Times if they are going to continue to perpetuate these three vicious untruths in the closing days of the 1994 elections.

Eric Bailey and Bob Stewart wrote an October 18, 1992 so-called biographical update on me. After the election I pointed out to them the major gross lies. They promised that they would correct them. Bob Stewart moved on, so he cannot correct them. But Eric Bailey can and should ask his editors to correct the historical record.

Eric, please heed and hear my words. Lie number one is from my third congressional campaign in 1980. Here are the exact words out of the October 1992 L.A. Times: "During his 1980 battle for his old Santa Monica-area district against Carey Peck," (Peck seemed to disappear off the face of the Earth the next year) "son of actor Gregory Peck, it took a Justice Department investigation to clear the challenger" (Peck) "of Dornan's allegations that Peck accepted $13,000 in illegal cash campaign donations from James H. Dennis, a convicted felon serving time in an Alabama Federal prison for fraud. Dennis said he agreed to make the accusations when Dornan visited him in prison and promised to get the felon better prison status. Dornan denied that any deal existed."

A vicious, foul untrue story, I have never to this day 14 years later corrected this garbage on the House floor. I should have years ago. I will now.

First, young Carey Peck, son of Gregory, did take 13 sequentially numbered, $1,000, illegal donations written to him from "dead people, and 3- and 4-year-old children." Gregory Peck, the Academy Award winning actor, and I say this sincerely, probably unknowingly brought an envelope from Alabama to L.A. with this dirty, $13,000 worth of phony cashiers checks using the names of children and dead people inside and gave it to his son. I charitably assume he did not open the envelope. The checks all originated in Alabama. Then-Senator Alan Cranston, who I also think was unwitting in all this, had asked Gregory Peck to come to Alabama to help a young Senator named Donald Stewart who was appointed after the death of Senator James Allen. James Dennis sent this dirty money to young Carey as a favor to Gregory Peck for coming to Alabama. This James Dennis had embezzled $1½ million from people in the State of California. I went to visit him in an Alabama prison to get at the root of the $13,000 of dirty money that the Carey Peck campaign took in 1978. I took with me my wife, my lawyer, the U.S. attorney from southern Alabama, and an FBI agent from their Alabama office. We all met in the warden's conference room at Talladega Prison to get to the bottom of this scandal. The warden stayed throughout the meeting.

James Dennis told us everything about political corruption in Alabama. He never asked me for special treatment and I never gave any to him. How could I? A month later his brother was involved in a fatal car crash. As he lingered near death, I was in Israel on a Narcotics Committee investigation trip at the time, Dennis called my staff from prison to ask if they could help him to visit his dying but conscious brother in the hospital. Prison officials said there was nothing my staff could do to help James Dennis. His brother died. The warden, on his own, did allow Dennis to go to his brother's funeral in leg shackles and handcuffs. Weird.

Quite a character this James Dennis, an Elvis Presley look-a-like. He looked more like Elvis than any professional Elvis impersonator I have ever seen. He was even more handsome. But at age 28 he embezzled one-half million dollars and put 13 phony $1,000 checks into young Peck's campaign. Did the Justice Department clear Peck. They did not! They never even investigated, as the Times alleges. When I brought the case to Jimmy Carter's Justice Department, I was told to go to the Federal Election Commission. The FEC fined Dennis $30,000, a record fine at that time, and ordered Peck to return the money. Peck claims he did. I repeat. The Justice Department in 1980 under Jimmy Carter said they did not want any part of an investigation. After all, the election was over and I had won by 51 to 46 percent and Carter had lost to Ronald Reagan.

Do you have those facts straight, L.A. Times?

Those are the facts, and I will flesh them out in person anytime the Times wants to hear the truth.

Here is the second big lie. This is from the L.A. Times of Oct. 18, 1992:

While making an unsuccessful run for U.S. Senate in 1982, Dornan accused Barry Goldwater Jr. of being involved in a drug scandal on Capitol Hill and assisted law enforcement officials in an investigation.

Lie, lie, on two points. The story on Barry and cocaine broke in September 1982. Our primary race was over on June 8, 1982. And besides, I never had any knowledge whatsoever about Goldwater's private life.

The Times goes on to say, "Goldwater was never charged." Go look at the files from the ethics committee investigation here in the House on that case in 1983, which is after I had been gerrymandered out of my seat. I did not serve in the 98th Congress.

Joseph Califano wrote the final report and said he believed Goldwater to be guilty. I never bothered to learn either side of the story. It is a dirty vicious lie for the L.A. Times to write that I accused or investigated a friend and had him busted for cocaine use. I was with Barry in England in September 1982 when an Air Force colonel handed me a Newsweek magazine with the breaking story of cocaine use on Capitol Hill in which Barry was named. I asked him about it. He denied the story and I believed him. Barry and I had both been bested in the June primary by Pete Wilson, now California's Governor.

Are you listening L.A. Times? Are you aware of these facts Shelby Coffey or Marty Baron? Are you reading about blatant lies that your paper has never corrected?

Vicious lie number 3. There are many more little mistakes and untruths in the October 1992 profile that I will go into in the future.

Again, here is the L.A. Times of October 18, 1992:

At a debate during the 1986 race, Dornan launched a furious series of character attacks on his opponent, then-Assemblyman Richard Robinson. He accused the democrat of influence peddling.

"Influence peddling" are words the L.A. Times' used in their investigative report. They are not mine. They were used in an investigative piece about Richard Robinson. Yet the L.A. Times dredged up its own words from years earlier and put them in my mouth 10 years later. Wow, what chutzpah.

Again, the full L.A. Times quote continues:

Dornan accused the Democrat of influence peddling, bribery, extortion, and dealing with teenage prostitutes in Sacramento.

Good grief. All of that is in single quotes because it came from a front-page L.A. Times story that of course I printed in a brochure and mailed to every home in my district. Who wouldn't do that in a campaign? Was I wrong to believe in the accuracy of the reporting of the Times? Mr. Speaker, it is absolutely outrageous to attribute their investigative conclusions to me, as if I were the one who conducted the investigation.

Mr. Speaker, I have every right to take out a point of personal privilege and do an hour in the middle of our congressional day or this. I chose to do it this way and not interfere with our legislative schedule.

But I will speak on this next year, Mr. Speaker, after I win with over 55 percent of the vote in my district. That is, I will again try to correct my personal career record with the truth unless the L.A. Times has honorably corrected the record in the interim.

Thank you Mr. Speaker, have a nice election.

I submit for the RECORD the January 21, 1985 L.A. Times investigative report.

[From the Los Angeles Times, January 21, 1985]

EX-AIDES TIE MORIARTY TO POLITICAL SEX PARTIES

(By Tracy Wood and George Frank)

Former top aides to Anaheim fireworks manufacturer W. Patrick Moriarty say they have given criminal investigators a detailed account of how Moriarty provided prostitutes for state and local officials in an effort to gain political clout.

The former aides also have told the story in interviews with The Times, providing a growing list of governmental officials, bankers and others the one-time aides said were provided with prostitutes paid for by Moriarty.

Those named by former Moriarty associate Richard Raymond Keith, 47, include former Assemblyman Bruce Young (D-Norwalk). Assembly Democratic Leader Mike Roos of Los Angeles and Assemblyman Richard Robinson (D-Santa Ana).

INDEPENDENT INQUIRY

Also listed by Keith and another former Moriarty aide, John E. (Pete) Murphy, 62, were two local Southern California officeholders—Los Angeles City Councilman David Cunningham and Orange County Supervisor Ralph B. Clark.

The involvement of these officials was independently checked by The Times with authoritative sources including people who say they were present on occasions when prostitutes were provided.

Roos, 39, said "I'm just not going to respond." Robinson, 41, called the allegations "ludicrous." Young, 38, who was identified by The Times last September as allegedly having been provided with Moriarty-paid prostitutes, has denied the allegations.

Cunningham, 49, would only say the charges are "ridiculous."

Clark, 67, denied ever having engaged in sex with any prostitutes. He did say he had attended several routine luncheons in Los Angels with Keith and Orange County lobbyist Frank Michelena. At one of the lunches, he said, there were some "public relations women" and he gave them his card.

"This could be the cause of all this," Clark said.

The 53-year-old Moriarty, through his Sacramento attorney, Donald Heller, denied any involvement with prostitutes. Heller earlier had denied all allegations by Keith, describing the former close associate of Moriarty as a person who is "trying to create a false defense for his own conduct."

Keith has been indicated on 13 counts of bankruptcy fraud, income tax evasion and making false statements to a bank. He is tentatively scheduled for trial next month.

Charges that Moriarty used prostitutes to influence public officials and others first surfaced almost a year ago in an affidavit containing information provided by California Canadian Bank executive Jonas T. Gislason of El Toro to Orange County district attorney's investigators.

Gislason accused Moriarty of providing prostitutes to him and other bank officials who handled millions of dollars in loans for the Anaheim businessman.

Gislason also told the investigators that he "believed" that Moriarty once provided a prostitute at the Anaheim Sheraton Hotel for former Los Angeles Fire Chief John C. Gerard, who supported a 1979 proposal to allow sale of safe-and-sane fireworks in sections of Los Angeles lying within a mile of other cities that allowed the sale of such fireworks.

Responding to Gislason's contention, Gerard said: "To the best of my recollection, I did not have sex with anyone at the Sheraton Hotel."

In response to the Gislason charges, Moriarty issued a statement through his attorney, saying: "It's unfortunate this secret . . . investigation is retrogressing to a fishing expendtion into the sewer."

Last May, not long after Gislason's disclosures, state Sen. H.L. Richardson (R-Glendora) told The Times that Moriarty asked him to help stop the criminal investigation into the fireworks manufacturer's political activities, particularly the allegations about providing prostitutes for state legislators and other public officials.

Richardson said he immediately reported Moriarty's overture to Orange County Dist. Atty. Cecil Hicks, who was directing the investigation.

Moriarty, Richardson said, "wanted me to intercede (with Hicks) and see if it (the political investigation) could be dropped. He asked me to look into the matter and see if I could be of some assistance. He wanted my advice. The best I could give him was, 'Well, let me look into it. . . .' He (Moriarty) was trying to get it all (the investigation) dropped."

Richardson said Moriarty told him that the problem could hurt "innocent people," particularly families of public officials.

CASUAL REFERENCE

The senator quoted Moriarty as saying: "'Well, we had some parties and you know how some of those whores and prostitutes show up. . . .'" Richardson said Moriarty "made it sound like they just stumbled by, like it's a normal occasion for them to show up at those things."

Moriarty refused to respond to Richardson's charges.

The most recent disclosures by Moriarty's former associates add new momentum to the prostitution aspect of a widening inquiry being conducted jointly by the U.S. attorney's office and the Orange County district attorney. The probe already has resulted in the indictment of Moriarty on racketeering charges in connection with licensing of a City of Commerce poker parlor.

Keith, formerly Moriarty's closest business associate, recently told a television interviewer why using prostitutes was effective.

"It gave you the ability to not only socialize and develop a cronyism with the individual but also (it was) a mild form of extortion at certain points when the investigation became involved and focused on the girls," Keith said in the report, aired recently by KCBS-TV in Los Angeles.

In his interviews with The Times, Keith told of arranging prostitutes for 10 public officials, eight bankers and dozens of other friends and associates. The encounters, he said, occurred in a variety of settings.

BEVERLY HILLS PARTIES

He and Murphy, both of whom say they also arranged paid sex for themselves, gave accounts of frequent sex "parties" in a Beverly Hills penthouse where guests also were

treated to hot and cold buffets and a well-stocked bar.

"It was like a New Year's Eve party," Keith said. "If somebody fell in love, fine."

Keith and Murphy also listed liaisons that took place at hotels in Anaheim, Buena Park, Fullerton, Los Angeles, Sacramento and such faraway places as New York, Washington and London.

Keith said he would pay for the prostitutes initially and then Moriarty would reimburse him. Most times, Keith said, he would cash a check and deliver the cash directly to a Los Angeles madam or he would pay some of the prostitutes directly.

He said he delivered between $300,000 and $400,000 to the women for their services. Keith estimated that since 1978 Moriarty and his associates have paid between $600,000 and $750,000 for prostitutes. Former Moriarty associate Murphy said Keith's estimates "sounded pretty close."

To get reimbursed, Keith said, "I would say, 'Pat, I need money.' I would put down on a slip of paper, I would . . . say whatever hookers were involved in that week's activities 'needs $2,000, $3,000, $4,000, $5,000 or $10,000' or whatever it was. (Or) I would say, 'I need $3,000, $4,000 or $5,000' to cover whatever political contributions I made (for Moriarty).

"He (Moriarty) would issue a check for $5,000 or $25,000 or $50,000 to cover whatever we needed," Keith said.

Keith said he has given investigators the names of all those he can recall providing with prostitutes. The Times has reported only the names of officials whose participation could be independently checked with authoritative sources including people who say they were present when the encounters occurred. These sources have declined to be identified.

Keith made a distinction between the politicians to whom he said prostitutes were provided.

He said Supervisor Clark and Councilman Cunningham requested prostitutes "directly as prostitutes and at all times knew they were prostitutes." Assemblyman Young, Roos and Robinson, according to Keith, could have thought the prostitutes were "friends of Dick Keith's" and that the Beverly Hills penthouse where they has sex "could have been Dick Keith's apartment."

The assemblymen, Keith said, "could have thought they were party girls or good time girls." He added that there was never any money exchanged in front of any politicians.

Over the years, dozens of prostitutes were used, Keith said, including part-timers he described as "pro-ams." Murphy spoke almost paternally of the professional prostitutes he called "my soiled doves."

Moriarty began hiring prostitutes in the early 1970s as a way of entertaining businessmen, according to Murphy.

That worked so well, Murphy said, that Moriarty decided to use prostitutes in the political arena.

"It worked with other things so let's try it with them (public officials)," Murphy explained of Moriarty's original practice of providing prostitutes for businessmen.

"After a while, the politicians, like the businessman, felt they were entitled to this. They felt we were obligated to entertain them. After they went once, they expected it regularly," Murphy said.

COMMEMORATING THE REPUBLICAN LEADER—HON. ROBERT H. MICHEL

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mrs. VUCANOVICH. Mr. Speaker, it is an honor for me to speak in recognition of a great friend and colleague who has served this institution honorably for 37 years. This man, BOB MICHEL of Illinois, is among the finest gentlemen to have ever served in Congress.

BOB MICHEL has become one of the most prominent statesmen of our time with his strong personality and noncontroversial style. He is neither a man who intimidates nor twists arms to achieve his objectives. Rather, he is an adept stylist of gentle persuasion. His courage and perseverance in bringing legislators together to work collectively and cohesively, in coordination with his valuable ability to compromise, has been the key to his leadership.

As our leader since 1981, he has also been chairman of the Republican Congressional Campaign Committee, Republican whip in 1974, and he served as chairman of the 1984, 1988, and 1992 Republican National Conventions. BOB is a dedicated public servant who has always been devoted to his ideals. And, possibly most important, he is a loyal citizen, committed to improving the quality of life for all people of the United States.

The Republican leader is a man who has never had to defend his patriotic loyalty to his country. He wears his combat infantryman's badge proudly, having fought in England, France, Belgium, and Germany during World War II. And, his Bronze Star, Purple Heart, and four battle stars attest to his bravery and distinguished service to his country.

BOB MICHEL is a patriot, Mr. Speaker, he is a great American and for all of us, truly a man of the House. He will be missed and I congratulate him on his retirement. We all wish him well in his future endeavors.

RECOGNIZING DR. ROBERT J. MYERS

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. ARCHER. Mr. Speaker, it is my pleasure to recognize and congratulate Dr. Robert J. Myers, whose long-time counsel and advice have been highly valued by the Committee on Ways and Means, for richly deserved honor recently bestowed on him by the American Academy of Actuaries.

The American Academy of Actuaries, which has 12,000 members, has inaugurated an award to recognize the extraordinary lifelong public service of Dr. Myers, who was chief actuary for the Social Security Administration from 1947–70.

The Robert J. Myers Public Service Award will be presented in the future to actuaries who have made outstanding contributions to the common good through service to the government or other organizations in the public sphere. While honoring individual recipients, the Myers award also will call attention to the significant benefits the general public receives from the work of the actuarial profession.

Dr. Myer's extraordinary career was recognized with the public announcement of the award at the Academy's annual meeting in Washington, DC. Dr. Myers was instrumental in the design and funding of the Social Security system and worked for the Social Security Administration from 1934–70. Known for his professional integrity, Dr. Myers continues to command respect within and outside the profession and remains an inspiration to all practicing actuaries.

Dr. Myers was presented with a specially designed and mounted medal at the September 28 ceremony. Future recipients will receive replicas of the Myers medal displayed in the Academy's Washington offices.

TRIBUTE TO WARREN SPINELLO

HON. GARY A. FRANKS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. FRANKS of Connecticut. Mr. Speaker, today I want to recognize someone who has been a pillar of service and courage to the town of New Fairfield, CT. Warren Spinello has long been a friend to many in New Fairfield. He has actively participated in his community through his service as president of the Ball Pond Volunteer Fire Department and as a member of the town planning commission. Mr. Spinello retired in 1991 after 43 years working for Grand Union.

Warren Spinello's dedication to his town and his job is all the more remarkable when you realize that he has endured a long period of health challenges. Mr. Spinello's courage in dealing with diabetes and cancer is inspiring to those who know him. The new Fairfield Volunteer Fire Department recently held a dinner-dance to benefit Mr. Spinello. It is indeed a special person who has so many friends and supporters.

Perhaps Mr. Spinello is best loved for his role as Santa Claus. For the past 30 years, Mr. Spinello has played Santa Claus at the Ball Pond Firehouse and for various organizations around town. One year, when Mr. Spinello had his foot in a cast while playing Santa Claus, he told the children that one of the reindeer had stepped on it. He has certainly brought much joy to two generations of children in New Fairfield.

Warren Spinello is the type of hero who is often overlooked because of his humility. I am proud to be able to recognize Mr. Spinello as an example of generosity and courage for all Americans.

MR. AND MRS. WILLIE N. POUGH CELEBRATE 50TH WEDDING ANNIVERSARY

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. CLYBURN. Mr. Speaker, I rise today to salute Mr. and Mrs. Willie Newton Pough, of Orangeburg, SC, on the occasion of their 50th wedding anniversary.

Mr. and Mrs. Pough's half-century of devotion to each other will be celebrated on October 7, 1994, at Funderburk's at Middleborough, Columbia, SC, hosted by their daughter, Carmen Pough. The couple were married October 12, 1944.

Mr. Pough was born in Orangeburg County on July 5, 1921. He received his Juris Doctor degree from South Carolina State University and practiced law in Orangeburg County for approximately 40 years. He was very active in the civil rights movement during the 1950's and 1960's.

Mrs. Altamese B. Pough was born in Polk County, FL, on November 22, 1923. She received her master's degree in education from South Carolina State University and worked as a public service social worker with Neighborhood Youth Corps, CETA, and JTPA until her retirement.

Mr. and Mrs. Pough are members of Trinity United Methodist Church. Both are members of the NAACP and the South Carolina State University Alumni Association.

Mr. Pough is a member of Phi Beta Sigma Fraternity and is active in a number of lodges, including the Edisto Lodge Number 39 Free and Accepted Masons, Prince Hall Affiliate; the Robert Shaw Wilkinson Consistory Number 220; Jeddah Temple Number 160 of the Ancient Egyptian Arabic Order Nobles of the Mystic Shrine; the Most Worshipful Prince Hall Grand Lodge of Free and Accepted Masons, Jurisdiction of South Carolina; Imperial Council of the Ancient Egyptian Arabic Order Nobles of the Mystic Shrine; and 33d and Last Degree of the Ancient and Accepted Scottish Rite of Free Masonry, Prince Hall Affiliate, for the Southern Jurisdiction of the United States.

Mrs. Pough is a member of the Robert Shaw Wilkinson Assembly of the Golden Circle, Jeddah Court Number 86 of the Daughters of Isis of the Ancient Egyptian Arabic Order Nobles of the Mystic Shrine, and the Alston Wilkes Society.

Mr. Speaker, please join me and the Pough's family and friends in wishing them many more happy years together.

THE QUESTION OF FAIR HOUSING

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. SAXTON. Mr. Speaker, my constituents have brought to my attention a situation that has arisen in the past few months that is causing much concern among realtors, advertisers, and consumers alike. They are angered at the interpretation of the Fair Housing Act amendments by the Department of Housing and Urban Development [HUD].

As a former real estate agent myself, I am alarmed at interpretations that have actually caused more problems than they were intended to solve. I have written to HUD Secretary Henry Cisneros about this matter. The text of that letter, dated September 12, 1994, follows:

Hon. HENRY G. CISNEROS,

Secretary, Department of Housing and Urban Development, Congressional Affairs, Washington, DC.

DEAR SECRETARY CISNEROS: I am writing at the urging of many of my constituents who are both confused and angered by the current wave of interpretation of the Fair Housing Act Amendments.

It appears that well-intentioned regulations aiming to defeat discrimination have been trivialized to such extent that they are in fact hindering all of those involved in the real estate market. Please forward to me your plan for approaching this problem, including clarification of the interpretation of the Amendments.

Advertisers using descriptions such as "walk-in closet" or "master bedroom," terms universally recognized as titles for what they describe, can now unexpectedly find themselves being sued for discrimination. I believe that this type of interpretation was not the original intent.

Is this the intent of the Department of Housing and Urban Development in the creation of the regulations which resulted from the Fair Housing Act passed by Congress? If not, what is being done by HUD to alleviate this harassment of realtors, buyers and sellers.

The number of lawsuits initiated by people offended by the choice of wording in advertising has swollen to a number disproportionate to intentional acts of discrimination.

Moreover, the guidelines being offered by the federal Department of Housing and Urban Development (HUD) are much too subjective to be the basis of fines up to $50,000 being assessed to real estate advertisers.

I appreciate your assistance in resolving this unfortunate situation.

This is indeed a serious situation. Constituents from across the Third District of New Jersey are contacting me about this and their concerns are genuine.

One of my constituents from Cherry Hill, New Jersey writes, "I feel that professional REALTORS strive very hard to ensure that all our clients and customers are treated fairly and equitably. However the restricted vocabulary hinders us from describing property in an accurate manner which is not fair to the seller or to potential purchasers and renters."

Another constituent from Cherry Hill writes, "For instance, we can no longer refer to a "mother-in-law" suite or a "family room" without violating [the guidelines]."

Still another constituent of mine from Cinnaminson, NJ writes, "I recently wanted to place an advertisement for working mothers interested in a career in real estate. My own mother started in the real estate business when I was a small child. Not all offices would accept the uncertain schedule a mother has to maintain and I wanted young mothers to know that the environment here was friendly to her special needs. I was informed by the local paper that I could not use the term working mothers, because it discriminated against those who did not have children."

I have even received letters from outside the Third District of NJ. This person from Philadelphia, PA writes, "On a daily basis we are made painfully aware of the new discretionary interpretations being applied to the Fair Housing Amendments. The intent, * * * has been eroded."

I believe that the Fair Housing Act Amendments were enacted to help people achieve fair housing. These interpretations are causing problems for buyers, sellers, and advertisers. This obvious trivialization of the Fair Housing Act Amendments must be addressed.

HONORING CONGRESSMAN DOUGLAS APPLEGATE

HON. DAVID MANN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. MANN. Mr. Speaker, I rise today to pay tribute to my fellow colleague from Ohio, DOUGLAS APPLEGATE, upon his retirement from the U.S. House of Representatives.

Congressman APPLEGATE has had a lengthy, active, and notable career serving the citizens of America, and especially Ohio, beginning with his four terms in the Ohio House of Representatives from 1961 to 1969. He also served in the Ohio Senate from 1969 to 1977, and has maintained a high degree of involvement in numerous civic and fraternal organizations.

Elected to the 95th and each succeeding Congress, Representative APPLEGATE has continued his active representation of his constituents in Steubenville, OH. For his tireless work to serve his constituents and the American people, Congressman APPLEGATE has been the recipient of many distinguished awards.

It is my great honor to have served in the Ohio delegation with him in this, his last, 103d Congress. Congressman APPLEGATE's long and noteworthy career in public service is something to be very proud of, and a goal every legislator strives for. He will be sorely missed in the U.S. House of Representatives in years to come. Please join me in congratulating him on a job well done.

HAWAII'S VOICE OF DEMOCRACY WINNER AND HER COMMITMENT TO AMERICA

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. AMBERCROMBIE. Mr. Speaker, I submit the following essay entitled "My Commitment to America" written by Anna Gavieres for the CONGRESSIONAL RECORD.

Anna graduated from Maryknoll High School in Honolulu and was the State of Hawaii's winner in the Veterans of Foreign Wars Voice of Democracy Scholarship Program. In her speech, she discusses the importance of a commitment to our great country and stresses the need for people her age to embrace with responsibility the challenges presented in contemporary society. She encourages others to

make a difference in the community by fighting the problems of our country with courage and faith.

I am always proud to hear about students like Anna in Hawaii who are so devoted to the cause of democracy and the betterment of our Nation. Thank you for your assistance in recognizing Anna's accomplishment. I appreciate your willingness to include this in the RECORD.

Living in today's society is not easy, especially from a high school graduate's standpoint. Now seventeen, I am being confronted by the adult world. College and the life beyond will demand much more than has ever been asked of me before.

As the world opens up for me, I must reflect on where I am, so I can identify my goals and find out where I am headed. College and career choices are only a small part of analyzing where I fit in this world and what I can contribute. What exactly do I see as my commitment to America?

Venturing into the real world for the first time can be painful and disillusioning. Our generation becomes confused by the many issues we must confront: abortion, drug use, homelessness, racism. The question that develops in the young person's mind is: What can I do to make a difference?

Each individual has the potential to change the world. My commitment to myself, to America, is to reach inside and unlock that potential. Many of us shy away from the phrase "change the world," thinking it's too ambitious for one to consider alone. What we must realize is that changing the world begins with one person becoming strong and recognizing his or her capability to build up society. Just as Michael Jackson sings, "I'm starting with the man in the mirror," so, too, must everyone who has hope for a brighter American future. Change does not begin with new governments, or new laws. Lasting change cannot be implemented from top to bottom; it can only begin in the hearts and minds of the American people. Yet, changes made only begrudingly, or what is worse, indifferently, can mean nothing. Any contribution meant to inspire true and lasting change in another person or institution, must be given with pure intention. This conviction can only be achieved through self analysis and conscious dedication to the betterment of society.

Contributions can be big or small, difficult or effortless. Even the circle of racism can be broken when the child of a prejudiced parent is simply aware of different cultures, and responds, not with fear, but acceptance and love. Of course, racism will not end overnight. But the potential of its end shown every time a circle like this is broken, radiates the hope necessary to keep dreams of worldwide harmony alive.

There is a saying that goes, "A chain is only as strong as its weakest link." That can also be said of America. Much that has gone wrong in society has come about through the collapse of the value system. A large number of recent generations have been products of broken homes: children raised, thinking that no one cares for them, and they don't need to care for anyone, or anything. They go through life without any real understanding of responsibility. The many unwed mothers of this country make up only one example. We must acknowledge this shortcoming and dedicate future generations to strengthening the family, and bringing back real and lasting love to human relationships.

If I realize my potential as best I can, I become a Pillar of my Community: supporting a society in its ideal. As more people tap into the vast gifts and talents they have and begin to share them with others, a foundation will begin to grow and cultivate a society that is able to flourish above the violence and fear and ignorance that are so rampant in society today. My commitment to America begins in me, in my home, in my relationships with my family and friends. In the seeds one plants every day, through words and deeds, so much good can be reaped. Yet, one also has a great potential for evil. It is left for the individual to choose. Every moment brings yet another decision between right and wrong. One must realize one's potential for evil and consciously reject it. This is not to say there is no room for human frailty, but one must be strong. One must always have faith. With a healthy mind, a pure heart, and strong conviction, there is nothing that one cannot do.

TRIBUTE TO SHERRY LOOFBOURROW

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. MATSUI. Mr. Speaker, I rise today to pay tribute to an individual who has made numerous contributions to California's educational system. For the past year, Sherry Loofbourrow has served as president of the California's School Boards Association [CSBA] and is concluding her term in December. During her tenure as president, Ms. Loofbourrow encouraged thoughtful debate and innovative approaches to dealing with the challenges faced by California's educational community. Her outstanding leadership has helped improve the education system in California.

Ms. Loofbourrow received her bachelor's degree in journalism and communications at Stanford University. Since 1981, she has served on the Newport-Mesa Unified School District Board of Education. In addition to her position as president of the California School Boards Association, her involvement in education has included Business/School Partnership Programs Representative, Legislative Representative and the district's Political Action Steering Committee.

As a member of the CSBA, she has dedicated her efforts over the years to many different activities. Among them, Ms. Loofbourrow has served as the CSBA Media Awards Chair, Delegate Handbook Editor, Budget Committee member, Hall of Fame Selection Committee member, and Annual Conference Presenter. In addition, she has been active in the State of California's Commission on Teacher Credentialing, the NSBA's Federal Relations Network, and the Orange County School Boards Association.

As a community leader, Ms. Loofbourrow has worked tirelessly for many organizations, among them the Constitutional Rights Foundation of Orange County, the Leadership Tomorrow Board of Directors, the Community Power (Drug Awareness), and the Girl Scouts.

Her many honors and awards include the Orange County Department of Education's Outstanding Contributions to Education Award, the PTA's Continuing Service Awards, the Assistance League of Orange County's Jr. Woman of the Year Nomination, and the Girl Scout Council of Orange County's Orange Owl Award.

Mr. Speaker, it is with great pleasure that I commend the good work Ms. Loofbourrow has done on behalf of the CSBA this past year. I ask my colleagues to join me in congratulating her on her exceptional leadership and in wishing her continued success in all of her future endeavors.

TRIBUTE TO SECOND BAPTIST CHURCH OF ROMEO, MI

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BONIOR. Mr. Speaker, on October 29, 1994, the Second Baptist Church of Romeo, MI, is celebrating its 75th anniversary. The Second Baptist Church is the oldest African-American Church in Macomb County.

Many people depend on the emotional, educational, and spiritual support provided by their church. Too often, many human needs are left unsatisfied in the secular world. From the very beginning, the founders of Second Baptist were commited to seeing these needs fulfilled.

The current pastor, Rev. Terrance J. Gowdy, is continuing the proud tradition of service to the congregation and the community. Pastor Gowdy is nearing his second anniversary at the church and has been responsible for recruiting many members and for creating new auxiliary groups.

The members of Second Baptist Church are actively involved in the community and the world. Most recently they have been assisting in projects such as the McREST program, for feeding and housing the homeless, and the Rwanda Mission project. I commend the congregation for their work and faith.

The diamond anniversary of the founding of the church is a proud milestone. As the community prepares to celebrate the 75th anniversary, I applaud Second Baptist Church's contributions to the rich tapestry that makes up American life in Michigan. I urge my colleagues to join with me in wishing congratulations to all the members of the Second Baptist Church of Romeo, MI. May their next 75 years be a continued fruitful ministry.

TRIBUTE TO FRANCES PERKINS CLARK

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. LEVIN. Mr. Speaker, as this portion of our session draws to a close, I want to remember on behalf of so many others a person who passed away during the summer, Francis Perkins Clark.

She was the first chairperson of the Oakland County Parks and Recreation Commission and served from 1966 to 1974. Oakland County residents are indebted to her for enhanced recreational opportunities. She loved

working on behalf of others; indeed, that was the hallmark of her life.

I first met Fran Clark when she was serving as recording secretary of the Oakland Democratic Party in the 1960's She was volunteer director of my gubernatorial campaign and the U.S. Senate campaign of Senator CARL LEVIN. She also worked on the Dukasis Presidential campaign in Michigan as deputy press secretary.

She was a very private citizen who deeply believed in serving the public. She brought cheer and brightness wherever she worked—and had a good word for everybody.

We remember her warmly, as does her husband Bill, her daughters Cheryl and Mary, her son Frederick, and her grandchildren Stephanie and Matthew.

ESSAY CONTEST PARTICIPANTS

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Ms. KAPTUR. Mr. Speaker, every year I sponsor a competition to help several young men and women to experience, firsthand, the legislative branch of our Nation's Government by interning in my office in the summer. These are college-aged students and teachers with a keen interest in social studies or government.

I would like to take this opportunity to read excerpts from papers submitted this year by students from Ohio's Ninth District in response to the topic: "Discuss MTV, Rap Music, Television, and Movies: What's Popular with America's Youth and What Does That Say About America?" I think my colleagues will agree that these participants demonstrate an excellent knowledge of the topic and they help us to better understand how the media is affecting our Nation's youth, and what role we can expect it to play in our future.

SACHIN JHUNJHUNWALA, WINNER

Today, most children don't have time to enjoy childhood, and have many pressures to become more responsible. Also, sexual behavior is implemented as a form of rebellion. Instead of having sex because they want to have sex, or because they love their sexual partner, children have sex to prove that they don't have to listen to their parents. In the past most television programming stayed away from such controversial issues; however, today, most situation comedies freely deal with subjects rendered untouchable in the past. Many feel that the promiscuous behavior of American children creates sociological problems. However, the problem lies within the society, not the children. By forcing adolescent to mature quickly, children must face issues such as sex before they are psychologically ready. The rapidity of children's education through experiences forces children to make quick, immature decisions on issues such as sex and violence. Often times, these small decisions magnify and create sociological problems such as gang warfare and teen pregnancy. Through the media, an adolescent can view the dangers of sex and violence without personal involvement. By providing indirect experiences of sex and violence to children, an overall knowledge of the positive and negative aspects gained; this leads to an educated decision. In order to enrich American children, the power of the media should be harnessed to enlighten young Americans.

GINA LACAVA, WINNER

An entire adolescent culture has emerged, consisting of many genres, that combines music, television, movies and clothing to express the sentiments of a generation. Young people have always turned to music for recreation, for its cathartic powers, and as a means to voice their frustration. Adults feared that music had the power to inspire anarchy and would lead to moral and social decay. In recent years, this parental fear has manifested itself in efforts to censor records through labeling and attempts to outright ban offensive materials. Generation-Xers have actually been depicted negatively by most conventional media sources. From the 12 year olds to the twentysomethings, today's generation has been labeled as a breed of apathetic slackers, with short attention spans and full of angst. They have been told they are the first generation to have little hope of doing better than their parents. Many are from broken homes and have been raised in unstable families. This is the generation that suffered the fiscal excesses of the Reagan 80's, that spent their entire sexual prime in fear of AIDS, and endured the repressive cultural climate in the Reagan/Bush years. It is really not surprising that young people turn to the outrageous when their reality seems so bleak. Regardless of the forces that are working against today's youth, this generation is a hopeful one. There are many positive, constructive efforts coming out of this generation, which work towards such goals as racial harmony, a sustainable environment and increasing young voting power.

AARON HULL, WINNER

There has been much controversy in recent years concerning the lyrics of rap music. Many rap artists have responded to such criticisms, however, by stating that their music is not intended to advocate such violent or gang-related behavior, but rather is simply expressing these events as a part of life for the young, African-Americans. Thus they claim that their music is descriptive of the plight of impoverished, inner-city, African-Americans rather than prescriptive of a course of action or a set of behaviors which they are accused of advocating. I would assert that much of the now racially diversified rap music audience looks to the artists as a voice of concern with social issues as have popular music audiences since the 1960's. During the 1960's many of the political messages of music had to do with war and peace, the salient political issues of the day. In the 1990's the most popular political issues include gang violence, drug abuse, inner-city poverty, and racism.

RAMZI SULAYMAN, WINNER

MTV is a mirror of young society. However, it also creates that society through the perpetuation of messages that it can sell to its audience. An example of this phenomenon can be found in the way that MTV addresses issues of great societal importance, including women's issues, racism, and respect for other members of society, i.e. the social order. MTV has ventured into politics, and has been surprisingly subjective in its presentation of "MTV News." MTV's values system is committed * * * to promoting a lot of values and attitudes that are far from conservative, politically or culturally. MTV has profoundly impacted the way in which movies and TV series are constructed. Praise for such blatantly violent and racist themes and statements send mixed signals to the legions of youth who are inundated with the message of militant and gansta rap groups on a daily basis.

RHONDA HALL, PARTICIPANT

I believe we as Americans have shifted away from traditional family values and have basically left the youth to discover the world for themselves. I feel the best way to deal with the increasing interest in entertainment is through parental guidance. It's time for parents to stop using the television as a baby-sitter for children and become actively involved in their children's lives. Parents need to take the responsibility of teaching their children what is reality and what is fiction. They need to return to the tradition of teaching children about values, beliefs and morals. They need to intervene in the lives of children to show them or teach them the difference between right and wrong. The more actively involved a parent is in a child's life, the more likely it would be for them to detect problems or concerns.

BENJAMIN RULE, PARTICIPANT

Likewise, MTV provides a "lifestyle" as well as a mode for fantasies * * * the most important development in recent rap music is that it has become more political, and serious intelligent messages about life in urban black neighborhoods have replaced the emphasis on nonsensical party-type lyrics. Just like MTV, Rap music has given an identity (a lifestyle) and a dialogue of slang for a generation of youth and created an outlet for political frustration and alienation as well. Its messages, in some of Rap's harsher forms, are shocking to adults. Games are a sort of artificial paradise like Disneyland, or some Utopian vision by which we interpret and complete the meaning of our daily lives. In games, we devise means of nonspecialized participation in the larger drama of our time. Again, we notice a parallel to the popularity of MTV and Rap music as a means for identification and as fulfillment for teen fantasies. More important is the feeling of participation in the significance of our time. In the world of video games, teens can become an ace fighter pilot fighting for the allied forces in Iraq or a vigilante out to bring justice to a lawless community. These games * * * are serving as personal fantasy worlds that teens actively participate in so they can feel a measure of significance in their little micro-chip world. Isolation of this sort has serious ramifications if young people actually feel that this is all they can do to feel significant in their lives.

THOMAS TORKELSON, PARTICIPANT

Rap music often chronicles what life for black youths is like in the ghetto. Gangsta rap is popular because these youths can identify with it in one of two ways: either they are leading a gangsta life-style or they know someone who is. Rappers such as Ice-T contend that inner city youths must either work long hours for minimum wage or become drug dealers, the latter of which is more financially lucrative than the former. Because most youths feel alienated from the adult work at some point, and since much of gangsta rap is about the alienation of the black community from middle-class whites, youths feel as though the rap community understands and empathizes with them. Again, just as Madonna's popularity was due in part to her role model in a time when few other feminist role models appealed to teenagers, rap's popularity stems from the ability of rappers to say in essence, "We know how you feel, we also feel unaccepted by America." [In the movie Reality Bites, we examine a

character's personality] * * * yet he is unsuccessful when measured by society's standards because he is out of work and has difficulties keeping a job for any sustained period of time. This film not only addresses the lack of direction that characterizes members of Generation-X, it also criticizes America for its hypocrisy.

MS. CARISSA ABKE, PARTICIPANT

The other day I sat my grandmother down and tried to get her to use E-Mail. She had a very hard time gripping the concept (this is the woman who is afraid to use her VCR). She finally gave up and picked up the telephone, determined to communicate the "old fashioned way." My family is like many other people in the United States who just can't keep up. With everything changing so quickly there is no time for establishment.

DOROTHY KARAYANNIS, PARTICIPANT

What they're (the youth) really saying is that they feel lost. It's a spiritual loss, and it keeps them in an ever-widening circle of confusion. They are wondering why their time on this earth is important. They don't even understand why their lives are special. Regardless of a fear to label the youth, it's clear that the restructuring must begin both in the home and in the classroom. The youth must be encouraged to relate with someone who will listen to their concerns and act compassionately. Sadly, that is what they're looking for in their Walkman. The media and society feed off each other. Neither one nor the other can be held completely responsible. * * * The reporter who bangs out the highest death toll receives the most praise in the newsroom and on the street. It doesn't benefit the journalist to be humane, or human. People become numbers, death a mere fatality. As a result, those in the news room and the family room have become jaded simultaneously. Program concepts are plentiful, but answers to the problems of our youth are constantly being ignored. Their voice is becoming muffled under grand programs and adult ideals. More leaders must also speak out on behalf of America's youth and integrate these teens into the political process. Unless someone re-directs the heat, society's youth may melt into oblivion. Parents, grandparents, big brothers and sisters must support the young adults in their lives. The grass and the house can wait-our youth cannot.

PETER MARIK, PARTICIPANT

Television is a teacher and children today learn their values and behaviors from what they see on the programs. The term "Entertainment" has come to mean that television teaches youths that violence is legitimate, justified, rewarded, effective and clean. It is portrayed as being heroic and even enjoyable. Young people are susceptible to television portrays life and how irrelevant the things they see on programs are to their own lives. [The youths that side with victims on TV]. They become filled with fear, mistrust and are so insecure and protective of themselves that they feel the need to carry a gun * * * We live in a society where television violence is shown on a greater scale than in other countries and our country's crime has risen to great lengths, perhaps influenced a great deal by what people see on television * * * (ex. John Hinckley, Jr—"Taxi Driver" and "Rebel Without a Cause" and chicken races in 1950's) * * * Films not only show how cool it is to carry a gun and kill your enemy, but they also show the major mistreatment of women in easy lifestyles in our country. These scenes can undoubtedly influence certain youths who believe that fantasy is reality and as a result, we have various types of crimes affecting our country.

Mr. Speaker, I am grateful to share with my colleagues a glimpse of what young people in my community are thinking about America's ever-changing culture. I know you join me in congratulating these young people for their excellent entries in the competition.

MAKING VOLUNTEER PROGRAMS ACCESSIBLE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. HOYER. Mr. Speaker, long before passage of the Americans With Disabilities Act, the American Association of Retired Persons [AARP] was keenly concerned about accessibility.

Today, with more than 33 million members, more than 4,000 local chapters, and countless volunteer programs in communities all across America, AARP is working to make its programs and services accessible to all of its members and other older Americans.

The September-October issue of Highlights, AARP's national volunteer newsletter, features a front-page story about how the association is striving to make its volunteer programs accessible to people with disabilities. The managing editor of Highlights, which goes to some 200,000 AARP volunteer leaders and chapter presidents, is one of my constituents—Steve Mehlman of Crofton.

I commend this interesting and informative article to our colleagues:

AARP AND THE ADA—MAKING VOLUNTEER PROGRAMS ACCESSIBLE

Accessibility has always been a priority for AARP's volunteer programs. When choosing locations for program sites, for instance, volunteers have sought out places that are accessible to people with disabilities. Flights of stairs are out. So are buildings with doorways too narrow for a wheelchair to fit through. And all sites must have nearby parking or public transportation.

The passage of the Americans With Disabilities Act (ADA) in 1990 formalized this commitment to accessibility. Under ADA's Title III, public programs like AARP's are now required to make reasonable accommodations to allow participation by people with disabilities. "We're looking to make all our programs accessible to all people, including people with disabilities," explains Tricia Selby, Manager of AARP's Disability Initiative.

SERVING PEOPLE WITH DISABILITIES

In some cases, a simple one-on-one approach allows for accessibility. Taxpayers with vision impairments, for example, occasionally ask Tax-Aide counselors to come to the taxpayers' homes to help prepare their taxes. Other Tax-Aide counselors conduct entire counseling sessions in writing, scribbling questions and answers back and forth to taxpayers who are deaf or hard of hearing. "It takes more time to write notes to one another, but it's never a problem," says Walter Bock, an Assistant District Coordinator for Tax-Aide in New Port Richey, FL.

Sometimes the demand is too great to make this kind of one-on-one service feasible. Bock, for instance, now runs a special Tax-Aide site at a deaf center. The center provides facilities, handles scheduling and donates the services of a staff interpreter; Bock sends one or two counselors over whenever there's a need. The program now helps about a dozen people a month.

"Many of the deaf people tell us that they are very happy that this service is being offered," Bock explains. "They can't work with paid preparers because of the need for interpreters."

A 55ALIVE site in Shawnee, OK, has also set up a special service. The program began when someone asked Assistant State Coordinator Cecil Johnston whether he ever held driving classes for people who are deaf or hard of hearing. He hadn't, but he set about making it happen.

Determined to keep costs down, Johnston convinced two friends who knew sign language to volunteer their time as interpreters during a one-day course targeting drivers who communicated primarily through sign language. Because one of them taught sign language at a local vocational/technical training center, she was able to arrange for the class to use the center's facilities. Drawing on her contacts in the deaf community, she also pulled together the 19 or so students who attended the class.

Johnston was a little nervous at first. For one thing, he wasn't sure that the interpreters would be able to keep up with him. For another, he wasn't too sure how his usual jokes would go over when translated into sign language. His interpreters reassured him, telling him to do everything exactly the way he always does. Although Johnston admits that the process took a little getting used to, it worked out just fine.

By the end of the class, Johnston even had a new awareness of the concerns of people with disabilities. In fact, he had already talked to state legislators about requiring police to provide interpreters when drivers who are deaf have accidents. "If I speak a foreign language, I'm entitled to an interpreter," he explains. "If I can't hear you, I ought to be able to have an interpreter, too."

WELCOMING VOLUNTEERS WITH DISABILITIES

Services like these make AARP's programs accessible to people with disabilities. Taking accessibility one step further, the Association also encourages people with disabilities to serve as volunteers. "It goes both ways," explains Wayne Harper, Senior Program Specialist for Tax-Aide. "It's important to us that people are given every opportunity to volunteer in our program."

Beulah Waller of Wolf Point, MT, for example, doesn't let a vision impairment keep her from volunteering as a Tax-Aide counselor. "I don't think any impairment should ever stop you from doing things!" she says.

A former speed reader, Waller reads more slowly and with greater difficulty now that she had lost part of her vision to glaucoma and cataracts. "Having to take more time to read is frustrating," she admits. She has, however, developed techniques that help her compensate for her lessened vision. A ruler helps hold her place. Studying the tax forms beforehand helps her know what goes on each line.

GETTING INVOLVED

These examples represent just a few ways AARP programs are promoting accessibility to volunteers with disabilities. Along with other community agencies that help by providing services such as accessible sites and convenient parking, AARP programs strive to offer reasonable accommodations to welcome persons with disabilities.

"We want people to understand what a reasonable accommodation is and to know that often it doesn't cost a lot," explains Selby, "although in some cases, interpreters have to be paid. We need to make these types of reasonable accommodations, and we need to plan for them in our budgets."

Mr. Speaker, I commend the work of the AARP and wish them continued success in assuring all people are able to fully participate in their communities.

INTRODUCTION OF THE "FEDERAL HOUSING TRUST FUND ACT OF 1994"

HON. MAJOR R. OWENS
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. OWENS. Mr. Speaker, I rise to introduce the Federal Housing Trust Fund Act of 1994, a significant piece of legislation which would offer every family in this country the opportunity to live in decent, safe, and affordable housing.

In 1949, Congress enacted a comprehensive housing bill setting the national goal of "a decent home and suitable living environment for every American family." Today, we are further from that goal than ever before. The VA-HUD-Independent Agencies appropriations bill which finally passed the Senate last week does not even keep pace with the problem of low-income housing. Recently, the Department of Housing and Urban Development [HUD] released its worst case housing needs report, based on 1991 American Housing Survey data. It shows that the member of very low-income renter households with worst case housing needs is increasing at the rate of 100,000 per year. But the 1995 HUD appropriation provides money for only 88,000 additional households.

Low-income people have faced a housing crisis for many years, and each year it gets worse. The 1990 census, which does not even count deteriorated or dilapidated housing, found that over 30 percent of American households have significant problems with housing costs, overcrowding, or lack of kitchens or complete plumbing facilities. These problems affect an estimated 70 million people.

Although this Nation has had federally subsidized housing programs for low-income people since the mid-1930's, the scope of the programs has been limited. In recent years, HUD has consistently found that there are over 5 million very low-income, unsubsidized renter households with worse case housing needs. These households are homeless; or they live in seriously inadequate units; or they must pay more than half of their meager incomes for housing costs, forcing them to forego other basic necessities.

Just meeting the most basic housing needs requires more than doubling the present number of households receiving housing assistance. Moreover, for each household with a worst case need, there are four more households—27 million in all—which are overcrowded, lack kitchens or bathrooms, or must pay more than they can afford for housing.

While low-income housing programs have failed to meet the needs of their target population, special tax benefits have provided significant assistance for millions of higher-income Americans who already can afford a home. Official estimates of the Office of Management and Budget [OMB] indicate that the cost of these special benefits to the Federal Treasury has risen from $10 billion in 1976 to $84 billion in 1994.

A large majority of this cost to the Government is due to the deduction of home mortgage interest and real property taxes. While these tax deductions have helped millions of higher income Americans achieve financial stability, they represent too high a proportion of Federal housing expenditures. For every dollar the Federal Government spends to provide housing assistance to a low-income family, a family in the top fifth of the income distribution receives $3 in benefits from homeowner deductions, primarily for mortgage interest and property taxes.

The sad fact is that this Nation's housing subsidy system is upside down. While Congress restricts budget authority and outlays for low-income housing to help reduce the Federal budget deficit, higher income people continue to receive their entitlement to benefits through homeowner deductions. Administration projections show that the cost of the mortgage interest deduction alone will amount to almost one-third of the deficit in fiscal year 1995.

One result of the gross imbalance in Federal housing benefits has been the growing segregation of different aspects of American society: rich and poor, white and people of color, urban and suburban. This trend poses a threat to the Nation's general welfare, family and community life, and economic stability. It has even led to increased drug use and crime. It therefore is in the interest of all Americans to address the housing problem effectively.

To reset the balance of Federal housing expenditures, I am introducing the Federal Housing Trust Fund Act of 1994. This bill would take only a fraction of mortgage interest and property tax deductions enjoyed by taxpayers in the top eighth of the income distribution and place it in a Federal housing trust fund for low-income families who lack decent, safe, and affordable housing. To raise additional revenue for the trust fund, the bill also would eliminate a huge tax loophole—the favorable tax treatment of inherited property. This loophole permits wealthy American families to pass their property to their children and grandchildren and completely escape any income taxes on huge capital gains that have accumulated over a period of decades.

Taxpayers with incomes up to $75,000 would keep all of their current mortgage interest and property tax deductions. Above $75,000, taxpayers would lose 3 percent of these deductions for each additional thousand dollars of income, down to a floor of 50 percent. So all taxpayers, no matter how high their incomes, would keep at least half of their current mortgage interest and property tax benefits, and only 1 household in 10 would pay higher taxes as a result of this bill. Moreover, these changes would be phased in over 5 years to reduce their immediate impact.

Thus, the bill would drastically reduce the cost to the Treasury for homeowner tax benefits for taxpayers with incomes above $75,000, generating tens of billions of dollars for the trust fund. The Government then would be able to provide the money needed for a comprehensive and flexible program of housing grants to eligible State and local entities. In turn, such entities would provide housing costs assistance for owners and renters, increase and improve the supply of affordable housing, increase the capacity of the nonprofit sector, and improve fair housing efforts.

Specifically, two-thirds of the money in the trust fund would be designated for a housing costs assistance program, which would pay the difference between 30 percent of adjusted income and the fair-market rent for a unit of the size needed in the area where the family resides or wishes to reside. Although the subsidy amount would be based on rental housing costs, the assistance could be used either to rent or purchase. The funds would be distributed by formula to cities, States, and Indian tribes, based on the number of households with severe affordability problems and the cost of housing.

The remaining one-third of the funds would be used to expand the housing supply and provide related services, including fair housing and capacity-building. All housing and related services provided through this program, except for emergency repairs and hazard abatement, would be subject to permanent restrictions on housing affordability. Like the housing costs program, these trust fund dollars would be distributed by formula, but the formula would be developed by HUD based on the relative need for improving and expanding the housing stock.

By limiting tax benefits for individuals who do not need them to be able to live in decent, affordable housing, the bill would provide the funding needed to attack the critical housing problems facing low- and moderate-income people, and contribute to family security, cohesiveness, and economic self-sufficiency.

This bill is the kind of bold measure we need to solve the low-income housing crisis. It provides the resources to address the full range of problems—not only worst case needs, but also the needs of young families without enough income to have realistic prospects of moving into decent neighborhoods or owning their own homes.

Within 10 years of passage of this bill, we could expect the same enhanced opportunities for low-income people to obtain housing as young families had after the end of World War II when, thanks to low housing costs, an expanding economy, and Veterans' Administration [VA] and Federal Housing Administration [FHA] mortgages, millions of Americans were able to put roofs over their heads. Without passage of this bill, we will inevitably see more homelessness, more broken families, and more communities without hope, cut off from the American dream.

Mr. Speaker, I urge my colleagues to study the bill between now and the beginning of the 104th Congress, when I hope the Nation's housing problems will be on the front burner, and the relevant committees will give serious consideration to this proposal.

IN RECOGNITION OF THE LAHEY CLINIC OF BURLINGTON, MA

HON. PETER G. TORKILDSEN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. TORKILDSEN. Mr. Speaker, I am proud to bring attention to a very creative initiative being undertaken in my district.

Lahey Clinic, located in Burlington, MA, has established the Ambulatory Surgical Research Center. This center is designed to respond to the changing demands of the health care industry for cost reduction and the defense conversion needs of our country.

As health care and defense industries continue to experience dramatic change, there is a critical need to shift advanced technologies from the defense sector to the private sector, and to health care in particular. In response to this need, Lahey Clinic will attempt to reduce postoperative hospital stays by introducing into the health care arena an advanced, minimally invasive, surgical system developed through the conversion of defense technology.

The concept is fascinating and has tremendous applicability. The Ambulatory Surgical Research Center will utilize virtual reality and telepresence whereby surgeons will be capable of operating from work stations physically removed from the patient. Surgical consultants with a unique expertise at remote locations can be instantly brought into the operating room to assist in complex procedures. For example, the surgeon will view details of the surgery on a heads-up display provided to the surgical team via imaging goggles. Manipulators are then inserted into the patient's body through natural openings or tiny incisions. The surgeon operates by wire in virtual reality observing internal details via a three dimensional video image.

In addition, this system will employ dual-use technologies that can stabilize wounded soldiers through remote surgery on the battlefield of the future. The virtual reality component will also impart a highly valuable training capability. Future surgeons will be able to perform simulated operations with sensory inputs and control outputs that are indistinguishable from real cases.

An additional important focus of the center will be telemedicine. Lahey Clinic has a unique approach to this. Through various corporate partnerships, Lahey plans to develop a complete and comprehensive telemedicine product rather than individual components of a telemedicine system.

This center will dramatically change and enhance the delivery of various surgical procedures and the costs associated with them. Procedures that presently require several days of postoperative recovery in the hospital will be replaced by ambulatory, minimally invasive procedures. Other procedures that require extended postoperative hospitalization will require only 1 or 2 days of recovery as a result of the system to be developed.

Lahey Clinic has demonstrated its continued commitment to the establishment of the Ambulatory Surgical Research Center and has established three advisory committees that will serve as a pivotal role in the direction of the center. The committees consist of the following: the surgical advisory committee for medical issues, the science advisory committee for technical issues, and the product advisory committee for business issues and prospective partners.

Although there has been some delay in ultimately securing Federal assistance, I remain committed to working for this initiative. I salute Lahey Clinic for its vision, creativity, and commitment which are a continuing tribute to the fine medical institution that it has become and will continue to be.

TRIBUTE TO PAT RISSLER

HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. BROOKS. Mr. Speaker, many of us have spoken recently about the sad fact that BILL FORD is retiring at the end of this Congress. My admiration for BILL is no secret, and like all my colleagues, I will miss him.

Less noted, however, is the fact that, as his congressional career ends, so does Pat Rissler's. Pat has worked with BILL FORD for over 20 years, most recently as staff director of the Committee on Education and Labor.

Frequently, the jurisdictions of the Committee on Judiciary and the Committee on Education and Labor coincide. A prime example of this was the Civil Rights Act of 1991. As both committees developed this legislation, I came to respect Pat's professionalism, political judgment and innate fairness. This respect has grown deeper over the last 4 years.

She always fairly protected her chairman's jurisdiction and worked with me and my committee staff in resolving any conflicts in a manner that reflects the epitome of fine staff work. She exemplifies the best qualities of a congressional staff member: respect for the institution, dedication to the public interest, selflessness in pursuing her chairman's agenda and fierce loyalty.

I join my colleagues and my staff in wishing her a successful and happy future.

THE PRESIDENT'S COMMITTEE ON THE ARTS AND HUMANITIES

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mr. WILLIAMS. Mr. Speaker, I'm reintroducing my statement of September 22, 1994. However, today, in addition to my earlier remarks, I'd like to insert the names of the public members of the President's Committee on the Arts and Humanities.

On Monday, September 19, 1994 President Clinton once again indicated his strong interest and support for the arts and humanities by appointing a number of prominent Americans to the President's Committee on the Arts and Humanities. I want to commend the President for this, and to thank him for his continued efforts to advance and maintain our Nation's cultural traditions.

President Clinton's actions yesterday will hopefully revitalize the 12-year-old citizens arts and humanities support group. I especially want to applaud the appointment of John Brademas to chair the committee. Throughout his distinguished career, John Brademas has been a champion for the arts and humanities. I am confident he will provide the knowledge and vision that the committee will need if it is to successfully perform the important job before it.

The committee has not been particularly active in the recent past, however its charge to promote the arts and humanities and increase private support for them is truly needed now, perhaps more so than ever before. No one sector can provide all of the support that the arts and humanities need to flourish. We must have partnerships, not only between different levels of government, but also with the private sector. The new President's committee can be of assistance in fostering these partnerships.

As Chair of the committee having jurisdiction over the Arts and Humanities endowments, I hope the President's committee will see itself as a resource, not only to the endowments but also to our committee as we begin the process of reauthorizing the NEA, the NEH, and the IMS. This may well be the most important reauthorization these agencies have ever undergone. There are many issues that have to be explored and many questions to be asked and answered regarding the direction of Federal support for the arts and humanities. Although the President's committee has no official legislative authority or responsibility with respect to these agencies, I'll be looking to the committee for appropriate guidance and counsel as my committee reviews the NEA, the NEH, and IMS. The new members to the President's committee have years of wisdom, experience and knowledge in the arts and humanities, and I'll be calling on them to share their thoughts and comments with me and my committee.

These are the Public Members of the President's Committee:

Jane Alexander, Chairman of the National Endowment for the Arts.

Bruce Babbitt, Secretary of the Interior (represented by Roger Kennedy, Director of the National Park Service).

Lloyd Bentsen, Secretary of the Treasury (represented by Leslie B. Samuels, Assistant Secretary for Tax Policy).

James H. Billington, The Librarian of Congress.

Joseph D. Duffey, Director of the United States Information Agency.

Diane Frankel, Director of the Institute of Museum Services.

Sheldon Hackney, Chairman of the National Endowment for the Humanities.

I. Michael Heyman, Secretary of the Smithsonian Institution.

Roger W. Johnson, Administrator of the General Services Administration.

Earl A. Powell III, Director of the National Gallery of Art.

Richard W. Riley, Secretary of Education (represented by Madeleine Kunin, Deputy Secretary of Education).

James D. Wolfensohn, Chairman of the John F. Kennedy Center for the Performing Arts.

Designated by the Speaker of the House of Representatives, Emily Malino, Senior Partner of Metcalf, Tobey and Partners.

Designated by the Senate Majority Leader, Marvin Sadik, former Director of the National Portrait Gallery.

Designated by the Secretary of State, Timothy Wirth, Under Secretary of State for Global Affairs.

MOVE OVER UNCLE SAM

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Ms. KAPTUR. Mr. Speaker, as America prepares to celebrate the 75th anniversary of our U.S. Constitution's 19th amendment, the Gamma Alpha chapter of Delta Kappa Gamma in Canton, OH, is using the image of the U.S. twins Sam and Sami to benefit humanitarian work in Stark County. May they have every success.

MOVE OVER, UNCLE SAM, HERE COMES AUNT SAMI

Aunt Sami wants you.

Yes, you read that right. Aunt Sami, twin sister of Uncle Sam, symbol of the United States of America.

Aunt Sami is the creation of Marilyn Tullys, a Canton teacher who believes there should be gender equality among symbols.

"What message does Uncle Sam, standing alone, send to each new generation of children?" Tullys said. "There's something left out."

Tullys created the Aunt Sami character two years ago and has since depicted her on dolls—made in various colors to represent different races—and mugs.

She has shown the dolls and talked about Aunt Sami to school groups, women's groups and at the annual Twins Festival in Twinsburg.

Tullys plans to write about her idea to U.S. representatives and senators, as well as the president and vice president.

"The message is really, 'In equality, there is liberty,'" she said. "I'm saying that Uncle Sam without Aunt Sami is a half-truth that we're representing to children."

BESIDE EACH OTHER

(By Marilyn Tullys)

Uncle Sam—Tall and proud is how I stand. I'm the symbol of our land. I'm a picture of a man. Known to all as Uncle Sam.

Aunt Sami—I am stepping up with you, Wearing red and white and blue. Aunt Sami is who I am. Twin sister to Uncle Sam.

Uncle Sam—I'm an image like a sign. I'm a message for your mind; Hearts are touched as people see, I stand for Democracy.

Aunt Sami—Though I've long been out of view, Just a step in back of you, Still it's true I also stand, For what makes our nation grand.

Uncle Sam—I've come down through history, An idea of liberty; I'm expressing what is meant, By our U.S. Government.

Aunt Sami—What we stand for side by side, Is a country taking pride, In the promise to stay free, And promote equality.

Uncle Sam—Now you're in the picture too, A twin symbol overdue. Sami, you're a team with me, Showing true EQUALITY.

Full chorus—A full life we will enjoy, As each girl and every body, Grows up knowing we're all free, To be all that we can be.

This presentation for children depicts gender equality as Uncle Sam and the twin sister symbol express who they are and what they represent.

It is recommended that as many children as possible express the parts of the speaking symbols Sam and Sami. If each child speaks a four-line verse, this could involve seven children. However, consider assigning each child two lines and involving fourteen students in solo recitations.

Full chorus might mean the seven or fourteen speakers or everyone who hasn't yet spoken.

RECYCLING AND PERMANENT PAPER

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, October 7, 1994

Mrs. LOWEY. Mr. Speaker, I rise today to enter into the RECORD a recent letter from the Federal environmental executive to the New York Public Library on the subject of the administration's commitment to the use by the Government of permanent paper. Recently, a letter from New York Public Library President Paul LeClerc, New York Public Library Trustee Barbara Goldsmith, and Association of American Publishers President Nicholas Veliotas was sent to the White House Office of Environmental Policy seeking a clarification that the President's 1993 Executive order on Recycling did not conflict with Public Law 101–423's requirement to use permanent paper for Government documents of enduring value. As my colleagues know, this policy on permanent paper was one developed and enacted by Congress, and I applaud the administration for unequivocally stating its commitment to meeting the goals of the permanent paper resolution as the Federal Government moves to an increased use of recycled paper. I would like to introduce into the RECORD the administration's response in order to make completely clear that there is no conflict between these highly important goals.

OFFICE OF THE FEDERAL ENVIRONMENTAL EXECUTIVE,
Washington, DC, July 19, 1994.

Mr. PAUL LECLERC,
President, the New York Public Library, New York, NY.

DEAR MR. LECLERC: As the Federal Environmental Executive appointed by authority of the President's Executive Order On Recycling, I am in receipt of your communication regarding the necessity to ensure that the federal government's use of recycled paper not be perceived to be in conflict with P.L. 101–423's requirement to use permanent paper for documents of enduring historical value. I am writing to assure you that there is no such conflict, and to tell you of the steps this Administration is taking to ensure that the recycled paper requirements are not implemented in such a way as to result in the inappropriate use of acidic paper.

The Administration is completely aware of and strongly supports the Joint Resolution on permanent paper and its goals. Paper which contains recycled material and is either permanent or alkaline is available for purchase, and it is our intention to continue to use these papers for documents of enduring value.

I will be working with the individual agencies to develop specifications to fulfill the goals of the Executive Order and the Joint Resolution. Executive Order 12873 called for the appointment of Agency Environmental Executives for each Executive department and major procuring agency, in addition to a Federal Environmental Executive within EPA, the position to which I have recently been appointed. I intend to transmit a copy of this letter to all Agency Environmental Executives in order to restate our position that the requirements for use of recycled paper are not to conflict in any way with the concurrent requirement for permanent paper use. Furthermore, I am meeting this week with the Agency Environmental Executives, and I intend to discuss and reaffirm our commitment to the use of permanent or alkaline paper during this meeting. I will be continuing to work closely with these executives to ensure on-going sensitivity to this issue as we implement Executive Order 12873.

I very much appreciate your interest and concern for the permanence of historical documents, and applaud your efforts to reduce the use of acid papers by the federal government. We fully share your concern, and I look forward to continuing to work with you on issues of recycling and paper permanence.

Sincerely,

FRAN MCPOLAND,
Federal Environmental Executive.

SENATE—*Saturday, October 8, 1994*

(Legislative day of Monday, September 12, 1994)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D. offered the following prayer:

Let us pray:

Come unto me, all ye that labour and are heavy laden, and I will give you rest.—Matthew 11:28.

Mighty God, everlasting Father, the Senate has been through intensive, difficult days. The nearness of election day, the commitment they have to their home State in participating in campaigns, the struggle with unfinished business are debilitating.

Gracious Father in Heaven, grant to the Senators and their staffs a special visitation of Your love and grace. Help them make time for their families and to fulfill their responsibilities in the Senate and beyond the beltway. May Your peace and Your rest renew and strengthen them.

In His name who promises rest for our souls. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read as following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 8, 1994.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BEN NIGHTHORSE CAMPBELL, a Senator from the State of Colorado, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CAMPBELL thereupon assumed the chair as Acting President pro tempore.

CALIFORNIA DESERT PROTECTION ACT—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the conference report accompanying S. 21, which the clerk will report.

The assistant legislative clerk read as follows:

Conference report to accompany S. 21, to designate certain lands in the California desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes.

The Senate resumed consideration of the conference report.

The ACTING PRESIDENT pro tempore. The hour prior to the cloture vote will be equally divided and controlled by Senator JOHNSTON and Senator WALLOP, or their designees.

Who yields time?

Mr. JOHNSTON. I yield myself such time as I may consume.

Mr. President, this legislation on California desert protection passed the Senate by a vote of 69–29. Today, we test the fidelity of the Members of the Senate to that vote and to their conviction.

Mr. President, every park in the National Park System is unique. They are called the stars in the crown. Each has its own special appeal. The glacier-carved granite of the high Sierras and Yosemite has its own special place, as do the hemlock and verdant, soft forests of the Shenandoah. And surely, Mr. President, the desert of California occupies a special and unique place, with its splendid isolation, its serene beauty with the desert flowers, the beauty of the sunsets, as shown in those pictures which my colleague, Senator FEINSTEIN, has shown to the committee, the Senate, and the Nation. It surely occupies a special place.

Mr. President, it is clear that the people of California certainly support this legislation. The question is: Is there a valid reason to be against it?

Well, Mr. President, in the committee, as the occupant of the chair well knows, there were some very strong arguments made against making the desert a park. One was that it is being used for off-road vehicles, and that that is a special use that has a special appeal. In the original House bill, off-road vehicles were to be prohibited from using this park. But as the occupant of the chair argued, and as we on the committee accepted, and as Senator FEINSTEIN herself agreed, off-road vehicles are to be allowed to under this legislation so that we can preserve the desert with its unique beauty and still allow off-road vehicles.

One of the second great arguments we had was over hunting. I am from a hunting State, as I guess many of us in this Chamber are. So, as many said, hunting is a special use. Senator FEINSTEIN agreed, and the conference committee agreed, that we would have hunting in the desert as we do now. So hunting is to be allowed under the legislation.

And then, Mr. President, there was the question of private property. Two very strong amendments were adopted dealing with private property, and indeed there has been no resistance to full protection of private property.

So the three great arguments which were the touchstones of opposition to this legislation have been removed completely. There is, I guess, only one remaining argument, and that is that we do not have the resources, we do not have the money to support this national park.

Well, Mr. President, that argument is really a very hollow one. The whole National Park Service is less than one-tenth of 1 percent of the Federal budget. As important as national parks are to the heart of this country, to the way people feel about this country, it is less than one-tenth of 1 percent, and we are told that we do not have the resources to open up what is the greatest desert area in the whole country. Why, Mr. President, we know that is not so.

You cannot have it both ways, Mr. President, because many of those who are saying we cannot support the National Park Service, that we do not have enough money for that, are those same Senators who, out of the same pot of money—that is the Interior appropriations bill—passed just last night, a bill increasing payments in lieu of taxes. The payments-in-lieu-of-taxes bill has a price tag of $180 million a year, which is many, many times more than the cost of this legislation. I happen to think payments in lieu of taxes is a good idea, but we had no trouble and they had no hesitancy in saying: Raid the Park Service, raid that same pot of money for $180 million a year.

So, Mr. President, how hollow that argument is on the lack of resources. If, in fact, the California desert is worth protecting —and I submit that the people of California believe it is—I submit that if the people of this country believe it is worth doing, and I submit that if the Senators in this Chamber have already said, by a vote of 69–29, that it is worth doing, then resources are not a problem.

We spill more money on the way to the Pentagon than we waste in the National Park Service every year. We all know that.

Mr. President, really, ultimately, what this battle is today is a battle of messages. What message are we trying

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.