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Congressional Record

PROCEEDINGS AND DEBATES OF THE 102th CONGRESS, SECOND SESSION

SENATE—*Thursday, July 23, 1992*

The Senate met at 9:20 a.m. and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

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

Let us pray:

In a moment of silence, let us remember Senator BURDICK, who is in the hospital in Fargo, ND; and the son of Senator STEVENS, Walter, who had serious surgery yesterday.

* * * *Blessed be the name of God for ever and ever: for wisdom and might are his: And he changeth the times and the seasons: he removed kings, and setteth up kings: he giveth wisdom unto the wise, and knowledge to them that know understanding.*—Daniel 2:20,21.

Eternal God, everlasting Father, Lord of history, the times and the seasons are known to You, the end from the beginning and all in between. History, its origin, and its consummation are ordered by You, its author, not its victim.

Ruler of the nations, You know the schedule of empires, their derivation, their development, their decline, their demise. You know where we are in our American journey. God of the macrocosm, the cosmos is Your creation, and You plan every moment and movement of its existence. God of the microcosm You know when a sparrow falls to the ground, You know every detail of our private and corporate lives, from conception to death. Lead us in the way You have planned for us, in the way of justice, righteousness, and truth—the way of love. Save our Nation from such total fragmentation lest, like Humpty Dumpty, "* * * All the king's horses and all the king's men couldn't put (it) together again."

In the name of the Prince of Peace, incarnate Love and Truth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 23, 1992.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for up to 5 minutes each.

Mr. WELLSTONE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Minnesota [Mr. WELLSTONE].

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I be permitted 10 minutes to speak in morning business.

The ACTING PRESIDENT pro tempore. Without objection the Chair recognizes the Senator from Minnesota [Mr. WELLSTONE] for 10 minutes.

Mr. WELLSTONE. Thank you, Mr. President.

THE HIGHER EDUCATION ACT

Mr. WELLSTONE. Mr. President, I think we are at a moment in the history of our country where people all over the country are redefining national security. I think what people are saying is that a big part of the definition of national security for our Nation is going to be not only, of course, to have a strong defense in military terms, but also to have a strong economy.

People are talking about how we can invest in our economy so that we have an economy that does well for businesses, and that also produces the kind of jobs that people can count on, jobs that pay a decent wage under decent working conditions.

It is in this context, Mr. President, that I would like to talk about the Higher Education Act, which will be signed by the President today. And I will immediately acknowledge the important vision, and really the leadership, over the years, of Senator PELL, who is chairman of the Education Subcommittee, that I really feel privileged to serve on.

Mr. President, I just want to make a few comments about this bill. First of all, I want to make it crystal clear that as a former teacher, I am absolutely convinced—and I think 99.999 percent of the people in our country are convinced—that education is crucially linked to economic performance.

That is to say, we will not do well unless we have a literate, trained, productive work force. So to invest in education in our country is really to invest in our economy.

Second of all, let me make a point which is not made as often, which is that I think education is critical to a democracy. We simply have to have women and men who can think on their own two feet, who understand the world that they live in, and who understand what forces of action are available to them to make our country better, to make the world better, and to make life better for their children and themselves.

Mr. President, I am pleased with this Higher Education Act. I was privileged to sit on the conference committee, and to be a part of how this public policy was formulated in the U.S. Congress. It is not all that I would want, and as Senator PELL well knows—he has been here far longer than I—we still have to work with the Appropriations Committee and make sure we have the funding for the programs that have been authorized.

But there are a couple of features of this bill that I would like to emphasize, because I really think they are rooted in hearings that Senator PELL gave me permission to conduct in the State of Minnesota.

I went out to Minnesota, and I had a hearing in the Minneapolis Community College, and then another one up at the University of Minnesota in Duluth. The focus of these hearings was on the nontraditional students.

I had taught at a college where just about all the students were ages 18 to 21 or 22. But what I realized, after holding these hearings, was that maybe the nontraditional students have become the traditional students. Students are no longer all 20 years old and living in the dorm. So many students in our country are older and going back to school; many women, many single parents. This represents, really, a transformation in our society, and the sooner we adjust to that, the better we will be as a nation.

So I would just like to highlight a number of aspects of parts of this bill that I was able to work on with the support of many people in Minnesota, that I am really proud of.

First of all, I am really pleased with an amendment that I offered that was accepted by Senator PELL to this bill which calls for $20 million for institutions for child care services. Twenty million dollars is not a huge amount of money, but, finally, we are acknowledging the fact that if we are serious about providing educational opportunity for students in this country, a good number of those students are older. And many of them, again, are women; many with children. So child care and support for child care is critically important.

The bill goes on to make it clear that child care allowances are to be figured in as part of the definition of need, of the cost of attendance. Again, we are finally coming to terms with the new kind of student and with the new reality within our country.

Then finally, within the Pell grant, we provide for a $750 allowance for child care.

Second, Mr. President, another concern that was voiced by Minnesotans and people all over this country was where the middle- and moderate-income families fit into this.

One of the things that we have done in this bill that I think is very important is we have removed home and farm equity from being considered as part of need assessment. For those people that come from farm or agricultural areas, you know what I mean when I say you can look rich on paper in terms of farm assets, and you might not even be cash flowing.

So I think what we have done in this Higher Education Act is extremely important in terms of the availability of loan programs, not just for low-income, but for middle- and moderate-income people, as well.

Third, we have not made the Pell Grant Program an entitlement program. I think we should. I think it is in the national interest. But the maximum level has been raised to $3,700 in 1993 with a maximum increase of $200 per year over the next 4 years.

Again, by raising the definition of who is eligible so that it includes the moderate middle-income range, and by raising the maximum grant level—if we can now be successful with the level of appropriations, we will have taken an important step toward making sure that higher education will be affordable and that students will not have to rely just on loans, because there will be more grant money available. That is terribly important.

Fourth, and I think this is really something that I would not want people to lose sight of, we have made sure in this bill that Pell grant assistance will be available for part-time students—that is very important—without a time limit. All too often, what has happened has been that part-time students have been ineligible for Pell grants. It is a catch-22. They are going to school parttime because they do not have the money, and they are not eligible for Pell grants because they are not full-time students. We have now made sure they are eligible. I heard students testifying about this over and over again at the community college and at the University of Minnesota, Duluth.

Finally, I would like to express my appreciation to Senator PELL, Senator KENNEDY, and Representative FORD, and others, that we were able to restore authorization for funding for 2-year medical schools such as the University of Minnesota, Duluth. The University of Minnesota, Duluth has done a stalwart job in training med students who go on to practice family medicine in rural, small town communities. So often, those communities are underserved. I think this program is extremely important. I am delighted that we have authorized the funding.

There will be much discussion about the direct loan program. I thank Senator SIMON and Senator PELL, and I thank Senator DURENBERGER, and others. I think it is important that we set up this demonstration model, that we have eliminated the middle man, and I think this could be a very successful program.

In conclusion, Mr. President, for my own part, this is the way I thought it would be. You go home, you hold hearings, you listen to what people say, you come back, you translate that into specific initiatives, you work with your chair. Senator KENNEDY is now here on the floor, and I appreciate his support. You work hard, you dig in, you get it into the committee bill, you work on the conference committee, and then you see some tangible results. I am very pleased that there is a good deal of support for nontraditional students in this bill. I am very pleased that the Pell Grant Program and the Stafford Loan Program will reach well into the middle-income range. I am delighted that the President will sign this bill. It makes me very proud that we have really passed a piece of legislation that I think directly leads to the improvement of people's lives.

Mr. President, I hope we will do well in appropriations. We have authorized it and we need to have the appropriations for it, because I think this is really a very important step forward for those of us who believe education is so important in our country. I think it is not just those of us in the Senate or the House, I think this is something that the vast majority of the American people support.

Mr. PELL. Mr. President, I thank my friend and colleague from Minnesota for his very kind words. I observe also that, without the support of the Senator from Massachusetts [Mr. KENNEDY] this bill would not have gone through.

This legislation has one priority: the needs of students and their families. It recognizes that financing a college education is a hardship that begins with those who are not well off and extends to hard-pressed middle-income families who today find themselves unable to obtain federal student aid.

In determining a family's ability to pay for a college education, we make several historic changes that will help low and middle income families alike. We remove the consideration of home and family farm equity in determining financial need. Often, this did not measure a family's ability to pay for a college education, but instead penalized families for whom the home was the only real asset.

For families who previously have been punished if they scrimped and saved for their children's education, we will now protect those savings. And, we call a halt to the practice that required students to save an unreasonable amount of their summer and school year earnings for their education.

For the first time, we will have one system for analyzing and determining need. We will have a simplified application and reapplication process with shortened forms printed in plain and simple language. What a relief these changes will be to families who have found applying for Federal aid a detailed, complex, and virtually incomprehensible process.

We stress the importance of the Pell grant as the foundation of our Federal student aid efforts, and call for increasing the maximum grant to $3,700.

But we also recognize that the grant is unable to cover the cost of paying for a college education. Accordingly, we provide for modest increases in loan limits. Most important, we provide a new loan program for middle-income families who may not qualify for a regular Federal student loan, but still need help in paying for their children's college education.

We have also made many changes designed to improve the operation and

administration of the Federal loan programs. We prohibit participation by schools with default rates above 25 percent, and do not allow the use of commissioned salespersons to recruit students. We require fair and equitable refunds for students, and provide stiffer penalties for those who would cheat students and the Federal Government.

We significantly strengthen the process of accreditation, eligibility and certification, and State licensing. We have new Federal requirements to insure that this process is both strong and credible, and that only good institutions make it through. Our goal is a simple one: to make sure that students receive a quality education wherever they go to school.

This legislation is the product of almost 2 years of very hard work.

It is legislation that brings the opportunity of a college education within the reach of millions of young and adult Americans who, without our financial help, would not be able to attend college.

It is legislation that opens education and training possibilities to individuals who otherwise would find none available.

It is legislation crafted to make sure that a quality education is available to every American pursuing postsecondary education.

It is legislation truly designed to keep America strong where it counts the most—in the education and character of its people.

Mr. KENNEDY. Mr. President, first of all, I think all of us in this body want to pay tribute to our friend and colleague, the chairman of the Education Committee, Senator PELL, as well as the minority ranking member, Senator KASSEBAUM, for their extraordinary leadership in bringing us to the position where later on today the President of the United States will sign this legislation. I think all of us are very much aware of the extraordinary contribution that the Senator from Rhode Island has provided in this very basic and fundamental area which is of such enormous importance to families in the United States, and that is in the area of education. We pay tribute to Senator PELL for his continued leadership.

Mr. President, I join in commending President Bush for his decision to withdraw his veto threat and sign The Higher Education Amendments of 1992. This legislation will greatly expand opportunities for students to enroll in higher education. It is an indispensable part of our efforts to restore domestic growth and competitiveness in world markets. Our increasingly technological and complex modern workplace demands highly skilled and educated workers. We cannot afford to have members of our work force hindered by incomplete education or poor preparation.

Unfortunately, over the last 15 years, the cost of college education has increased much faster than the cost of living. Higher education has increasingly moved out of reach for low- and middle-income Americans. Unlike other industrialized democracies, America expects its students and their families to bear the primary burden of paying for higher education. This bill will ease that burden, give millions more students the chance to pursue a college education and achieve their full potential, and build a stronger America in the coming decades.

One of the central goals of this bill is to expand student aid for low- and middle-income families. The legislation accomplishes that goal by authorizing a long overdue increase in the size of Pell grants, and by raising loan limits and expanding eligibility for Stafford loans in order to help students keep up with the rising cost of tuition.

In addition, we have eliminated consideration of home and farm equity in determining eligibility for student aid. No longer will the value of a family home or farm disqualify hardworking middle-income families from student aid. A second provision of the bill greatly simplifies access to student aid. The current process discourages many students, especially in lower income families, from applying for student aid. The bill establishes a single need analysis formula to calculate eligibility for aid, and it also mandates the use of a single, simple application form.

A third issue of serious concern is the fraud and abuse in the current Student Loan Program. In the past 5 years, we have seen a massive increase in loan defaults. Most of these defaults are caused by fly-by-night schools that fail to deliver on their promise to prepare students for the job market. Too often we have seen a proliferation of schools more interested in making a profit than educating students.

To achieve reform here, we have strengthened various aspects of the school approval process and we have adopted many recommendations by Senator NUNN following his excellent and extensive investigation of abuses in the Student Loan Program.

A fourth reform involves teacher recruitment, retention, and development. A new Teacher Corps Program will provide college aid to prospective teachers, in return for a commitment to teach in underserved areas. We have expanded programs to recruit nontraditional teachers and other outstanding individuals into teaching, and we have established national and State teacher academies for in-service teacher training and school leadership training.

A fifth major reform is the expansion of early intervention initiatives. To prevent students from dropping out of high school, and to encourage them to pursue a college education, we must reach out to them as early as possible in the educational pipeline. These initiatives will identify at-risk students early in the education pipeline and make funding available for early intervention programs to keep them in school. These programs, operated by community-based organizations or local schools in conjunction with the State educational agency, will continue throughout high school and provide supportive services throughout high school.

Finally, in one of its most innovative features, the bill includes a direct loan demonstration program—and I commend our colleagues, Senators SIMON, DURENBERGER, BRADLEY, and others, for the support of that—to enable colleges to make loans directly to students, instead of relying on the current costly practice of using banks as a middleman. I believe that direct loans are the way of the future, and I look forward to the results of this important test. Direct loans offer substantial savings and will enable us to stretch our scarce college aid dollars much further.

It is no secret that this legislation survived many serious obstacles. It is a great relief to many current and future college age Americans that the President decided to withdraw his objection to the expansion of aid to the middle class and the Direct Loan Program. The enactment of this bill will almost certainly rank among the most notable achievements of this Congress.

Nonetheless, a critical challenge lies ahead—to match our rhetoric with our resources in the appropriations bill to come. Shortchanging college aid is shortchanging America. It is time to take down the dollar sign that too often blocks the path to our colleges and universities. If the higher education bill is fully funded, it can do as much for our country in the years ahead as the GI bill of rights did a generation ago.

Educational excellence is the key to competitiveness in today's world. The Higher Education Act is one of the most effective means the Nation has to help students achieve their full potential, and help America reap the rewards of their accomplishments. It is a central part of our longrun goal to revitalize our economy and invest in our future and I commend all those in Congress, the administration, and on campuses across the country who have helped us to fashion these far-reaching reforms.

Mr. President, I ask unanimous consent that a factsheet summarizing the act may be printed in the RECORD.

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

MAJOR IMPROVEMENTS IN REAUTHORIZATION OF HIGHER EDUCATION ACT[1] AS AGREED TO BY THE CONFERENCE COMMITTEE

(1) EXPAND STUDENT AID FOR MIDDLE-INCOME FAMILIES

(a) Increase size of Pell grants (increase minimum and maximum grants).

(b) Raise loan limits and expand eligibility for Guaranteed Student Loans.

(c) Eliminate consideration of home and farm equity in determining eligibility.

(d) Factor cost of tuition into determining size of Pell grants.

(e) Make student loans available to all students, regardless of financial need.

(2) SIMPLIFY ACCESS TO STUDENT AID

(a) Establish single need analysis formula to calculate eligibility.

(b) Provide simplified, single application form.

(c) Establish automatic eligibility for neediest students.

(d) Create new, streamlined reapplication process.

(e) Exclude all assets from need analysis for families filing 1040EZ tax return.

(3) IMPROVE INTEGRITY IN THE LOAN PROGRAM

(a) Strengthen three parts of school approval process (federal eligibility and certification, state licensing, and private accreditation).

(b) Make schools with default rates over 25 percent ineligible.

(c) Eliminate short-term proprietary school programs and correspondence schools.

(d) Implement provisions of Nunn report on curbing fraud and abuse in student loan programs.

(4) EXPAND PELL GRANT PROGRAM

(a) Increase middle income eligibility to $42,000.

(b) Increase maximum grant from $3,700 in 1993 to $4,500 in 1997 (current maximum is $2,400).

(c) Automatic eligibility for AFDC recipients.

(5) EXPAND EARLY INTERVENTION EFFORTS

(a) Establish new National Early Intervention Scholarship and Partnership program to encourage the establishment of tuition guarantee programs (such as Eugene Lang's "I Have A Dream").

(b) Provide early notification of college opportunities to elementary school students and continuous academic and social counseling.

(c) Establish Kohl Be All You Can Be program to advertise college opportunities.

(6) STRENGTHEN ACADEMIC ACHIEVEMENT

(a) Create Presidential ACCESS scholarship program to reward students who take rigorous academic courses in high school.

(b) Expand Byrd Scholarship program for high school students with outstanding records.

(c) Strengthen existing provisions on academic achievement as a condition of receiving federal student aid.

(7) STRENGTHEN TEACHER RECRUITMENT, RETENTION, AND DEVELOPMENT

(a) Establish new Teacher Corps programs to provide college aid to prospective teachers in return for commitment to teach in underserved areas.

(b) Expand programs to recruit non-traditional and outstanding individuals into teaching.

(c) Establish national and state teacher academies for inservice teacher and school leadership training.

(d) Expand Christa McAuliffe Teacher Program to recognize and retain outstanding teachers.

(e) Expand early childhood teacher training.

(f) Support alternative routes to teacher certification.

(8) STRENGTHENING GRADUATE AND PROFESSIONAL EDUCATION

(a) Assure supply of highly trained faculty members and research personnel.

(b) Increase access for underrepresented Americans to graduate and professional schools.

(9) ESTABLISH A DIRECT STUDENT LOAN DEMONSTRATION

(a) Test the effect of making loans directly to students and eliminating subsidies currently paid to middlemen.

(b) Includes an income contingent repayment feature for many borrowers.

(c) Authorize a large number of colleges and universities to participate in a direct loan demonstration program.

[1] S. 1150, The Higher Education Amendment of 1992, complies with all aspects of the Budget Enforcement Act. The new provisions and improvements have been paid for by offsetting reductions in other programs.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Minnesota [Mr. DURENBERGER].

Mr. DURENBERGER. I thank the Chair.

(The remarks of Mr. DURENBERGER, Mr. KOHL, and Mr. DASCHLE pertaining to the introduction of S. 3011 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DURENBERGER. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Illinois [Mr. SIMON].

THE HIGHER EDUCATION ACT

Mr. SIMON. Mr. President, this afternoon or late this evening President Bush is going to sign the Higher Education Act. That is a significant step forward—not as big a step forward as Senator DURENBERGER and I and some of the members of the committee wanted to make, but it is a significant step forward. And we have to give credit to Senator KENNEDY, Senator PELL, Senator KASSEBAUM, as well as our colleagues on the House side, Congressman FORD, and particularly the one aspect I want to speak about, Congressman PETRI. The Republican Senator from your State, Mr. President, has been very helpful in this area.

What we were able to get into this bill is $500 million as a demonstration for direct lending. According to the GAO if we had gone as far as Senator DURENBERGER and I wanted to, we would have saved $1.3 billion, believe it or not, that we make in the subsidies to the banks.

I am grateful to the banks for the assistance they have provided our students, but the bill, after all, is a Higher Education Assistance Act not a Banking Assistance Act. And we particularly ran into the opposition of the Student Loan Marketing Association, Sallie Mae, which we created to help students. They became a barrier. I have just looked at the latest report, and my colleague from Minnesota will be interested. The compensation of the chief executive office of Sallie Mae this past year was $2.1 million and the fifth ranking executive makes about two and a half times what the President of the United States makes.

They were out sounding like they were defending the rights of students. They were defending their own little bailiwick that we created. I do not suggest they have not made a contribution, but I think as we move along we are going to have to take a look at Sallie Mae and what we have created there.

This particular provision helps students because it is universally available regardless of income, it is not income contingent. The original bill would have had it all contingent. Thirty-five percent of the schools will benefit from this, and the Secretary will have to pick for the $500 million. That will be 250 to 400 schools that will benefit from that. So that you pay back on the basis of your income. Right now there is a flat sum regardless of your income and we have a high default rate as a result.

This year, we will spend $3.4 billion, believe it or not, on student loan defaults. We had this set up where you pay the Treasury rate plus 2 percent, and that 2 percent will more than take care of what defaults there may be because of death, or people unemployed, or whatever it may be.

But if you make $100,000, you pay back more. If you are a social worker or teacher and do not make that much, you do not pay back that much. Or if you are unemployed, you do not pay back anything, but you are not losing your credit and you are not doing harm to yourself.

Students benefit. Schools benefit. It is simpler. And the taxpayers benefit because we do not end up harming the budget with huge student loan defaults. The country benefits because more students will be able to take advantage of education.

My hope is that we can move beyond where we are on this, and do it quickly. I hope, whether it is Bill Clinton or George Bush, that we can move after we come back in and take a look at where we are and do something even more significant.

I heard Senator KENNEDY a few minutes ago refer to the GI bill after World War II. The Presiding Officer and I may be the only two here old enough to remember the GI bill after World War II. If you take that and put an inflation index on it, that today would average a grant, not a loan, of $8,100 a year. That was conceived of as a gift to veterans. It turned out to be a massive investment in our own future.

Economists do not agree on very much, but whether it is Lester Thurow and his new best-selling book "Head to Head," economists agree on one thing: Our Nation is going to have to invest in education. That is our future. And this bill is a step in the right direction.

I am grateful to my colleagues on both sides of the aisle for their work on this, as well as our House colleagues.

And I particularly want to commend my colleague, Senator DURENBERGER, for joining me in this effort that did not go as far as we wanted but is a significant step forward.

Mr. DURENBERGER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I am prompted by those comments and those of our colleagues from Rhode Island and Massachusetts, and my colleague from Minnesota, to say something about what is going on in our offices right now. This is the 23d day of July. Parents and prospective students are going to the campuses of their choice trying to sign up for one form or another of student aid, since the cost of higher education in this country is now rising about as fast the cost of health care and everyone is looking around for some kind of help.

Somehow or other, even though the President has not yet signed the bill, the word has gotten out that the effort that my colleague from Illinois has just detailed, the demonstration of the value of investing in students who are willing as beneficiaries to return the payment for that investment, the word has gotten out and people are calling all of our offices for information about how they apply for this form of sort of investment assistance.

I think we are going to have, and I hope we have, over the next few months some kind of a reaction, if you will, to the fact when people get to the campuses and talk to the financial aid officers—many of these financial aid officers are enthusiastic about our proposal and many others not so enthusiastic about it—they are going to have to explain why providing an up-front investment in young or older people in higher education, which they are willing to repay out of their income, not a handout, not a freebie that you do not have any personal investment in, why this is not available today, and particularly when it would have positive Federal budget consequences in the near-term as well as the long-term to do it.

If we had been able to pass the legislation that we have proposed, if we had been able to do that, we would have saved, as my colleague from Illinois says, $1.3 billion a year, $1.3 billion a year. That is conservative. I think the first figure was $2.1 or $2.7 billion. That is the most conservative estimate of the savings when you see the current system as $3.4 to $6 billion in default.

That is an immediate savings to the Federal deficit and future generations that are funding that deficit. But the long-range savings to people who are able to get an education, people who are able to select the kind of educational program, the kind of educational institution that they want, not the one they have to go to because they cannot afford the one that they want, that investment in the future of this country is immeasurable.

So I stand here, No. 1, disappointed that we were not able to make this program available to all Americans; and pleased that those of my colleagues who presented this case, particularly the chairman of Labor and Human Resources, who is still on the floor, who spoke to this issue 12 or 13 years ago, and who made it possible this year; the chairman of the Labor Committee in the House of Representatives, BILL FORD, who did not think much of this idea for some period of time but when he became familiar with it became very committed to it. It was the leadership in these committees and particularly on the Democratic side that made this possible.

So I rise to—I hesitate to do this, I suppose—I rise to compliment that leadership, and I rise to compliment the Democratic platform. I have read the Democratic platform. It says that all Americans ought to have the opportunity to invest in their own education as long as they are willing to repay the cost of that education out of the value they receive from that education.

People ought not to be penalized for going into low-income jobs, for going into public service, for going into teaching and social work, and so many of these professions we need so desperately; being family care doctors rather than superspecialists. They ought not to be penalized by the current system.

On top of $2 million for Sallie Mae, on top of the transactional costs in banking, we are depriving the Nation of what we really need, and that is people who will work in public service professions; who will work in those kinds of professions like the family practice of medicine and not be driven by the cost of education into some of those selective high-paying professions.

I hope since we still have 3 or 4 weeks before my party goes to the convention in Houston, I hope that those who are platform writers for my party will go out and listen to the young people who cannot get into college, to the people who want to go into what are currently called low-paying professions, whose parents who are striving to make ends meet in their families and having a difficult time anticipating the cost of 4 or 5 years of higher education, I hope they go out and listen to them and go to our convention and do what the other party's convention did and endorse the concept, which today is a demonstration, will not happen for 2 years unless the President of the United States comes back from the convention, comes back from the election and says next year we are going to make this a permanent program. It is good for America, it is good for the young and the older people of this country.

I congratulate those of my colleagues, particularly those who have been named, and particularly my Republican colleague, TOM PETRI from the House of Representatives, and his staff, Joe Flader, particularly, who slaved on this issue for 11 years, for their commitments to seeing that this job gets done.

I congratulate the people of my State of Minnesota for their support for the IDEA bill, the Income-Dependent Education Assistance Act, which my colleague and I introduced. I congratulate BILL BRADLEY, a leader on this issue, SAM NUNN, and others here on this side of the aisle. I just hope the people of this country who currently are out there searching for opportunities to get into college will recognize this as their opportunity and will make it clear to all elected officials and all people seeking elective office that this is a crucial element in building a strong future in this country.

I yield the floor.

Ms. MIKULSKI. Mr. President, today the reauthorization of the Higher Education Act becomes law. This is a law that will give help to those who practice self help.

What do I mean by that? Mr. President, last year I stood on this floor and put forth my own education framework. A kind of navigational chart for middle-class families who are drowning in debt trying to send their kids to college.

I am proud to say that many of the provisions I put forth at that time are in this bill today.

This bill opens doors and creates opportunities for middle-class families and for those who would like their kids to have some opportunities they never had themselves.

First, under this bill, more middle-class families will qualify for student loans. Far too often families who worked hard to take care of their families and put a little aside were punished for their efforts.

So if you had two earners in the family and together they made more than $35,000, the Government said they couldn't get a student loan.

And if that same family had any assets—a home or farm—it was even worse. The value of that home or farm would be added to the income and knock hard-working families right off the chart.

This bill fixes that problem. It takes homes and farms out of the calculations. So more middle-income families will have access to the funds that are available.

Second, this bill makes applying for loans easier. You used to need your own accountant just to understand and fill out financial aid forms. As I traveled through Maryland I heard many people say they just couldn't get past the application. Some gave up. Now, there will be just one simple form.

Third, the bill raises the amount of money given out in individual Pell grants.

And finally, this bill has a built in mechanism to help pay for itself. This bill is paid for and it's a good use of Americans' money.

This bill cracks down on student loan defaults and tightens up the whole Student Loan Program—to ensure accountability and timely repayment.

Mr. President, that was truly a problem that had to be dealt with. The cost to the Federal Government from student loan defaults increased dramatically, from $239 million in 1980 to $3.4 billion in 1992.

It's high time we cracked down on those defaulters. We can use the funds they owe to help others enjoy the same opportunity.

With the reauthorization of the Higher Education Act we expand the scope of opportunities. And we are doing what government is meant to do, help those who work hard to help themselves.

Mr. SARBANES. Mr. President, I rise today in support of the conference report on S. 1150, the Higher Education Amendments of 1992, reauthorizing the Higher Education Act for 5 years. As you know, when the Higher Education Act was first enacted in 1965, opportunities were created and doors were opened for millions of citizens who otherwise would not have had the chance to obtain a higher education. I was very pleased to be able to participate actively in the reauthorization of this act which provides the basic statutory authority for our Nation's commitment to educational opportunity and excellence and look forward to its enactment later today.

The passage of this legislation is particularly significant in my view in light of the repeated attempts by administrations over the past decade to reduce drastically the role of the Federal Government in student aid programs. The Reagan and Bush administrations have consistently tried to minimize the role of the Federal Government in helping students finance their higher education—actions which have resulted in a fundamental shift in the balance of Federal assistance available to needy students. For example, in the mid-1970's, approximately three-quarters of Federal student aid was available in grants, intended to be the foundation of Federal assistance to financially needy students. However, by the late 1980's, loans had replaced grant aid as the primary source of assistance, with about two-thirds of aid to needy students for postsecondary education available only in the form of loans. While still falling short of what I think we need in terms of financial aid in the area of higher education, I am pleased that the Congress has taken steps in this reauthorization bill to begin restoring the relationship between grants and loans originally intended for Federal Student Assistance Programs.

In the same manner, although the Higher Education Act reauthorization legislation we submitted to the President yesterday is not everything I would like it to be, it does sustain our Nation's longstanding commitment to access, choice, and opportunity in higher education. Every society places a premium on education in terms of developing a skilled and trained work force in the next generation, and the more complex economically the world becomes, the more urgent it is to address this aspect of developing our human resources. In our society, however, education carries two other very important responsibilities which make this whole complex of programs we are talking about essential to the health and vitality of the society.

The first is that we are one of a handful of countries that has maintained a democracy over a sustained period of time. Obviously, education is essential to a literate citizenry capable of making democracy work. The other dimension is that education in America represents a ladder of opportunity. We take great pride in being an open society in which people can move up and forward, and the way they do that is essentially through the educational ladders provided in the programs we are reauthorizing in the Higher Education Act. However, all of the programs we are addressing in this legislation are not solely to benefit the individual, as important as that part of it is. These programs are part of our national effort to include people in our society rather than excluding them, an essential concept in my view to the harmonious working of American society.

The enactment of the reauthorization of the Higher Education Act is a critical step in our efforts to maintain access and choice in higher education. We must continue to acknowledge the vital importance of education in this country, to sustain and hold on to the educated base we have created, and to commit ourselves to a quality education for all our Nation's citizens.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE ACT OF 1992

Mr. CONRAD. Mr. President, last night we had a vigorous debate on the question of the transportation of trash across this country. Last night the debate was a question of who decides whether or not trash can be sent into a State or not.

Last night the Senator from Nevada offered an amendment, along with the Senator from South Dakota and myself, that would have provided the Governor of a State could stop the importation of trash.

Mr. President, that amendment went down last night, although we had a vigorous debate. Mr. President, I believe we made a serious mistake. I have additional evidence this morning that relates to my home State which I believe indicates clearly how serious a mistake was made last night and how deeply flawed the bill before us really is.

Mr. President, I have now received the story from my home State press entitled "GM's Sludge Coming to North Dakota." It is a fairly stunning story, Mr. President. This is nonhazardous waste. That was what we were talking about last night—nonhazardous waste. Now we find out waste from 100 General Motors Corp. factories, according to their story, will roll into North Dakota for a disposal at a landfill site near Sawyer, ND. A company called Municipal Services Corp. will accept all nonhazardous industrial waste generated by the giant auto maker. There is nothing the State of North Dakota can do about it.

My colleagues who do not represent North Dakota may be thinking, well, so what? North Dakota is going to get all the waste from GM plants all across the country. That is not our problem.

Mr. President, it may not be your problem today, but it may be your nightmare tomorrow because, under the bill we are passing, once a community has entered into a contract, there is nothing the Governor can do to stop it. There is nothing the State can do to stop it. And despite all of the promises that we heard yesterday about this bill protecting States, the only States that are getting protected are the big trash importing States, the four of them, that are taking more than 1 million tons a year. If you are not one of those States, if you are not Virginia, if you are not Pennsylvania, if you are not Ohio, if you are not Indiana, you are in trouble.

Last night there was sort of an attitude of, well, this is better than nothing. You know, you take something or you get nothing. And those who are the big trash-exporting States were here threatening. They are saying, well, if you do not take this, we will filibuster the whole bill and the whole bill will go down. Maybe the other side, maybe those of us who are offering the amendment ought to operate that way.

Maybe we ought to have been threatening last night. Maybe we ought to act like the bully if that is what it takes around here to get fair treatment.

Mr. President, there is something wrong here. My State of North Dakota, 630,000 people, a rural State with a pristine environment, where the air still smells sweet, the cleanest air in the country, the first State in the Nation to meet the environmental standards on clean air, and we are being told that because one small town allowed a contractor to come in and establish a landfill, that contractor has now entered into a contract with the giant General Motors Corp., the biggest industrial corporation in the world; that my little State, that little town of Sawyer, is going to take all of the waste from 100 GM plants across this country, and there is not one thing that can be done to stop it.

This bill that is held out as the savior and as the hope is an absolute sham; absolute sham. There is no protection here because, unless the community agrees that has entered into this pact, the Governor can do nothing. That is not what has been represented to people, but that is the fact. Unless that local community agrees, the Governor can do nothing. It does not matter that surrounding communities are all affected.

I know the facts in this case very well. Where is this landfill? In the south or middle of nowhere? I think some might look at it and see that—if they did not know what is beneath the ground, if they did not know that this landfill sits right on top of an aquifer—it is the water supply for thousands of people. That is what we are dealing with.

Now the waste from 100 GM plants is going to come into that State, is going to be dumped in that landfill, and if it leaks—God knows, human beings are not perfect when they build landfills or do most anything else. And if that aquifer is damaged, the lives of thousands of people will be affected.

And it does not end there. When the trucks start rolling, there will be hundreds of trucks bringing GM waste from all over this country to the little town of Sawyer, ND. When those trucks start rolling and they start beating up the highways of North Dakota, that has an effect not just on the people of Sawyer, ND. That has an effect on the taxpayers statewide. Yet they have no say in it. The people of the neighboring town of Minot, ND, have no say in it. Sawyer is a small town, a very small town; Minot, a town of 40,000. A very small town enters into an agreement; the larger town has no say. The Governor has no say. The State has no say, and we are passing a bill that is held out to be a bill that is protecting people from the trash merchants.

Mr. President, if all of that is not bad enough—and if my colleagues think, well, this is an isolated incident, it is way out there in North Dakota, we do not have to worry about that, Mr. President—wait until it is your turn. Wait until it is my colleagues' turn where some big company makes a deal with some small community, hard pressed economically, and they decide they are going to dump all of their sludge from all over the United States in this little town in their State, and there is not one thing they can do to stop it, not one thing they can do to keep the hundreds of trucks from rolling with that garbage. And wait until they find out that the company that is managing the landfill is not exactly coming with clean hands. Wait until they find out, like we have, that the company involved has a record at other waste facilities that it operates that involves—let me read the record, Mr. President—hundreds of violations and millions of dollars in assessments and penalties against 12 other facilities operated by the same company.

Hundreds of violations, millions of dollars in fines and assessments, because this company has been irresponsible. And now we learn a special prosecutor is investigating the activities of one of the subsidiaries, activities in connection with efforts to build a hazardous waste incinerator in Pennsylvania. The investigation concerns allegations of illegal lobbying, real estate acquisitions and violations of securities laws.

Mr. President, we are about to make a big mistake. We are about to make a huge mistake, because we are going to pass a bill that suggests to the American people that we are actually doing something about this problem.

Mr. President, if you are in Virginia, if you are in Pennsylvania, if you are in Ohio, or in Indiana, this bill does give you some comfort, because you are importing more than 1 million tons of other people's trash a year. Your Governor is going to be able to freeze at least the amount of that trash, based on 1991 and 1992 levels. But if you are in the other 46 States, forget it, because you are not even going to have that protection. Oh, yes, they say, we have provided the means by which the Governor, in conjunction with the local community, can abrogate new contracts.

You know, it has a good ring to it. I was sitting in the chair last night when this was all discussed and explained, and I remember feeling some comfort in that language until I started asking questions about what it really meant. What I found out, Mr. President, is that it means next to nothing, because unless that local community that has entered into the contract concurs with the Governor, asks the Governor to abrogate those new contracts, there is not one thing the Governor can do.

So, Mr. President, I say to my colleagues: Maybe North Dakota today, maybe South Dakota tomorrow, maybe Minnesota next week, maybe Nebraska, and Iowa, and Kansas, and Oklahoma, and Wyoming; it might even be Colorado that is picked out by some large company, and they might find a small, vulnerable community and make them a deal they cannot refuse.

I was told last night that small, hard-pressed communities are being offered the Moon. These trash merchants are going in and they are telling that small, hard-pressed local community, "You know, if you will just take this waste dump, we know that your school is getting old and needs to be replaced; we will build you a new school. And, you know, we have seen that dilapidated city hall of yours falling down and in ill repair. We will completely renovate that city hall for you."

And that small town that is suffering economically, streets are in ill repair, and maybe some of the streets and towns in my State are not even paved, and they come in and say, "You know, another thing we want to do for you is pave those streets, the ones that have never been paved. We want to take care of that for you here in the community, those streets you cannot repair anymore and maintain because you have been through a tough economic time. You know what, we are a good corporate citizen, and we want to repair Main Street for you. We want to provide a maintenance budget for all of the streets in town. While we are at it, we want to replace the lights in town, and while we are at it, the water treatment facility is in trouble. We know that EPA has been to your local community and said you have to spend several millions of dollars bringing your waste water treatment facility up to standards. We are willing to take care of that for you. By the way, just so that your local leaders are completely familiar with what a good job we do, we want to take your local leaders and look at landfills around the country that we operate, and we want to fly them by corporate jet out to our landfills out in California, and February might be a good time to do that, or late January when it is really cold; that might be a good time to come visit our landfill in southern California. By the way, why do you not bring along your wife and all of the members of the city council. Why do they not come along and bring their spouses along, and we can go down to southern California and look at our landfills there and, just to show you that it is not just one coast that we are operating on, we will take you to Florida, too."

Mr. President, this is a serious matter. I can just feel where this issue is going, when people find out that a small community can enter into an agreement with a big company, and they can start taking the waste from 100 facilities of the major automobile

manufacturers in the world. The entire State is going to feel the results, but they have nothing to say about it. Just that little town and a few people in that town can make a decision that affects everyone else, and nothing can be done. That is the kind of legislation we are passing here today, and we wonder why the people in this country think we are disconnected from reality, and we wonder why people feel we are not performing.

The bill is not solving the serious problems the communities are going to be faced with. And we are not talking theoretically; we are talking of a specific example of how this legislation absolutely will fail to protect people that deserve protection. We had an amendment offered last night, endorsed by this Nation's Governors, and this Chamber just blew it off. It did not matter that the Governors have said, hey, we are going to have this garbage coming into our State; we ought to be able to make a judgment on whether that is in the State's interest. I indicated last night that I have four towns in my State that are incorporated, that have less than 10 people, and those towns could make a decision that affects the whole State, and the Governor cannot do one thing about it. That is wrong.

Mr. President, I hope that cooler heads will prevail and that we will think very carefully of what we are doing, because today it might be North Dakota; tomorrow it might be your State.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Does any Senator seek recognition?

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington [Mr. GORTON].

Mr. GORTON. Mr. President, is this Senator correct that we are still in morning business?

The PRESIDING OFFICER. The Senator is correct.

Under the previous order the Senator is to be recognized for up to 10 minutes.

Mr. GORTON. Thank you, Mr. President.

Mr. President, throughout the debate over the spotted owl and old growth in the Northwest, I have maintained the position that we must strike a balance between a complete, or near complete, lock up of our national forests and a return to historic harvest levels. Natural resources in the Northwest are under extreme pressure, both from those who use those resources and those who wish to preserve them.

If true balance is to be achieved, we in Congress must find a way to address both pressures: we must be sensitive to wildlife and aesthetic values and we must ensure a stable supply of Federal timber, albeit at a level below the historic harvest. This is balance and this is what I support.

When Secretary Lujan introduced the preservation plan for the northern spotted owl in March of this year, it was roundly criticized as being an "extinction plan," newspaper articles reported that it would allow the northern spotted owl to die out on the Olympic Peninsula and in the north Cascades, and Secretary Lujan was accused of violating the Endangered Species Act. Mr. President, those predicted outcomes are unacceptable and I would be unable to support a plan that resulted in these alleged atrocities. They were not, however, features of the Lujan proposal.

Even so, when I introduced legislation implementing the preservation plan, I found myself accused of the same goals attributed to Secretary Lujan. But my legislation went well beyond the Secretary's plan. I added ecosystem management approaches on the Olympic Peninsula and in the north Cascades. I added spotted owl protection zones where owl habitat would otherwise go unprotected. And I retained the prohibitions against physical injury to owls outside the habitat preserves in the preservation plan. My legislation added three additional layers of protection beyond those of the preservation plan.

On the socioeconomic scale, my legislation is a far cry from the two bills considered by the Agriculture and Interior Committees in the House. Those bills would reduce employment from historic levels by 19,000 and 21,000 jobs respectively in Washington State alone. My legislation would save 5,000 to 7,000 of those loses in Washington, just 3,000 fewer than those in the preservation plan.

From both perspectives socio-economic and ecological, my bill is truly balanced.

I have no desire to allow the spotted owl to die off on the Olympic Peninsula and the northern Cascades.

The scientific review panel for the preservation plan itself said "The probability that the northern spotted owl would become extinct across the range in 100 years under this alternative is low, meaning that it is highly unlikely that extinction would occur within this period." It is clearly not an extinction plan and the scientists have confirmed that. So, I would add three additional layers of protection for spotted owls in those areas.

Finally, two giant national parks and several wilderness areas totaling just over 3 million acres lie at the core of the Olympic Peninsula and the northern Cascades. As we all know, Federal law prohibits any timber harvesting on those 3 million acres. Spotted owl habitat inside those national parks and wilderness areas will not change when the preservation plan is implemented.

No, Mr. President, the administration has not proposed and do not support an extinction plan.

The preservation plan was the first scientifically credible plan for the spotted owl to strike a balance between the needs of timber communities and the stability of owl populations. For that reason, it set a precedent. That is why I introduced legislation to implement it. I continue to believe, however, that the best vehicle for resolution of the entire problem is a so-called process bill that allows for the implementation of a long-term substantive management plan through a decentralized planning process, rather than a bill that implements a plan immediately upon passage.

The best vehicle, therefore, is the Forest and Families Protection Act and so I urge the Senate Energy Committee to act on that bill. I am prepared to offer my legislation, with modifications, as an amendment to unrelated legislation unless I am convinced that the Energy Committee is making progress on the Forests and Families Protection Act.

There remains a small window of opportunity this year for the resolution of this thorny issue. We must put aside the misunderstandings and misrepresentations. We all talk about balance, but when our positions are not accurately perceived, the framework for that balance is shattered. I urge my colleagues in this body and in the House to review the preservation plan and my bill, the Northern Spotted Owl Preservation and Northwest Economic Stabilization Act, S. 2762. These bills strike the necessary balance.

I would also like to take a moment to discuss a matter that has had a tremendous impact on the supply of timber from Federal forests on both the eastside and westside of my State. The Forest Service's administrative appeals regulations have served little more than as a tool for preservationist organizations to stop completely the harvest of timber from Federal lands. The same organizations that complain that the Forest Service sells its timber for a price below the cost of preparation are themselves driving those costs through the roof by tying practically every timber sale in knots with administrative appeals.

In 1991, nearly 1,400 appeals were filed in every resource area of the Forest Service, including the timber program, where appeals were filed against 636 timber sales. This represents more than a 600-percent increase over the number of appeals filed annually in the early 1980's. The 1991 appeals cost approximately $11 million and used up 152 years of staff time for the Forest Service. An administrative appeals process is worthwhile if it results in actual modifications to the underlying management decisions, for one would assume that modifications are the true objective of a citizen appellant. Yet, the 1,400 administrative appeals in 1991 led to changes in only 6 percent of the underlying management decisions.

The worst example of appeals abuses are the cookbook appeals. College students at Wesleyan University in Connecticut have developed a computer software program that allows them to generate administrative appeals on timber sales they have never even set their eyes on clear across the country in Oregon and Washington. This group simply has filed over 30 timber sale appeals in the past 2 years in Oregon and Washington and these appeals have cost the Forest Service an estimated $238,000 to process. The only difference between the 30 appeals is that the name of the timber sale is changed from appeal to appeal.

The Department of Agriculture has proposed a set of changes to the Forest Service administrative appeals regulations. These changes will expand predecisional public participation and limit the availability of administrative appeals to forest plans and their revisions and amendments. The Forest Service estimates that these new Forest Service appeals regulations will save the agency nearly $150 million in future savings.

This is the best method I have seen yet for eliminating below-cost timber sales and I applaud Secretary Madigan and Chief Robertson. I simply urge the Secretary to move forward with this proposal and issue a final regulation as soon as possible. The supply of timber in the Northwest does not need any additional obstacles than already exist in the spotted owl and Federal court injunctions.

MEASURES PLACED ON THE CALENDAR

The PRESIDING OFFICER. There are two bills to be read a second time. The clerk will read H.R. 1435 the second time.

The assistant legislative clerk read as follows:

A bill (H.R. 1435) to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, Colorado, to the Secretary of the Interior.

The PRESIDING OFFICER. Is there objection to the further consideration of the bill at this time?

Mr. PRYOR. Objection.

The PRESIDING OFFICER. Objection is heard from the Senator from Arkansas.

The bill will be placed on the Calendar of General Orders pursuant to rule XIII.

The clerk has a second bill to be read a second time, S. 3008.

The assistant legislative clerk read as follows:

A bill (S. 3008) to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a White House Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes.

The PRESIDING OFFICER. Is there objection to further consideration of this bill at this time?

Mr. PRYOR. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will be placed on the Calendar of General Orders pursuant to rule XIV.

Is there any Senator seeking recognition?

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas [Mr. PRYOR].

EXTENSION OF MORNING BUSINESS

Mr. PRYOR. Mr. President, I ask unanimous consent that the period for morning business be extended until 11:10 a.m.

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

The period for morning business is extended until the hour of 11:10 a.m.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. I thank the Chair.

(The remarks of Mr. PRYOR pertaining to the introduction of S. 3012 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. PRYOR. Mr. President, I see no one else asking for recognition. I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

TODAY'S "BOXSCORE" OF THE NATIONAL DEBT

Mr. CRAIG. Mr. President, Senator HELMS is in North Carolina recuperating following heart surgery, and he has asked me to submit for the RECORD each day the Senate is in session what the Senator calls the "Congressional Irresponsibility Boxscore."

The information is provided to me by the staff of Senator HELMS. The Senator from North Carolina instituted this daily report on February 26.

The Federal debt runup by the U.S. Congress stood at $3,982,449,525,016.30, as of the close of business on Tuesday, July 12, 1992.

On a per capita basis, every man, woman, and child owes $15,504.42—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

EXPERIENCES OF MONTANA DELEGATION

Mr. BAUCUS. Mr. President, I am pleased to submit for the RECORD articles from the New York Times that appeared in the July 13 and July 18 editions regarding the Montana delegation's experiences in New York City during the Democratic National Convention. Delegates from Montana at the convention were: Kelly Addy, Jean Atthowe, Evan Barrett, Nadine Brown, Steve Bullock, Dana Christensen, Representative Mary Ellen Connelly, John "Harp" Cote, Lynne Fitzgerald, Peggie Gaghen, Carra George, Mike Gustafson, Mary "Peg" Hartman, June Hermanson, Holly Kaleczyc, Helen Kerr, Kenneth Kubesh, Larry Mavencamp, Kathleen Meyer, John Morrison, Donna Small, Don Sterhan, Bill Whitehead, and Don Wilkins; pages were Pat Isabell and Jenny Kaleczyc.

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

[From the New York Times, July 13, 1992]

DELEGATES FROM MONTANA SHARE FAITH IN THE PARTY

(By Sara Rimer)

Two days after the Phillips County Democratic Central Committee collected $120 in a one-pickle-jar fundraiser at the Westside Cafe in Malta, Mont. (population 1,800), Larry Mavencamp was coming into Manhattan on a bus from La Guardia Airport.

"I like this city," said Mr. Mavencamp, a farmer's son who is the committee's chairman, tilting his head to take in the tall buildings.

At the age of 25, Mr. Mavencamp is the youngest member of the Montana delegation to the Democratic National Convention. In the seat in front of him was the oldest member, 71-year-old Carra George, a retired elementary schoolteacher from Laurel (population 10,000), also in eastern Montana. Mr. Mavencamp has never been to New York before. Mrs. George has been here once—in 1940, for the World's Fair.

"I wanted to come to the convention more than I've wanted anything in my entire life," said Mrs. George, who was wearing her yellow "Carra for Clinton" button. Yes, anything.

Everyone knows Bill Clinton is going to be the nominee, and the party's platform is not expected to hold too many surprises. The convention is a four-day formality, apparently of so little interest to vast numbers of Americans that the networks have sharply curtailed coverage this year.

But to Carra George and Larry Mavencamp, and many of the others among the 4,319 delegates, this week is the fulfillment of their work in the political trenches, their chance to be players, too.

Mrs. George and Mr. Mavencamp are not jaded about the campaign; they haven't had the opportunity. None of the candidates, with the national news media trailing behind, has visited Montana so far.

"People told me, 'Carra, if you want to be a delegate, you're going to have to campaign for it,'" Mrs. George said.

And she did. So did Mr. Mavencamp. Neither of them got to New York because they knew the right people or donated big sums of money or are related to anyone famous. They got it because they worked for it. Mrs. George has spent her adult life walking door to door for candidates and causes (aerobic campaigning, she calls it), making telephone calls late at night, attending meetings of everything from the Laurel Democratic Club (she is president) to the National Organization for Women.

She recently lobbied a young man who had come to fix her toilet. She said, "I said, 'Mark, what has the Republican party done for you?' He didn't say anything. I said, 'I'm waiting.' I said, 'What has George Bush done for you?'"

Mrs. George was one of 11 children raised on a farm in northern Alabama. She can talk forever about what one President, Franklin Delano Roosevelt, did for her family.

"They couldn't make the payments on the farm, and they were about to lose it," she said. "My mother wrote a letter to President Roosevelt. I remember my dad saying, 'It won't do you any good to write to the President.' She wrote anyway. A letter came back from Washington telling her to go to the Federal Farm Bank in Gadsden. They went, said they saved the farm."

Last spring Mr. Mavencamp went to the courthouse with his father, Norman. After years of struggle with creditors, the Federal Government was auctioning off much of his farm.

"They advertised it in the newspaper," Mr. Mavencamp said. "It was humiliating."

Mr. Mavencamp, who has been repairing his father's farm machinery for sale, is still trying to finish college. He keeps having to drop out to go to work—busing tables in Washington or laying underground telephone cable in North Carolina.

Montana's youngest delegate is from a long line of Republicans. But losing the farm helped make him a Democrat. "I don't think George Bush can relate to regular people," he said. "They're just worried about making the payment on their house, and the insurance is due."

For five days and six nights in New York, Mr. Mavencamp has a budget of $1,500. That includes his $400 round-trip air fare and the $300-a-night suite at the Kimberly Hotel that he is sharing with two other delegates. He would obviously have preferred cheaper accommodations.

"I'm counting on a lot of free food at parties," Mr. Mavencamp said.

The first one was Sunday night, at Windows on the World. The host, New York Life, had originally planned the affair for the Rainbow Room, but an employee strike intervened.

Still, the Rainbow Room is where Mr. Mavencamp was at midnight Thursday. He got there in his pick-up. And he didn't have to cross a picket line, or wear a jacket to get in. This Rainbow Room, in Hinsdale, Mont. (population 200), has peanut shells on the floor. And the view is of the ceiling, where local farmers pay a small fee to inscribe their names. Drinking a beer, Larry Mavencamp could look up and see his father's name.

[From the New York Times, July 18, 1992]

MONTANA DELEGATES HEAD HOME AFTER A ROUSING GOOD TIME IN NEW YORK

(By Sara Rimer)

Larry Mavencamp went home to Montana yesterday with a Yankee cap and a briefcase full of mementoes of his first political convention—Clinton-Gore buttons, newspaper clippings, autographs from Senators Bob Kerrey and Joseph R. Biden Jr. and, the one that means the most, a snapshot of himself with the Rev. Jesse Jackson.

The picture had been taken near midnight Wednesday when, lingering in the lobby of their hotel on East 50th Street, Mr. Mavencamp and another Montana delegate, June Hermanson, looked up and saw the man who had electrified them from the podium the night before.

"He walked right over to us and said, 'Hi, I'm Jesse Jackson,'" said Mr. Mavencamp, a 25-year-old farmer's son from tiny Saco (pop. 171). "I believe he asked where we were from; I don't even remember, it was so exciting. Someone that powerful, and he was right there, talking to us. Especially Jesse, who's always spoken for the farmer. You see these people, and they're up on stage, and you're listening to them, and it's great. Hearing Bill Clinton was great.

But Jesse was right there."

Mr. Mavencamp lives across a gravel road from the railroad tracks in a place where not even the freight train stops anymore, a place, he says, that "isn't on the edge of the earth, but you can see it from there." But for four days in New York, he and his 23 fellow delegates from Montana were right there, too, in ringside seats at the Democratic Party's quadrennial show.

WE GOT PLUGGED IN

"You feel like you're out in the wilds of Montana," said Kelly Addy, the vice chairman of the state Democratic Party. "This week we got plugged in." Montana only has 810,000 people, and Bill Clinton has not campaigned there.

Devoid of any real decisions, the convention was four days of political symbolism, a pep rally for a bruising campaign to come. For the delegates, and especially for Mr. Mavencamp, who is from eastern Montana, where Democrats are hard to find, it was a perfect America: Everyone was a Democrat, and everyone voted.

"It's about finally having some hope that things can be different," Mr. Mavencamp said. "It's given me the drive to do twice as much as before. It's just a crock that all these politicians are no good. We're willing to believe in Clinton and Gore."

Mr. Mavencamp didn't listen only to the politicians, but also to the delegates from all over the country who rode the courtesy buses to Madison Square Garden. "This older man from Charlotte told me, 'You young people should be mad, why aren't you mad'" he said. "I thought, 'Yeah!' When we got to the convention, I gave him my Montanans for Clinton and Gore button."

Four years ago, Montana's youngest delegate was so alienated he didn't even bother to vote. But this spring, after watching his father, Norman, lose most of his farm to his creditors, the Federal Government, Mr. Mavencamp became the chairman of the Phillips County Democratic Central Committee. The 15-member committee meets in the library in the town of Malta. Seven members had collected $120 at a fund-raiser at the Westside Cafe to help send Mr. Mavencamp to New York. He has been repairing his father's farm machinery for sale and his father paid him an advance on his wages to cover the rest of his expenses.

New York was full of politicians with agendas this week, and Larry Mavencamp had one, too: He told everyone who would listen: "We have to do something about saving the family farm."

He also tried to persuade his Senator, Max Baucus, who headed the delegation, to show up at the Phillips County committee's $10-a-plate fundraiser on Sept. 5. Mr. Baucus seemed interested, but said he would have to check his calendar.

Carra George, a 71-year-old retired schoolteacher from Laurel, said she could not remember a time when she had not watched the convention on television or listened on the radio. "I remember in 1952 we didn't have television and I was listening to the radio, and suddenly it went dead," she said. "So I ran out to the car and listened until I wore the battery down. Then I ran to my neighbors and asked if she had an extra radio I could borrow."

This year for the first time she was there, and not just in the delegates' stands, but on stage, one of those chosen from all over the country to stand there with Bill Clinton and Al Gore as the convention closed Thursday night. These were, she said, the four greatest days of her life.

She went home with plans to start campaigning door-to-door—her specialty—on behalf of Bill Clinton.

Mr. Mavencamp may find people a little more willing to listen, at least at first. Before he left, his participation in the convention had rated only three sentences on page three of the weekly Phillips County News. In this week's issue, he made the front page. The headline: "SACO Democrat Makes It Big in New York."

TUBERCULOSIS PREVENTION AND CONTROL AMENDMENTS ACT OF 1992

Mr. FOWLER. Mr. President, I rise today to alert you to one of the most serious public health threats to emerge in this country in recent years, namely the ominous return and resurgence of tuberculosis [TB]. Many people mistakenly believed that TB had been conquered by modern medicine, but it has once again appeared all across this country, striking persons of all ages, and walks of life.

After decades of decline, TB rates have climbed dramatically in the past several years. In 1990 there were almost 26,000 reported cases of the disease. That is a 9-percent increase over the previous year and the largest single increase since nationwide reporting began back in 1953. Between 1990 and 1991, my State of Georgia saw a dramatic 14-percent increase in new TB cases. But my State is not unique. This outbreak is occurring all across the country. It is affecting cities, suburbs, and even rural areas, with more than half of all cases reported in communities of less than 250,000 persons.

Mr. President, even more ominous is the emergence of a new deadly strain of TB that is resistant to traditional medical treatment. This strain, known as multi-drug-resistant TB or MDR TB, is expensive to treat and, more alarming, is fatal in up to 75 percent of all cases.

TB poses great threats to all types of people, but it particularly hurts the poor, homeless, and persons with HIV. Those who work with the poor and homeless in shelters or public service agencies, and those who care for the sick in our hospitals are also particu-

larly vulnerable to this dreaded disease. Even our children and senior citizens are susceptible because of their frail immune systems.

Health officials across my State and this country have warned us that this recent outbreak in the more vulnerable segments of our society is a grim warning of what the general population may soon face, if we do not act now to stem the tide of this growing epidemic.

The good news is that TB is preventable and, in most cases, a curable disease. Treatment for TB generally is a regimen of up to three or four drugs taken daily for between 6 and 9 months. However, failure to follow this regimen faithfully or to complete the full course of medication can result in the development of MDR TB.

To combat this scourge we desperately need more public health workers to monitor and ensure the successful completion of a patient's drug therapy program. This program, known as directly observed therapy, is a tried and true method of TB control which imprudently has been neglected in recent years. Furthermore, we need to bolster our current CDC and NIH programs to improve testing methods and to find a cure for MDR TB. Finally we must reequip our hospitals which treat the largest number of TB cases.

Because TB is transmitted through the air by coughing, many hospitals will find it necessary to improve ventilation systems to control the flow of bacteria-infected air. Hospitals will also need to install UV lighting, which is known to kill airborne TB, in waiting rooms, hallways, and wards.

The bill that I introduced on Monday along with Senators AKAKA, BUMPERS, COCHRAN, CRANSTON, D'AMATO, INOUYE, and MOYNIHAN will address all these needs. This legislation increases authorizations for current Centers for Disease Control [CDC] TB prevention and control programs and for National Institutes of Health [NIH] TB research programs. I want to point out that these TB prevention programs are highly cost effective. HHS has estimated that we save between $3 and $4 for every dollar of TB and prevention and control funds expended.

My legislation will also provide for Public Health Service grants for TB-related capital improvements to hospitals. Finally this legislation will allow States to extend Medicaid eligibility to those who test positive for TB and meet a State's poverty guidelines.

Mr. President, the deadly resurgence of TB should have never occurred. We are experiencing the dramatic comeback of this dreadful disease because we have failed to maintain vigilance in this area of public health. And let me stress, it is not the fault of our doctors or public health officials, who were able to steadily reduce the TB rate until the mid-1980's. The blame lies in the mistaken health care cuts of the past decade which have rendered our Federal TB programs helpless against this brimming tide of TB.

We know how to combat and fight this dreaded disease. We must act now to curb this outbreak before the problem worsens. Delay will only unnecessarily threaten thousands of more lives and increase health costs exponentially.

I ask my colleagues to help stop this deadly resurgence of TB by supporting this bill.

Mr. D'AMATO. Mr. President, I rise today as an original cosponsor to speak in support of the Tuberculosis Prevention and Control Amendments Act of 1992. This bipartisan legislation addresses the serious and often deadly disease of tuberculosis and the difficult medical, social, and economic problems caused by a resurgence of this disease—a resurgence happening not only in New York but also in the urban and rural areas of all parts of the United States.

This bill will give us the weapons we need to fight this deadly resurgence of TB by significantly increasing the funding available for TB prevention and control at the Centers for Disease Control [CDC] and National Institutes of Health [NIH].

Only recently, tuberculosis was viewed as a disease of the past. Unfortunately, after decades of decline, tuberculosis is coming back—and in epidemic proportions. In 1990, the rate of tuberculosis increased 9.4 percent as compared to 1989—the largest increase since national reporting began in 1953.

This deadly disease can affect all segments of our population. It hits hardest among populations such as the homeless, the elderly, the HIV-infected and the drug-abusers. We are now seeing the disease in our newly arrived immigrant populations. We are also seeing the disease striking particularly hard in minority communities, and at an earlier age. We are seeing a dramatic increase in the number of cases in children, especially in children under 5. In New York City, the tuberculosis rate among children under 15 years of age rose 97 percent over the 1989 rate. We now have outbreaks of tuberculosis in crowded institutional settings, in hospitals, nursing homes, shelters for the homeless, and correctional facilities. Those whose immune systems are compromised by AIDS, cancer, or any other immune-suppressing diseases are especially at risk in institutional settings.

Of grave concern are the outbreaks of a multidrug-resistant strain of tuberculosis. While, with a long-term, monitored course of drug therapy, tuberculosis can be cured, the drug-resistant strains often develop in patients who do not complete the course of drug therapy. We are seeing the drug-resistant strains in hospitals, in patients and in health care workers.

TB can be, and often is, fatal without proper medication and treatment. Untreated, TB kills half its victims within 2 years after symptoms appear. CDC estimates that TB causes 26 percent of preventable deaths around the world.

To successfully combat this new epidemic of tuberculosis we must ensure that those who have this deadly disease receive and complete a course of treatment and that those who have had contact with infected individuals receive preventive therapy. To prevent future outbreaks, we need better testing methods, with faster results, more effective training and equipment and capital improvements to hospital facilities—better ventilation, more UV lighting.

This legislation will address these urgent needs by authorizing badly needed funding for CDC to expand therapy programs, purchase and distribute medication, purchase new diagnostic and testing equipment, and provide training and materials for health care workers. NIH will fund needed research to develop new testing methods and ways to combat multidrug-resistant TB. The Public Health Service will receive funds to be used for project grants for capital improvements to hospitals to improve ventilation systems, install UV light and supply appropriate supplies and materials.

This legislation also permits the States to make individuals who test positive for TB and who meet a State's poverty standards eligible for Medicaid for TB services only. This will help us ensure that those who need treatment will receive that treatment.

I urge each of my colleagues to join in our bipartisan effort to address this disease. It is imperative that we provide adequate funding for prevention and control. For every dollar of TB prevention and control funds spent, we can save an estimated $3–$4. Equally important is the savings in terms of human suffering, repeated and prolonged hospitalizations, family disruption, and emotional damage.

Mr. President, let me again stress that the TB epidemic is not an isolated phenomenon limited to our Nation's urban areas. TB is an infectious disease that knows no geographic boundaries. It is spreading at an unprecedented rate. The good news is that, with the proper resources, we can control it. Let us commit the necessary resources to winning the battle against TB by passing this legislation without delay.

Mr. AKAKA. Mr. President, I rise today as an original cosponsor to speak in support of S. 2988, the Tuberculosis Prevention and Control Amendments Act of 1992. This urgently needed legislation, introduced on July 20, 1992, by my colleague from Georgia, Senator FOWLER, seeks to prevent, control, and eliminate tuberculosis [TB].

Many people think of TB as a disease of the past. TB, a contagious airborne

bacteria which can destroy the lungs, was the primary killer of Americans at the turn of the century. This disease was so deadly that it was called the "captain of all men of death." After World War II, antibiotics and public health efforts nearly wiped out the disease, and the infamous sanitariums were closed.

In recent years, however, there has been an alarming resurgence in the number of TB cases nationwide. This disease used to be 100 percent curable. Unfortunately, because people are not taking their medication properly, the disease became resistant to the antibiotics. Without monitoring, some patients fail to take the drugs for the full 6 months or more needed to wipe out the disease. These patients again become contagious with a more dangerous strain that does not respond to conventional treatments.

The dramatic increase in TB cases parallels the increase in AIDS cases. Persons with AIDS have a suppressed immune system. They are more likely to contract the disease if exposed to it.

In my State of Hawaii, TB is a definite threat to public health. In 1991, Hawaii reported the second highest tuberculosis case rate in the Nation. 17.2 cases per 100,000 behind only New York State. We have seen an increase in the number of cases reported every year since 1988. Our Hawaii State Department of Health reported 201 cases of tuberculosis in 1991 and expects 240 cases this year, a 20-percent rise.

According to Department of Health data, 75 percent of these patients are foreign-born. Most of them are recent immigrants from less developed countries in the Asia/Pacific region, where TB is highly prevalent. Hawaii has the highest percentage of such TB cases of any State.

A recent survey conducted by the Centers for Disease Control [CDC] found that Hawaii reported the third highest percentage of multiple-drug-resistant tuberculosis [MDR–TB] cases in the nation, behind New York and New Jersey. In Southeast Asia, where most of Hawaii's TB cases originate, the problem is compounded because TB drugs are available without prescription and are taken inappropriately.

We are not powerless against TB. This is a preventable disease; one that is usually curable. Curing active TB requires daily drug therapy for 6 to 9 months. If this regimen is not followed strictly, MDR–TB can develop. MDR–TB treatment is not merely lengthier and more expensive; only about half of the patients recover.

Mr. President, the bill we introduced earlier this week would help attack the TB problem by increasing authorizations for current CDC and National Institutes of Health [NIH] programs. The critical need is for more public health outreach workers to monitor and ensure the effective completion of patients' drug therapy programs. That is the key to controlling the alarming resurgence of this disease: monitoring treatment.

Hawaii's $1.2 million program screens 28,000 people annually, x rays 15,000 people and treats about 200 active cases. About 30 active TB patients in Hawaii are at risk for developing MDR–TB. Only a third of them can be closely monitored by the Health Department's three outreach workers.

This legislation also creates new programs to stem this epidemic. It would permit States to make persons who test positive for TB and who meet a State's poverty standards eligible for Medicaid—for TB services only. It would also provide capital improvement grants to certain hospitals for the installation of UV lighting, known to kill airborne TB, and proper ventilation systems.

Mr. President, I strongly urge my colleagues to support the Tuberculosis Prevention and Control Amendments Act of 1992. We must act to target funds, especially to areas reporting a significant percentage of foreign-born and MDR–TB cases. Now is the moment to halt this epidemic in its tracks, before it needlessly claims more victims.

Mr. President, I ask unanimous consent that an article appearing in the June 17, 1992, Honolulu Star Bulletin be inserted in the RECORD immediately after my statement.

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

[From the Honolulu Star Bulletin, June 17, 1992]

STATE RINGS AN ALARM BELL ON TB THREAT

(By Linda Hosok)

To stop the dramatic spread of tuberculosis in Hawaii, state workers should literally watch sick people take their pills to increase their chances of a cure, a TB expert says.

The practice also would prevent people from developing drug-resistant TB strains, which can cost up to $120,000 a patient to treat, said Dr. Lee Reichman, American Lung Association president.

"This disease used to be 100 percent curable," said Reichman at a forum yesterday at the Pacific Club. "But because we didn't make sure people took their medication appropriately," the disease became resistant to the antibiotics.

About 3 percent of the state's 201 TB cases don't respond to the two best drugs that treat it, said Dr. Azucena Ignacio, the state Health Department's tuberculosis branch chief.

Most of Hawaii's TB cases occur in people who immigrate from Southeast Asia, Ignacio said.

In New York City, about 33 percent of the cases are drug-resistant, Reichman said. New York has the nation's highest TB rate and Hawaii the second highest, with 17.2 cases per 100,000 people.

Both Ignacio and Reichman said they fear the disease could get out of control in Hawaii. The United States already has declared TB control a national emergency.

"This should have been wiped out," Ignacio said, adding that the local situation will become explosive if people with AIDS get drug-resistant TB strains.

TB, a contagious bacteria that eats holes in lung tissue, was the No. 1 killer of Americans at the turn of the century. Antibiotics almost eradicated it, causing public health officials to close sanitariums and shift dollars to other diseases, Reichman said.

But without monitoring, some patients failed to take the potent drugs for the full six months, allowing the disease to make a comeback. Patients again became contagious, but with a strain that didn't respond to conventional treatments.

"It was entirely predictable," Reichman said, adding the alternative antibiotics are less effective, more toxic and more expensive.

Reichman also said the increase in TB cases paralleled the increase in AIDS cases. People with AIDS have a suppressed immune system, which means they are likely to get the disease if they are exposed to it.

TB is transmitted in the air but is hard to spread, Reichman said.

Exposed persons may never get infected, which means they have a positive TB test. And an infected person may never develop an active case. "You don't catch it riding the subway," he said, adding that a person exposed to TB for eight hours a day for six months has a 50 percent chance of getting it.

Nationally, rates began rising in 1984, jumping 0.4 percent in 1990. More than one-third of the world is infected; highest rates in Southeast Asia and Africa.

The TB problem in Southeast Asia is compounded because people can get TB drugs without a prescription and take them inappropriately, Reichman said.

Reichman praised the state's overall TB program but said it lacks resources to effectively monitor the disease. He said the state needs outreach workers to make sure patients take their pills correctly. And he said the state needs to track immigrants on a computer system.

The state's $1.2 million program annually screens 28,000 people, X-rays 18,000 people and treats about 200 active cases, Ignacio said.

She estimated that about 65 percent or 170 take their medication on schedule. But that leaves about 30 who may be at risk for developing drug-resistant strains.

The department's three outreach workers closely monitor only about 12 patients, said Paul Tribble, an adviser from the Centers for Disease Control in Atlanta.

The state hopes to receive federal money for four more outreach workers in July, said Charlene Young, deputy director of health promotion and disease prevention. But the state projects an increase of 40 cases this year, she said.

Reichman said some mainland health care workers have caught drug-resistant strains, putting them at risk for death. Two Hawaii outreach workers have become infected since 1983, but neither has developed an active case, Ignacio said.

She said the number of TB deaths here increased to five last year, a number not seen since the 1970s.

Worldwide, tuberculosis kills 3 million people annually, Reichman said.

BLATANT ABUSE OF FEDERAL FUNDS

Mr. PRYOR. Mr. President, I am here today to address an act that I still cannot believe actually happened. I refer to information obtained by the Associ-

ated Press under the Freedom of Information Act, that revealed that the Agriculture Department has spent $750,000 to redecorate the offices of some of its highest-ranking employees.

In a blatant abuse of Federal funds, $750,000 was spent to hang new drapes, install two kitchenettes, and construct scalloped cornices above some windows. As if that were not enough, construction workers were called in after hours and paid overtime to move offices from one end of the USDA building to another.

Mr. President, this comes at a time when the outlook for the American farmer could be described as bleak at best. According to a report released by the USDA itself in May 1992, fully 55 percent of all farm households experienced losses from their farming operations. Yet $750,000 was spent to make the bureaucracy more comfortable.

Mr. President, since 1980, expenditures in rural development programs have decreased by 65 percent or by $17 billion—well, now we know where some of that money is going—to accommodate the bureaucracy. The same bureaucracy, I might add, that the administration has continually criticized.

Mr. President, I would like to quote my distinguished colleague from South Dakota, Senator TOM DASCHLE, who said, "The only thing that ought to be remodeled in the Department of Agriculture is their farm policy * * * if they were as determined to get a decent price as they are fancy offices, we'd have happy farmers instead of happy bureaucrats."

Mr. President, maybe the administration and the Secretary of Agriculture consider this criticism to be unwarranted, that in the overall scheme of a massive Federal budget, $750,000 is a minor amount, hardly worth debating. Tell that to the family farmer who is struggling to repay a $200,000 loan, tell it to the farmers who are having their assets sold by creditors because there is no market for their product. $750,000, or just a fraction of that, could provide a chance to turn things around for some. What may determine the success or failure of a family farm that has existed for generations is mere pocket change to a bureaucrat who callously uses that money to redecorate.

Seven hundred and fifty thousand dollars. Mr. President, I would like to demonstrate what that amount of money could mean to some of the farms in my home State. In Arkansas, where we lost 1,000 family farms between 1990 and 1991, a small fraction of that money could be put to good use by the remaining farms. For $135,000 to $150,000 a farmer could buy a new combine, for $150,000, a four; row cotton picker; or for $90,000 to $120,000 a new tractor depending on type. In the primary rice producing area of my State, the expected cost to drop a 10-inch irrigation well is between $35,000 and $50,000. In Arkansas, the average size farm is 337 acres. When one considers that on the average it costs $15 an acre for fuel expenses, $35 an acre for chemicals, $25 an acre for fertilizer, $10 an acre for hauling and $25 an acre for maintenance, we are talking about real money.

Mr. President, I venture to say that if you took all of the farmers who made half of what the USDA spent on redecoration, you would not be able to fill up one of their new suites.

In defense of this expenditure, a USDA spokesman said, "We have cracked and deteriorating pipes, air-conditioning units that were in poor condition that allowed humidity to creep in and deteriorate walls." And so $750,000 was tossed at the problem in order that the USDA's top administrators would have a comfortable atmosphere in which to work. But who are they working for? Who are they looking out for Mr. President? According to the USDA's own figures, almost 22 percent of all farm households have total income below the poverty line.

"Cracked pipes," and "deteriorating walls" are the least of rural America's problems. Many family farms would probably like to redecorate too, but when faced with overwhelming debt, little or no substantial government policy, and a noncompetitive export stance from the administration, physical comfort is the least of concerns.

Unfortunately, the poor condition of the administration's offices was the closest that they would ever come to the poor condition of the family farm. But in a response that was so typical of the administration in general, the real problems were glossed over, concealed by the new drapes hanging in the offices.

Mr. President, most of us have had the pleasure of sitting around a campfire at one point in our lives. As you might recall, there was warmth and comfort sitting around the fire and we were all able to see each other clearly in the darkest of night as long as we stayed by the light of the flames. But we must remember, Mr. President, this administration especially, that men who surround themselves in light have a limited range of vision. So, while all is well in the Secretary's office, the family farmer is engulfed in a darkening economic horizon. What the Secretary of Agriculture and the administration need to remember is that men in darkness see all.

WET PROCESS PHOSPHORIC ACID PRODUCTION WASTES

Mr. DOLE. Mr. President, on June 13, 1991, after 12 years of extensive EPA study, investigation, and judicial review, EPA issued a final regulatory determination, pursuant to the Resource Conservation Recovery Act [RCRA], on wet process phosphoric acid production wastes (56 Fed. Reg. 27,300). In related action, prior to EPA's final determination, 19 Senators joined in letters to the Administrator on this matter, including myself and Senators BURNS, DIXON, SYMMS, PRYOR, SIMPSON, CRAIG, BOREN, MCCONNELL, COCHRAN, CONRAD, HARKIN, MACK, HEFLIN, GRASSLEY, NICKLES, KERREY, EXON, and DASCHLE.

Based on EPA's investigation, EPA determined that the regulation of wet process phosphoric acid production waste as a hazardous or nonhazardous waste under RCRA would impose unsustainable costs and impacts. EPA estimated that RCRA subtitle C and D regulation, the hazardous and nonhazardous regulatory Programs, of wet process phosphoric acid production waste could cost $1.287 billion per year. These costs would be in addition to other environmental regulatory compliance costs imposed under other State and Federal laws.

Therefore, EPA determined that the development of a management program specifically designed to address wet process phosphoric acid production waste should be considered under other pertinent environmental statutes. EPA's regulatory determination also reserved the right of the agency to address any imminent and substantial endangerment that might be posed by such waste under RCRA. The environmental community did not challenge EPA's June 1991 regulatory determination in court.

The proposed amendment, that I will not offer here today, but needs to be addressed at some point in the future, preserves EPA's regulatory determination concerning the regulation of wet process phosphoric acid production wastes while leaving EPA free to exercise its RCRA imminent and substantial endangerment authority, as reserved in the regulatory determination.

The proposed amendment does not exempt wet process phosphoric acid production wastes from Federal regulation. By excepting these wastes from RCRA's definition of solid waste, except for the purposes of EPA's imminent and substantial endangerment authority, this amendment simply echoes EPA's June 1991 regulatory determination, shifting regulation to the Toxic Substances Control Act [TOSCA] which allows broad authority to regulate production of a chemical, require certain production methods, labeling and/or warnings, monitoring and recordkeeping, particular disposal methods, and provides citizen petitions for rulemakings.

Mr. President, I would ask that additional background material regarding the need for phosphoric acid be included as a part of the RECORD.

AGRICULTURAL NEED FOR PHOSPHORIC ACID

Phosphoric acid is an essential agricultural nutrient that is of utmost im-

portance to our Nation's high agricultural productivity.

This important agricultural nutrient is provided solely by U.S. domestic procedures either headquartered in or have production facilities in Illinois, Kansas, Mississippi, Florida, Louisiana, Texas, Idaho, Montana, Wyoming, and North Carolina.

The top 20 ranking States for agricultural nutrient consumption and for top agricultural production in 1991, were: Illinois, Indiana, Kansas, Ohio, Texas, Iowa, Minnesota, Nebraska, California, Missouri, Michigan, Florida, Arkansas, Wisconsin, Oklahoma, Kentucky, Mississippi, North Dakota, Tennessee, and North Dakota, Tennessee, and North Carolina.

Our Nation's crops need the nutrient phosphorous to grow. U.S. corn and wheat farmers need about a pound of phosphate to produce a bushel of corn or wheat.

Phosphorous is a nutrient essential to all living things, and must be present in every living cell of all plants and animals. Animals and humans obtain phosphorous in the food they eat. The most abundant source of phosphorous for food crops comes from phosphoric acid.

Wet process phosphoric acid production is necessary because phosphate is an extremely hard and insoluble material for food crop or animal feed use. Because of its insolubility, phosphate material is an inefficient source of crop phosphorous or for animal feed. Chemical treatment of phosphate material is necessary to produce water-soluble phosphoric acid that is readily used by farmers as fertilizer or as an animal feed supplement. A necessary byproduct of phosphoric acid production is a high volume, low hazard processing waste.

Animals get some phosphorous from the levels that are present in hay, pasture, grain, and protein feeds. Their further phosphorous needs must be supplied by a supplemental source, the type that is manufactured for farmers by the U.S. phosphate industry. Phosphorous dietary supplements for beef cattle, sheep, goats, turkeys, laying hens, and poultry for the human diet are produced from phosphoric acid. There are also special supplements with a high calcium content using phosphoric acid for dairy cattle. Phosphoric acid is also present in food products such as soft drinks and processed foods.

Phosphorous is essential for sustaining America's abundant supply of food and maintaining our competitive position in a global economy. U.S. crops consume large amounts of phosphorous from the soil. For a corn crop, when averaged over the growing season, phosphorous must be completely replaced six or seven times each day. This means the nutrient phosphorous, in the form of phosphate fertilizer, made from phosphoric acid, must be added to the soil in order to maintain high levels of U.S. food crop production.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE ACT OF 1992

The PRESIDING OFFICER. The clerk will report the pending bill.

The legislative clerk read as follows:

A bill (S. 2877) entitled "Interstate Transportation of Municipal Waste Act of 1992."

The Senate resumed consideration of the bill.

Mr. BAUCUS. Mr. President, I believe the Senator from Vermont [Mr. JEFFORDS] would like to enter into a colloquy with me, and I urge the Chair to now recognize the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I thank the Senator from the great State of Montana for his willingness to enter into a colloquy with me. I certainly want to commend him and the Senator from Rhode Island on their tremendous diligence in trying to take what may, to some, seem like a rather simple issue but becomes very complex and yet very important.

I confess, though, that I have a few concerns about this bill, but I do not want to impede its progress. I also do believe my colleague from Montana was on the floor yesterday when I thanked him for consideration of a national deposit law, so I would like to thank him again while he is here in saying that he would be happy to have a hearing. I do not know about happy but have a hearing anyway on that issue.

There is one outstanding issue that is particularly troubling to me: What happens in conference? We have all worked hard on reauthorizing RCRA, but there are still a few issues remaining to be resolved. Some have speculated that this bill will conference with RCRA on the House side and become a RCRA conference report. Given the hard work of the chairman of the subcommittee and all the subcommittee members, I do not believe it appropriate for this bill to become RCRA in conference.

Will my colleague commit to bringing only interstate provisions back from the conference?

I am happy to yield to my colleague from Montana.

Mr. BAUCUS. Mr. President, my colleague will understand it is impossible to anticipate the exact context of the upcoming conference with the House. However, I believe the Senate has spoken very strongly on the issue of interstate transport of municipal waste, and it is my intention to resist any changes outside the scope of that issue. We are working on legislation which addresses the interstate transport of municipal solid waste only.

We are not dealing with other Resource Conservation and Recovery Act issues. Waste minimization is one example. Recycling would be another example. The bottle bill, which the Senator from Vermont is so interested in, would be a third example. It is my intention to resist any changes that would lie outside the scope of the legislation we are now considering. I will urge my fellow conferees to do likewise. I cannot fully anticipate what the circumstances of the conference will be, but it is my very strong intention to resist the changes.

Mr. JEFFORDS. I yield to my friend from Rhode Island.

Mr. CHAFEE. Mr. President, I am committed to oppose attempts to broaden this interstate waste bill in conference with the House.

By passing this narrow bill on interstate waste the Senate is not authorizing us to expand this bill into a full-blown RCRA reauthorization bill in conference.

The conference on this bill just is not the place to do a RCRA reauthorization. RCRA reauthorization is far too important to write in conference in a haphazard manner.

I am strongly in agreement with the position of the Senator from Vermont.±

Mr. COATS. Mr. President, there has been a strong and widespread consensus here that every attempt will be made to maintain what we call a clean interstate waste bill. I appreciate the responses of the floor managers of this legislation. Also I want to assure the Senator from Vermont that I share not only his concerns, but I believe that every attempt will be made to keep this legislation free from additions to it, which in my opinion would jeopardize final acceptance of this legislation.

The administration has clearly indicated that they do not see this as an appropriate way to deal with important RCRA legislation, and it would jeopardize it—probably doom—the opportunity to pass this year an interstate provision as we are seeking to do on the floor.

So I want to add my assurances to the Senator that I will make every effort to make sure that this does not happen.

Mr. JEFFORDS. Mr. President, I appreciate the comments of the Senator from Indiana, and the sponsor of the bill. I agree with him; that this is an important issue as we are seeing as each day passes, and having it doomed by actions in conference I do not think anybody wants to see.

I have a couple of other questions just on a few points. Two reasons. One

is to let you know I read the amended bill; second to clarify these issues.

With respect to what is or is not grandfathered under the bill, the bill says that landfills cannot be grandfathered unless the landfills or incinerators are in compliance. What cost does this mean? Does it mean in compliance. What cost does this mean? Does it mean in complete and total compliance at all times with all regulations?

I yield to the Senator from Montana for his reply.

Mr. BAUCUS. In response, I would say that the landfill serving out-of-State municipal waste must be in compliance on the date of enactment with all applicable State laws related to the design and locational standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure care and corrective action. If a landfill is not in compliance with the State requirements, then the landfill could be prohibited from receiving out-of-State waste. Whether or not a landfill is in compliance will be based on EPA criteria for determining compliance.

Mr. JEFFORDS. I appreciate that answer. I think we will find that there will be attempts along the way, probably by those who have other desires to try to get away from what was intended in the bill.

Second, does this bill apply to waste generated during interstate commerce? What is the point where generation occurs? This may seem silly but I want to close a possible loophole.

Suppose a train leaves from Atlanta for Indianapolis. Which State gets credit for the waste generated by the passengers, Georgia or Indiana? If we say Georgia, technically, Indiana might have to ban these wastes or open her borders to anyone.

I think in my hypothetical example the State of Indiana is the State in which the waste is voted out. Can we agree the waste provided by this bill is not waste provided by individuals during transportation, or what insignificant amount of their own waste that private individuals may carry across State lines? In other words, the waste haulers cannot try to get around the law by citing such incidental interstate waste transport.

I yield to the Senator from Montana.

Mr. BAUCUS. It is my intent, I say to the Senator from Vermont, for the bill not to regulate waste generated by private individuals during transportation across State lines. In fact, in subsection (d)(4), the bill explicitly exempts from the bill any solid waste generated incident to the provision of interstate, intrastate, foreign or overseas air transportation.

Mr. JEFFORDS. I thank the Senator from Montana for those answers. I know they will help us make sure this bill works as well as we hope it will.

I would like to thank my colleagues for their time and their hard work. At this point, I would like to place a short written statement into the RECORD raising some issues I hope my colleagues can address in conference. I did not want to raise these points as amendments so as not to impede your progress.

I would ask my colleagues to consider two issues in conference. First, there are no provisions in this bill to allow for emergencies. Provisions should be added to this bill for a Governor or the President to temporarily waive the provisions in this bill in times of emergency. Bad things happen in this world, and we cannot foresee every eventuality.

This bill precludes a Governor from discriminating against any State. In other words, if you take wastes from one State, you may have to take wastes from all States. As a general rule, I think this is fair. But, I believe we should give a Governor temporary authority to open the State's borders to another State in a discriminatory fashion for some small amount of time just to account for all the unknown events that could arise. Suppose for example, you are on the Eastern Shore and the Chesapeake Bay Bridge is knocked down and that there is not enough capacity for Maryland wastes on the Maryland portion of the Eastern Shore. Are wastes to be trucked all around the bay? Suppose another hurricane strikes putting landfills temporarily out of commission. Do we want waste piling up? I do not think so. I believe we should consider giving a Governor some temporary emergency authority to override local interests on an emergency basis until public hearings can be held. Given the politics of garbage, I do not think this authority would be abused. Any Governor abusing this authority would come to regret it.

Second, I have concerns about making this a permanent part of American law. Our laws should reflect our unity and our need for unity. I can understand why this legislation is important while we sort out the larger question of our solid waste problem. I would suggest a 15-year sunset. By then, nearly every landfill in existence today will probably be closed, and we should have a national recycling program to make sure everyone is doing their part. Then, we should be encouraging the use of the best landfill, not the use of the politically expedient landfill.

I ask my colleagues to consider these thoughts in conference.

Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, we do not have many amendments remaining. We are working on the colloquy now between Senator INOUYE and myself.

In addition, an amendment by Senator BINGAMAN will be in order. He is not able to come to the floor. I will offer the amendment in his behalf.

It is my understanding that the Senator from Michigan [Mr. LEVIN] also would have a second-degree amendment concerning a study of interstate municipal waste transportation issues between Canada and the United States. That would be a second-degree amendment to the Bingaman amendment. There are some questions concerning that study at this point. But once we get those worked out, and I do think they will be worked out fairly quickly, I hope to be able to go quickly to third reading of this bill.

So I urge the Senator from Michigan to come to the floor so he can offer a second-degree amendment. I hope in the meantime we can work out the colloquy with the Senator from Hawaii.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CONRAD. Mr. President, earlier we heard the distinguished Senator from Indiana indicate the desire to keep this a so-called clean bill. I do not know how you keep a bill that is about trash clean, but perhaps that is possible.

Mr. President, as I indicated earlier in remarks on the floor, I believe if that is the outcome here, we will have made a very significant mistake. I explored this morning the new case that I have learned of in my State that involves industrial waste, that involves an agreement between General Motors Corp., the largest industrial corporation in the world, with a very small town in my State, a town called Sawyer, with 319 people. That little town is going to take all of the sludge and industrial waste from 100 General Motors plants, and there is nothing the Governor can do to stop it.

Mr. President, we had the debate last night with respect to municipal waste and the question of whether or not a Governor has some ability to influence an outcome that affects the whole State. That is clearly the case with respect to the case before us now. We made the decision last night, some of us vigorously opposing it, that unless the Governor is joined by the community itself in wanting to abrogate a new contract, it cannot be done.

In other words, Mr. President, we have a situation in which if a small town, economically hard pressed, enters into an agreement with a giant corporation to take all of their waste—that is what we have in North Dakota right now—take it all from 100 plants, there is nothing the Governor of that State can do about it. It does not matter that thousands of people in sur-

rounding communities are affected. It does not matter that the State road system is affected. It does not matter that the health and safety of the residents of the area are threatened. The Governor can do nothing about it.

Mr. President, that is just fundamentally wrong. In this bill, what we have is protection for the four large importing States, those that are now taking municipal waste of over 1 million tons a year. There has been a conscious decision, as they went through the process, to exclude industrial waste from this calculation. I just say to my colleagues: If you were in the shoes of the State of North Dakota and you were presented with a situation in which General Motors and the 100 plants of General Motors are going to dump all of their industrial waste in a town of 319 people, and there is nothing that can be done about it, you would expect your representative in this body to do something about it.

Mr. President, there has to be some rational outcome here. There has to be an ability for the majority of the State to be able to make decisions that fundamentally affect the State.

Mr. President, we look upon ourselves as the breadbasket of the country, out in my part of the country. The breadbasket, not the trash basket. We think it is just reasonable that a Governor of a State, the Governor of a sovereign State, ought to be able to have some say when a small community enters into agreement with a large corporation to take all of their trash. It does not just affect that community. It does not just affect that whole community. Who can seriously stand on the floor and say that taking all of the sludge from 100 General Motors plants in a town of 319 does not affect the people beyond the borders of that small town?

Mr. President, I hope that somehow reason will prevail here, and we will find a way to allow a State to have reasonable input into the decisionmaking process. If that means this bill has to be altered a little bit, then that should be done, because, very frankly, to solve the problems of some of the exporting States and a few of the large importing States and leave the rest of us hang is really not an acceptable outcome. That is just not an acceptable outcome. I hope that reason prevails, Mr. President.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am very sensitive, as I am sure all the members of the Environment Committee are, to the concerns voiced by the Senator from North Dakota.

I think we have to remember what we are dealing with here. We are dealing with a very narrow subject. This particular legislation deals solely with municipal waste, trash.

When you are talking about municipal waste, you are talking roughly 200 million tons a year, of which about 15 million tons are involved in interstate commerce. So I am not slighting the fact of 15 million tons; that is a sizable amount. But in the universe it is relatively small, because what the Senator from North Dakota is talking about is industrial waste. Industrial waste generates not the municipal waste which I said was 200 million tons a year; industrial waste is 8 billion tons a year, 8 billion with a "b." So you are talking a vastly increased amount over what we are concerned with in this legislation.

If we should try to tinker with this bill that we have spent now 3½ days on to include industrial waste, we would be getting into all kinds of problems, problems that we really do not know about. We have had hearings on this particular measure, and we have dealt with it, because the Senator from Indiana has been, as I mentioned before, doggedly pursuing this issue for 3 years. So we are familiar with it. We know who the exporting States are. We know who the importing States are. We know the amounts that are involved. We have had contact with the Governors and the attorneys general and a host of officials who were involved with this.

The Senator from North Dakota is stunned by this news of General Motors taking what is referred to as "sludge" to his State. And that is not carefully defined. Apparently, it is nonhazardous, as best we can tell from the newspaper article. The Senator is rightfully concerned that a small community in North Dakota, the town of Sawyer, is prepared to accept this. He says to us: Do something. But that is imposing on us a very, very difficult problem.

As the manager of the bill has mentioned several times, we have passed out of the committee RCRA legislation, resource conservation recovery legislation, and that is available to come on the floor. But that is a contentious item. And I do not think we will see it this year, because there are so many objections to it.

I do not mean to be facetious, and I am not trying to be ultrastern on North Dakota, but it is incumbent on North Dakota—and perhaps they have done this already—to subject its landfills to stiff requirements, as far as environmental soundness. Maybe North Dakota has done that. I do not know what has taken place in North Dakota.

But there is a suggestion—and the Senator from North Dakota knows much more about this than I—that it is inexpensive for General Motors to ship from all over the country to the Sawyer landfill in North Dakota, and I can only assume that is because the Sawyer landfill can charge low rates because the environmental requirements for safety, environmental safety, are relatively modest. Otherwise, I would assume that the charges would be much higher because of the cost of putting in the various requirements that we are all familiar with.

And I would hope that in North Dakota they would review their environmental standards for their landfills. But what can we do at this late date? I think there is very little that we can do. Maybe somebody can come up with an ingenious assistance. But we are getting, again I want to mention, into an area of tremendous consequences and size.

When you are talking 8 billion tons a year of industrial waste, for us to tack that on to a bill that is dealing with 15 million tons of defined material—and in this legislation there is a definition of what municipal waste is.

So, it seems to me, that unless the Senator or somebody can come up with a modest fix of some type, that I do not foresee, it seems to me that the avenue for the Senator from North Dakota to pursue is the passage of the RCRA legislation, resource conservation recovery amendments, that we have reported out of committee but have run into roadblocks. And as it seems now we will have to reconsider it and, indeed, we will reconsider it, the first part of next year.

There, I would suggest the Senator from North Dakota or Senators from North Dakota—and indeed the chairman of our committee is from North Dakota—would pursue in that legislation a solution to the problem that the Senator is seeking.

But at this late date, on this narrow bill, it would appear to me extremely difficult to come up with a satisfactory solution that does not awake all sorts of slumbering giants that are involved with still wastes and will come to this floor realizing that their situations are affected as either shippers or receivers of industrial waste.

Mr. President, I yield the floor.

Mr. CONRAD. Mr. President, it is always interesting to listen to the Senator from Rhode Island. I think if he were in our position he might have a different view.

If all of GM's sludge was headed toward Rhode Island, some small town there entered into an agreement to take it, we might hear a different argument from the Senator from Rhode Island.

The Senator from Rhode Island talks about the fact that the bill we have before us deals just with municipal waste. Indeed, it does, I understand that, and that is relatively small in terms of a comparison to the industrial waste problem in this country, which is really what we confront in North Dakota.

Mr. President, there is a principle embodied in this legislation that involves municipal waste that is going to

set a precedent for follow-on legislation that might deal with industrial waste. In fact, there are two principles here that I find very disturbing.

Principle one is a small community can make a decision that affects surrounding communities and, indeed, the entire State, and the State cannot do anything about it.

There is something wrong with that principle, and we have a specific example in my State now of what is wrong with it. The town of Sawyer, 319 people, entered into an agreement with a company that has now contracted with General Motors to take all of our industrial waste from 100 plants and put it in a little town in North Dakota, and the State cannot do anything about it.

When the trucks roll with their tons of sludge from these plants from all over the country and that affects the State of North Dakota and that affects the health of the residents in North Dakota and that affects the taxpayers of North Dakota—and who made the decision? Did the State of North Dakota make the decision? Did the Governor make the decision? Did the legislature make the decision?

No. The city council in little Sawyer made that decision.

If that is a principle upon which this legislation is based, I do not know how we can endorse that principle.

Principle No. 2 is, who is protected under this legislation? The large importing States are protected. If you are in Virginia, your Governor can freeze the amount based on 1991 and 1992 levels. If you were in Pennsylvania, in Ohio or Indiana, more than a million tons a year, you are protected. Everybody else, their Governors cannot even freeze the amounts based on 1991 or 1992 levels.

Mr. President, those two principles that are embodied in the legislation before us will serve as a precedent to what is to come. And it is really not reasonable, at least by this Senator's lights—and I might say I have talked to the Governor of my State this morning, talked to him about the specific situation that we confront, and he feels very strongly—very, very strongly—that we have to stand up for ourselves.

These principles are not right. It is not right that a little town can commit a whole State. It is not right that a little town can commit a whole series of surrounding communities.

Let me just remind my colleagues that were not here this morning, when I reviewed some of the facts here on the floor, the company that is involved here, we talk about clean hands not exactly a company that comes with clean lands, the company that is involved here has hundreds of violations.

Let me repeat that—hundreds of violations—millions of dollars in penalties have been assessed against 12 other facilities operated by subsidiaries of this same company.

And a special prosecutor is investigating activities in connection with efforts to build a hazardous waste incinerator by these same folks in Pennsylvania. The investigation concerns allegations of illegal lobbying, real estate acquisitions, and violations of security laws.

Mr. President, that is the vehicle we have before us. It solves problems for some people. It does not solve problems for my State. And what is worst, it embodies principles that you can be certain will serve as a precedent for follow-on legislation.

Mr. President, I think if my colleagues for a moment would think about how they would feel if they learned a small community in their State has just agreed to start taking all of the industrial waste from 100 GM plants, there is not one thing their State legislature or Governor can do to stop it, they would feel the necessity to try to stand on this floor and fight it.

I yield the floor.

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

Mr. BAUCUS. Mr. President, I understand the concerns of the Senator from North Dakota. The announcement that General Motors, is beginning to send industrial waste to a town in North Dakota, the town of Sawyer, ND, is upsetting the Senator and it is upsetting I assume to some people in North Dakota.

I think it is important to realize what is going on here. First of all, Sawyer, ND wants this industrial waste. Nobody is foisting upon the town any solution that the town of Sawyer does not want. Sawyer, ND wants to receive this industrial waste.

Landfills and decisions as to whether a community accepts waste or not are essentially very local decisions. It is not like air pollution. It is not like water pollution, both of which cross State boundaries. We have very stringent regulations, national regulations, under the Clean Air Act which are very prescriptive. We have very prescriptive, precise national regulations under the Clean Water Act.

Solid waste is intentionally, under our scheme of laws, is given much more control by local communities, in combination with the States.

Mr. CONRAD. Will the Senator yield?

Mr. BAUCUS. I will later.

That is the reason, under the framework of the Resource Conservation and Recovery Act—particularly subtitle V, which handles solid waste—and solid waste decisions are left largely to States.

Now, it is true that many States both import and export solid waste. In fact, much more solid waste is imported and exported than many people realize; 42 States export solid waste, 43 import solid waste.

We set up a scheme which begins to crank down on the amount of solid waste that will be exported to the various States. And the numbers show, and logic compels one to realize, that, as the standards that apply to landfills increase and become more stringent, a lot less waste is going to be shipped across the country, in many cases because the tipping fees, which are now low at many landfills, are going to be much higher. And they are going to be higher because the landfills will be more expensive to operate.

Again, Sawyer, ND, wants this waste. It is a decision that the community of Sawyer, ND, has made. If this bill does not pass, then not only Sawyer, but no other community in North Dakota or any other State will be able to say no to solid waste coming into the State.

The bill before us gives communities the power to say "yes" or to say "no." Because of the "not in my backyard" syndrome, most communities are inclined to say "no." Sawyer has said "yes." That is a decision for Sawyer, ND, to make. They have made that decision. Sawyer could have said, "no." But Sawyer has not said "no." Sawyer has said "yes." The people who live in that community, affirmatively want industrial waste to come there.

Now, the Senator from North Dakota says there is nothing the Governor can do. "The Governor cannot do anything about it." Those are his exact words. That is not correct. There is a lot that North Dakota can do about this problem. For one thing, North Dakota can enact regulations with respect to industrial waste.

The bill we are dealing with here today concerns municipal solid waste. It is the transportation of municipal solid waste, not the transportation of hazardous waste, not the transportation of industrial waste. Now, what can North Dakota do about industrial waste?

The Senator from North Dakota explicitly states there is nothing the Governor can do. That is not correct. There is a lot North Dakota can do about this if North Dakota wants to.

First of all, the landfill requirements in North Dakota are some of the lowest in the Nation with respect to landfills generally and with respect to the disposition of municipal solid waste. The lowest in the Nation.

In North Dakota, for solid waste landfills, there are no minimum requirements, and whatever requirements there are are determined on a case-by-case basis. With respect to nonhazardous industrial waste landfills—and essentially that is what we are dealing with here, as I understand the Senator from North Dakota—North Dakota has no minimum requirements and, instead, whatever requirements there may be are determined on a case-by-case basis. If one looks at the——

Mr. CONRAD. Will the Senator yield?

Mr. BAUCUS. Let me finish. The Senator will get plenty of opportunity to speak.

Mr. CONRAD. The Senator is going to have a long opportunity, then.

Mr. BAUCUS. Most other States, I would say 90 percent of the other States in the Nation, have stronger requirements.

So what could North Dakota do? Regardless of what North Dakota's present nonhazardous industrial waste requirements are today, North Dakota could raise its standards with respect to nonhazardous waste landfills to such a high level, if it would so decide, so as to effectively prohibit any community in North Dakota from receiving out-of-State nonhazardous industrial waste.

Now, it is true those same requirements would apply to all communities in North Dakota because, so far, we in the Congress have not passed legislation which under the commerce clause of the Constitution would allow a State to discriminate. But, nevertheless, the approach I outlined is one approach that some States have taken to reduce the disposal of nonhazardous waste into their State.

There are many other options the State could take. For example, a State could impose fees on all industrial waste. I am not talking about municipal waste. Or they could raise their fees.

Now, as I understand it, one reason why the nonhazardous industrial waste is potentially going to go to Sawyer, ND, is because of the very low fees that Sawyer, ND, has imposed. It is commercially more advantageous for General Motors to ship the nonhazardous industrial waste to a site where there are low fees.

Again, we are not talking about municipal waste. We are talking about nonhazardous industrial waste, which is the subject being addressed by the Senator from North Dakota. And the State of North Dakota could enact higher fees for nonhazardous industrial waste.

I do not know how many nonhazardous industrial wastesites there are presently in North Dakota. I would guess there are not very many. But, regardless, if the problem is the receipt or the disposition of nonhazardous industrial waste in a State, the Governor has many tools at his disposal to deal with that.

Now, what other actions can the Governor take? There are many. A State, in conjunction with the legislature, can say no landfills can be within so many miles or feet of a river or a lake or a stream or an acquifer or a national park or a State park or a geological fault. There are infinite numbers of actions a State can take to deal with this problem. So it is not true that there is nothing a Governor and/or a State can do. There are many things.

The fact is the problem we are discussing with the Senator from North Dakota is essentially a State problem. It is a North Dakota problem. Why do I say a North Dakota problem? Because part of North Dakota wants to accept the nonhazardous industrial waste. I guess other parts of North Dakota do not want it. This is essentially an internal question.

Now, communities on their own, in a number of areas, decide whether or not they want to site facilities. For example, Sawyer, ND, might want a malting plant. They may want a number of different kinds of plants or operations. Maybe Sawyer, ND, wants a pulp mill. Should we, the Congress, say, through the commerce clause, to the Governors that they should have the authority to say no to communities that want to site a plant in their communities? I do not think we want to get into that. I do not think we want to do that.

Now, the response might be, well, this is garbage. Well, I understand that garbage has all kinds of overtones, all kinds of aromas, if you will. But the requirements, both the Federal and the State requirements, for landfills are getting very stringent, over time. For example, I know the Senator knows EPA has already promulgated new regulations which apply to all landfills across the country. They do not go into effect until January 1, 1993. That is not too far from now, 6 months, roughly.

Mr. CONRAD. Will the Senator yield for a question?

Mr. BAUCUS. Just more minute and I will yield.

Those apply to all landfills. All landfills must be upgraded to meet the new requirements. That is going to make it more difficult to ship waste to North Dakota.

In addition to that, after 1995 all newly constructed landfills have to meet much more stringent requirements. That is absent any action the States take. States can always pass laws that apply even more stringent landfill regulations if they so desire.

There is, I think, a potential opportunity here for North Dakota because we are dealing with nonhazardous industrial waste, not municipal waste, which makes it easier for North Dakota to substantially raise fees or substantially raise requirements on a particular kind of landfill which I think could go a long way to dealing with the Senator's problem.

I would be happy to yield to the Senator from North Dakota.

Mr. CONRAD. The first question I would have for the Senator from Montana—and I appreciate the advice he has given to North Dakota on what it can do—the first question I would ask is, if we can do all these things and stop it, then why not allow an amendment that just states that the Governor has to be consulted and can stop it?

What is your problem?

Mr. BAUCUS. If the amendment were to be agreed to—first of all, as the Senator knows, there are Senators—not this Senator, but there are Senators here—who are so strongly in opposition to the Senator's amendment that they would stand on the floor to prevent it from being agreed to. I do not know what the Senator has in mind.

But if the Senate were to amend the pending legislation to make it similar to, let us say, the Reid amendment, which gave the Governor the authority over the entire State, because of the "not in my backyard" syndrome temptation, Governors would be pushed politically to close the doors and prevent importation of municipal solid waste into their States. And that would totally disrupt a very complicated system that exists in our country today. Some 40 States both receive and export solid waste.

The legislation we are, hopefully, passing will crank down on the interstate transport of waste. It will give States and local communities much more authority than they now have to limit and prevent the importation of solid waste into their communities.

It is true the pending bill does not immediately give the Governors total control to stop it. But it is also true there are many provisions in this bill which will have the effect of reducing importation of waste.

Take my State of Montana. Because we in Montana today do not receive out-of-State municipal waste, if a company were to go to a local Montana community and say, "We would like to ship waste to you," that Montana community would have the option of saying "no; we do not want it." And we could ban it, as is the case for every community in North Dakota under this bill.

Let us not forget, this bill allows any community in any State to say "no", if no waste has been coming in prior to 1991, which is the case here. But it gives that discretion to the community.

We also have a mechanism in the bill which requires a local request to say "no" to be in conjunction with the Governor, through any solid planning district. So the Governor would have some say, in conjunction with local communities, as to whether or not to receive the waste.

This is a 50-State bill. The Senator from North Dakota several times has said this is a 7 State or 6 State solution to a 50-State problem.

It is true this is a 50-State problem. This is also a 50-State solution. And it is a 50-State solution because absent the passage of this bill, communities will be unable to say "no." With the passage of this bill, communities will have the right to say "no."

It just so happens that in North Dakota, a community which will have the right to say "no," wants to say "yes."

Mr. CONRAD. First of all, Mr. President, so many assertions have been made here, I am somewhat at a loss as to where to start.

First of all, we do not know, with respect to the specifics of this proposal, whether the community wants it or not. The community has an industrial facility, and the company that owns that facility has made this agreement. We know the community wanted to permit ash to be dumped there. I do not know if the community has ever had a chance to speak on this question of the General Motors plant.

But let us assume for the moment that the community does want it. That is fundamental to the problem this Senator has with the legislation before us. It embodies a principle that I think is flawed.

If a community of 319—or theoretically, a community of 10, because we have 4 incorporated towns in my State of 10 or less—decides they are going to take all of General Motors' waste, affecting thousands of people in surrounding areas, nothing can be done. The Governor cannot say "no" unless the community agrees. I do not understand that principle, frankly. I really do not.

This is industrial waste. All of the waste of 100 General Motors plants going into a town of 319, and the Governor cannot stand up and say that is not in the State's interest? There is something wrong with that.

No. 2, the Senator said this is not water and it is not air; this is trash. Or in this case, it is industrial waste. I wanted to know if the Senator would have a different view if water were involved?

I assume from the Senator's comments that he would have a different view if water were involved. I ask the Senator, does he have a different view if water is involved? The Senator's statement was: "This is not air and it is not water."

Would the Senator have a different view if water were involved?

Mr. BAUCUS. The fact is, Mr. President, we have a Clean Water Act which deals with water pollution in our Nation's lakes and rivers and streams; and nonpoint source pollution, point source pollution, and so forth.

And that is why it is as national and prescriptive as it is.

Mr. CONRAD. I just say to my friend, in this case, this particular landfill sits over an aquifer. The aquifer does not just feed 319 people in the community of Sawyer. It affects thousands of people in the surrounding area.

Mr. BAUCUS. If the Senator will yield for a question, if I may ask the Senator a question, why does the State of North Dakota then not pass legislation prohibiting landfills over aquifers?

Mr. CONRAD. Mr. President, I presume that perhaps is an option open to the State of North Dakota.

Mr. BAUCUS. I think it is.

Mr. CONRAD. I do not know the answer to that question. I say this: An aquifer is involved.

So we know we have a situation in which potentially water is involved. Maybe 319 people in Sawyer want to take that risk. Maybe the larger community that is affected does not. But, you know what? The larger community has no role in the decision under the principles embodied in this legislation.

There is something wrong with that. People who are affected ought to have some role in the decisionmaking.

Mr. BAUCUS. Will the Senator yield on that point?

Mr. CONRAD. I will be happy to yield.

Mr. BAUCUS. The majority of the people of North Dakota do have a say. They do. They can go to their legislature and say: We do not want industrial, nonhazardous waste landfills to be placed over aquifers. The people downstream—above ground or below ground—can march to the State legislature and the Governor and say "no." They do have a say.

Mr. CONRAD. The problem is we are faced with the situation today. The situation is today. The trucks are going to start rolling.

Our legislature only meets once every 2 years. We do not have a situation like some States, where the legislature meets every year. Our legislature meets every 2 years. So we are faced with a situation today.

Mr. BAUCUS. But it meets next January. It meets 6 months from now.

Mr. CONRAD. Let me go further in answering the Senator's points, Mr. President, because the Senator said there are a lot of things North Dakota can do. "North Dakota can raise their fees on everybody." That is a great solution.

We can raise fees on everybody. That is exactly what is wrong around the country. Minnesota has done exactly that. They raised the fees on everybody making all of their industry less competitive. We wonder why the United States is in trouble with this kind of thinking: Raise the fees on everybody in order to keep out somebody else's and force them into the neighboring State. That is exactly what is going on, and it is not good for the country, it is not good for the industries of America, it is not good for our competitive position. But that advances the answer: Just erect a high fee wall that affects everybody.

I do not think that is seen as much of a solution. We in North Dakota would like to encourage industry in our State. I will tell you what we do not want to encourage. We do not want to encourage other States' industry to foul their nest, fill up all their waste sites, and then shove it over into North Dakota, and North Dakota cannot do very much about it. The only way the Governor can stop it, the only way under this legislation, the principle embodied here is that the Governor has to act in concert with the local community. If the local community wants it, the Governor cannot stop it. That is precisely the point I made earlier, and it is precisely the point under this legislation. The Senator says a lot of things the State can do to stop it. If that is the case, why not let the Governor in on the deal right from the start?

Mr. President, the problems that I have with this legislation—and I understand it is municipal waste versus industrial waste—is the principle involved. The principle is, if a community wants it, no matter how small, 10 people can decide, they can affect thousands around them, they can affect the State's taxpayers, and there is no recourse for the Governor, except, I suppose, to raise fees on everyone in the State. I do not know what kind of a solution that is. That does not strike me as a very good one.

Mr. President, this bill, which purports to solve one problem, sets a precedent that I think is a fatally flawed one for the much larger problem which is to come. Frankly, we do not take much relief in the idea that there are other ways we can deal with this. Why not the straightforward way?

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, as I did last evening, I appreciate the concerns that the Senator from North Dakota has raised. The issue that he faces is similar to an issue that many of us have faced. But I think it is important to note here the distinctions between the Senator's situation and the situation that we are dealing with in this particular legislation. There are many types of waste that flow between our States. There is industrial waste, construction waste, hazardous waste, even nuclear waste.

No one is saying that we should not address this national problem of transfer of waste between States. What we are attempting to do with this particular legislation is address a segment of that because, at least to this point in our legislative battle, we have not been able to address it at all on a comprehensive basis. The Senator knows that the RCRA legislation is bogged down for a number of reasons. We are attempting to deal with a certain type of waste, municipal solid waste, garbage, the everyday ordinary type of waste that people dispose of in their garbage bags and put out at the curb or take to the local collection point.

That is a significant problem in our country, a significant problem in terms of shipment between States, and we are trying to deal with that in this bill. To expand this now to include every other type of waste to address a particular problem that the Senator from North Dakota faces is, I think, by general consensus, something designed to defeat this narrow effort.

So we are trying to do what we can with a certain type of waste. We understand that to expand it to deal with the Senator's particular problem is to open it up to all kinds of other types of waste and the particular problems inherent in that and to, therefore, end up with no legislation this year, which certainly does not advance a solution toward the Senator's particular problem.

Second, the contention that this is some kind of special deal for just a few States is simply not true. It is not factual. The Senator made that argument last evening. He makes it again today. It is not a valid argument. This Senator from Indiana was the one who insisted on expanding the rights to all States that originally were intended for the four largest recipient States. And the language of the bill before us, which is now accepted by a strong majority of the Senate, extends that privilege and that protection to every State in the Union, including the State of North Dakota.

In our survey of the amount of out-of-State municipal waste received in the State of North Dakota, the North Dakota Department of Health indicated to us that about roughly 60,000 tons of out-of-State waste is received in North Dakota. That level now can be frozen because of the extension of the authority to the State of North Dakota included in this bill. The four States that the Senator alludes to as having some kind of sweetheart deal are talking about freezing levels at millions of tons. They have accepted that as a way to stop the increase and as a way to advance this legislation and ultimately deal with the problem. So it is not correct to say that authority is not extended to States like North Dakota. The authority that is extended would allow that State to freeze at an extremely low level, relative to most other States in the Nation, the amount of out-of-State waste that is coming into North Dakota.

Mr. CONRAD. Will the Senator yield for a question on that specific point?

Mr. COATS. I will be happy to.

Mr. CONRAD. Is it not true that the State would only have the authority to freeze at the request of the local community?

Mr. COATS. That is my third point that I want to make to the Senator. It is. But the whole bill is premised on the fact that we give the people the option of deciding whether or not they want the solid waste or do not want the solid waste.

The Senator keeps talking about this principle, the principle that the decision of a community in his own State denies the rest of the people in his State options to go forward to restrict them. But that works both ways. What the Senator wants is, in order to preserve the right of a State to make a decision on behalf of every community, he is taking away the right of every community in every State in the United States to make a decision. So to protect one right, he is taking rights away from all the other communities. What if a Governor says, "I do not see any problem with interstate waste, I do not see any problem with sludge coming into North Dakota," and the people of Sawyer say, "Wait a minute. Do we not have a say in this?"

I have a town in Indiana of 250 people called Center Point. Center Point is the landfill and is the situation that prompted this whole debate and discussion, because the 250 people of Center Point suddenly found themselves the recipients of out-of-State waste and there was nothing they could do about it. Those people decided that they wanted to do something about it, and this legislation is, frankly, the result of their efforts. That is where all this emanated from in the first place. That community is now granted the right, under this bill, as is every other community, to say no to out-of-State waste. But in order, as I said, to protect the right the Senator wants to establish for a particular Governor, he wants to take away the rights of every other community in every other State in the United States that are protected under this particular bill.

Finally, I would say to the Senator, who is searching for a solution—it is a valid search—I simply repeat the arguments of the chairman of the committee which are simply, if the State of North Dakota wants to assert authority over this particular situation, there is nothing to stop the State from doing so. The Senator seems to want to come down to this floor and argue that because his State, his Governor, or his legislature is not willing to assert authority over this particular problem, only Congress can fix it.

There are numerous options open to the State of North Dakota to deal with this particular problem. The Senator from Montana outlined a number of those options. The reply of the Senator from North Dakota was, well, our legislature is not in session. If it is enough of an emergency, the Governor can call a special session of the legislature. If it is a threat to the water supply of North Dakota, that certainly would be enough of an emergency to call a special session of the legislature and impose restrictions on what types of landfills can be established over aquifers. There are a number of options open in terms of what restrictions can be placed on receipt of industrial waste.

So the Senator seems to be arguing that because the State of North Dakota does not want to do something about this now, it wants Congress to do something. It is not precluded from taking action in this particular regard.

I say to the Senator, I appreciate his problem. We are not without sympathy to the situation that exists. I think the Senator from North Dakota understands that were we to attempt to try to find a specific single fix to this particular problem, we end up with no legislation at all. All if we end up with no legislation, at all, the Senator's situation is not solved and we have then not solved a number of other problems which exist in all 50 States across the Nation.

Mr. BAUCUS addressed the Chair.

Mr. CONRAD. Will the Senator yield for a question?

Mr. COATS. I will be happy to yield.

Mr. CONRAD. I say to the Senator from Indiana, my friend, when did the Senator switch positions?

Mr. COATS. The Senator has not switched positions.

Mr. CONRAD. I was on the side of the Senator——

Mr. COATS. I appreciate that.

Mr. CONRAD. In the good old days when the Senator stood for the Governor being able to protect his State borders at least to some degree. I was with the Senator. Now, all of a sudden, I hear this great argument from the Senator from Indiana about how we ought to retreat from that principle. I do not know why. I have not retreated.

Mr. COATS. I would like to reclaim my time to respond to the Senator's statement. This Senator has not switched his position. This Senator has said there is a way in which we can accomplish what the Senator was trying to do by enacting legislation that not only gives Governors backup authority but gives our committees the first right of defense. That is a stronger defense from out-of-State waste than just simply giving one person in one State the authority to act.

That is much stronger, because I give every citizen in the State of Indiana the authority to say no to out-of-State waste, No. 1. No. 2, this Senator is working for this particular piece of legislation because, as we all know, the only hope of stopping the flow of out-of-State waste is this piece of legislation which is before us today.

We all know that if we revert back to the proposal of the Senator from North Dakota, it is going nowhere. I know that because for 3 years I have tried to get it to go somewhere, and we have not been able to do so. This is the only thing possible that can break the deadlock and give every citizen the right to say no. I think it is a superior right. I would much rather give the 5½ million citizens of Indiana, even the 250 in Centerpoint, IN, the right to say no than to simply vest it in one person and not know what that one person might or might not do. We had a vote on it last night, and the Senate clearly expressed its will by a 2-to-1 majority.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, the problem with the argument of the Sen-

ator from Indiana is that it is just not so. We have not given the ability of every citizen in the State of Indiana or every citizen in the State of North Dakota to stop this. That is not what we have. The fact is one small town can enter into an agreement and nobody can stop it.

Look, I have it. I was arguing on the participle last night. I find out I have the real world situation right now. All of GM's waste is going to be dumped into a town of 319 people and the State cannot stop it, the legislature cannot stop it, and the Governor cannot stop it. How much is it? The Senator was referring to the small amounts of industrial waste we have in the State of North Dakota. Absolutely true. It is all going to change. They have an operation that, according to the latest press reports we have just received, can take 400 tons a day.

Mr. BAUCUS. Will the Senator yield on that point?

Mr. CONRAD. I have not finished my point. Then I will be happy to yield.

They are going to take 400 tons a day. And the only way they can freeze at those previous levels is if the local community agrees. The local community thus far has not agreed, and there is nothing that can be done.

The trouble I have with this bill—the Senator says this deals with the municipal waste problem. It is a small part of the problem, but it is a part of the problem. If we do not do this, we do not do anything. The problem I have with that is the principle embodied in this legislation which is if a small town decides to go out and cut a deal with some company, that is it. They have made the decision. They have made a decision that can affect thousands of people, and there is little or no recourse.

That is the problem I have.

I am happy to yield to the Senator from Montana.

Mr. BAUCUS. I have learned in public life, and I know the Senator from North Dakota has, sometimes everything you read in the newspaper is not entirely accurate. Sometimes there are inaccuracies.

My office just called North Dakota and the information we have as to the amount of industrial, nonhazardous industrial General Motors waste is different from what is in that newspaper report the Senator from North Dakota is referring to.

According to the State of North Dakota, from a telephone call to the relevant department in North Dakota just about half an hour ago, the amount of waste is really much less than that. North Dakota says it is not all of GM's waste. North Dakota says it will be 2 to 8 percent of GM's industrial waste—not all, but 2 percent.

In addition, this Sawyer facility has two 3,000-yard storage cells that could temporarily accept waste, and there has been one shipment. But the landfill site in question, Sawyer, will have a double 60-mil liner as well as a composite liner, and it has received one load of waste. Liners are going in starting on July 27. The facility will take 15 to 30 loads a week. The average load will be 18 cubic yards. And this amounts to 2 to 8 percent of GM's nonhazardous industrial waste.

I do not know if that information is accurate. I do not know if the information as reported in the newspaper is accurate. I only know the information that I just gave to the Senator from North Dakota comes from the relevant department in the State of North Dakota. That is their information.

There is another conclusion that one can draw from all this, and that is this is a very recent development. We really do not have the facts. It is probably inappropriate for Congress to legislate a solution over something we know very little about, particularly when there are other solutions as I and other Senators have outlined for North Dakota. Sawyer, ND, is putting in double liners, one 60-mil liner and also a composite liner. That is pretty hefty.

In my home State of Montana I spend 1 day a month in the workplace. I show up at 8 o'clock in the morning, bring a sack lunch and work all day. I tease people at home by saying 1 day a month I do an honest day's work. I worked at a plant in Miles City that makes these liners. It was interesting watching this machine make these liners. I can tell you that a 60-mil liner is a pretty hefty liner.

Mr. CONRAD. Mr. President, let me just say that for me it is not a question of if it is 20 tons or 400 tons a day. That is not the thing that sticks in this Senator's craw. What sticks in this Senator's craw is the underlying principle that one small town can cut a deal and they can affect others outside that town, and there is nothing anybody else can do about it, or not very much they can do about it.

Oh, yes, there are some things. They could raise fees on everybody. There are some other things you could do that affects everybody. That just does not strike me as the solution.

I just say to my colleague, from press reports that I have, it says the first shipment last week contained 20 tons. That is according to the Grand Forks Herald. I would just read from the Grand Forks Herald report from July 22, which says:

> Municipal Services Corporation is holding a giant open house for its Echo Mountain landfill near Sawyer, North Dakota, which began accepting nonhazardous industrial waste from the auto-making giant last week. By the end of 1993, the facility will be accepting all such waste generated at about 100 GM factories. MSC's open house features tours of the facility, which includes an administration building, a lab, processing building, and the storage cell designed to swallow up the 400 tons a day of waste.

Mr. President, I find it interesting in looking at these press reports about some of the other details from this facility. The company involved has hired 31 workers, ranging from clerks and technicians to administrators and equipment operators. The company promises to employ 50 workers eventually. The signs displayed Wednesday said that by the end of 1993 the company and its workers will be paying $550,000 in State taxes. But that does not comfort many area residents who fear the landfill will have adverse consequences for area water and air.

The Senator from Montana was talking earlier: This is just waste; it is not air, it is not water. Local residents do not see it that way. Many of them, are refusing to sign good neighbor agreements that the company is offering under which the company would provide $60,000 a year for community projects in exchange for the community's support—$60,000 a year for community projects in return for the community support, and a town of 319 can take all of GM waste from 100 plants.

The company is also acquiring more land adjacent to the site, and some residents fear the first cell is just a foot in the door. "We are just going to be a garbage State," said a woman who is involved in organizing the community against this project. She said, "North Dakota should think better of itself." People touring the site Wednesday had little comment but they had plenty of questions.

Mr. President, the thing that troubles me the very most is the principle that is being applied in this legislation, the principle that a community can go out and cut that deal and everybody else who is affected has no voice in the decision.

The Senator from Indiana was a giant on this subject some time ago and now he has retreated in the face of resistance, in the face of threats from the exporting States.

Mr. President, I do not know where this can lead. I have not ever been an obstructionist in the U.S. Senate. I have been here 6 years. I have never been an obstructionist. I have never tried to stand in the way of something even if I disagreed with it to the extent of engaging in an ongoing filibuster. But I must say, Mr. President, this is very, very troubling to me, and it is troubling to my State, and troubling to my State's Governor.

I simply say to my colleagues I would hope that we could find some way to send a message of some sort that the Governor in a State ought to be able to have a way if there is an agreement that is going on between a community and a company that is absolutely unacceptable. I hope we are able to work something like that out.

I yield the floor.

AMENDMENT NO. 2740

(Purpose: To provide for a study of solid waste management and solid waste management issues associated with increased border development)

Mr. BAUCUS. Mr. President, I send an amendment to the desk, and it is on behalf of Senator BINGAMAN, Senator LEVIN, Senator RIEGLE, Senator DECONCINI, and Senator MCCAIN. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. BINGAMAN (for himself, Mr. LEVIN, Mr. RIEGLE, Mr. DECONCINI, Mr. MCCAIN, and Mr. D'AMATO) proposes an amendment numbered 2740.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . BORDER STUDY.

(a) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) MAQUILADORA.—The term "maquiladora" means an industry located in Mexico along the border between the United States and Mexico.

(3) SOLID WASTE.—The term "solid waste" has the meaning provided the term under section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(b) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Administrator shall conduct a study of solid waste management issues associated with anticipated increased border use at such time as the North American Free-Trade Agreement may become effective. The Administrator shall also conduct a similar study, as soon as practicable after enactment of this Act, in terms of the scope, procedures, and objectives, outlined in sections (c), (d), (e), (f), and (h), focused on border traffic of solid waste resulting from the United States-Canada Free-Trade Agreement and the border region between the United States and Canada.

(c) CONTENTS OF STUDY.—The study under this section shall provide for the following:

(1) Planning for solid waste treatment, storage, and disposal capacity (including additional landfill capacity) that would be necessary to accommodate the generation of additional household, commercial, and industrial wastes by an increased population along the border.

(2) A study of the relative impact on border communities of a regional siting of solid waste storage and disposal facilities.

(3) Research concerning methods of tracking of the transportation of—

(A) materials from the United States to maquiladoras; and

(B) waste from maquiladoras to a final destination.

(4) A determination of the need for solid waste materials safety training for workers in Mexico and the United States within the 100-mile zone specified in the First Stage Implementation Plan Report for 1992–1994 of the Integrated Environmental Plan for the Mexico-United States Border, issued by the Administrator in February 1992.

(5) A review of the adequacy of existing emergency response networks in the border region, including the adequacy of training, equipment, and personnel.

(6) An analysis of solid waste management practices in the border region, including an examination of methods for promoting source reduction, recycling, and other alternatives to landfills.

(d) SOURCES OF INFORMATION.—In carrying out the study under this section, the Administrator shall, to the extent allowable by law, solicit, collect, and use the following information:

(1) A demographic profile of border lands based on census data prepared by the Bureau of the Census of the Department of Commerce and census data prepared by the Government of Mexico.

(2) Information from the United States Customs Service of the Department of the Treasury concerning solid waste that crosses the border between the United States and Mexico, and the method of transportation of the waste.

(3) Information concerning the type and volume of materials used in maquiladoras.

(4) Immigration data prepared by—

(A) the Immigration and Naturalization Service of the Department of Justice; and

(B) the Government of Mexico.

(5) Information relating to the infrastructure of border land, including an accounting of the number of landfills, wastewater treatment systems, and solid waste treatment, storage, and disposal facilities.

(6) A listing of each site in the border region where solid waste is treated, stored, or disposed of.

(7) A profile of the industries in the region of the border between the United States and Mexico.

(e) CONSULTATION AND COOPERATION.—In carrying out this section, the Administrator shall consult with the following entities in reviewing study activities:

(1) States and political subdivisions of States in the region of the border between the United States and Mexico (including municipalities and counties).

(2) The heads of other Federal agencies (including the Secretary of the Interior, the Secretary of Housing, the Secretary of Health and Human Services, the Secretary of Transportation, and the Secretary of Commerce) and equivalent officials of the Government of Mexico.

(f) REPORT TO CONGRESS.—Upon completion of the study under this section, the Administrator shall, no later than two years from the date of enactment of this Act, submit a report that summarizes the findings of the study to the appropriate committees of Congress and proposes a method by which solid waste border traffic may be tracked, from source to destination, on an annual basis.

(g) Preparation of the study related to the United States-Canada border region shall not delay or otherwise affect completion of the study related to the United States-Mexico border region.

(h) AUTHORIZATION.—There are authorized to be appropriated to the Environmental Protection Agency such sums as may be necessary to carry out this section.

Mr. BAUCUS. Mr. President, this is a combination amendment essentially offered by the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Michigan [Mr. LEVIN] for studies of interstate transport of municipal solid waste, on the one hand Mexican-United States transport of municipal waste, and on the other United States-Canadian municipal solid waste. It is asking the Administrator of the EPA to study a boundary for the municipal solid waste studies.

I think it is a good amendment. It has been cleared all the way around. I urge its adoption.

Mr. CHAFEE. Mr. President, I ask unanimous consent that Senator D'AMATO be added as a cosponsor to the Levin amendment dealing with Canada.

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

Mr. CHAFEE. I agree that this is a good amendment. It is a study of both the Mexican border and the Canadian border to be conducted by the Administrator of the EPA.

Mr. BINGAMAN. Mr. President, I rise to offer an amendment on behalf of myself, Senator LEVIN, and others to the legislation currently before the Senate that addresses a problem of increasing urgency: The disposition of solid waste along the United States-Mexico and United States-Canada borders. As the United States, Mexico, and Canada formalize and strengthen their trade relationship, increased border development is inevitable. With that development comes new challenges for the transport and disposal of solid waste. This is not just an issue for the Governments of the United States, Canada, and Mexico. It is also an issue for the border States that will deal with the waste itself and will do so on an interstate as well as an international basis. To capitalize upon the opportunity offered by the North American Free-Trade Agreement, we are going to have to plan for it. This means conducting the necessary research on the scope of the challenges.

This amendment directs the Administrator of EPA to conduct a study of solid waste management issues associated with anticipated increased border use, in order that States and localities can properly plan for waste treatment, transportation, storage, and disposal. The study will address six key issues:

First, planning for additional landfill capacity;

Second, relative impact on border communities of a regional siting of solid waste storage and disposal facilities;

Third, research on methods of tracking the transportation of materials to and from border industries;

Fourth, the need for materials safety training for workers;

Fifth, the adequacy of existing emergency response networks in the border region; and

Sixth, a review of solid waste management practices in the border region.

Mr. President, it was my original intent that this amendment include a study of hazardous waste issues, including a review of the manifest tracking system for the transportation of hazardous materials in the border region and a study of the relative impact

on border communities of siting hazardous waste disposal facilities. However, I understand that the managers of S. 2877 are urging Senators to refrain from offering amendments that do not directly relate to the interstate transportation of municipal waste. Accordingly, I will plan to offer an amendment dealing with border hazardous waste issues when the Senate considers comprehensive RCRA legislation.

It is my expectation that the Administrator, in order to fulfill the requirements of this amendment, may enter into a contractual agreement with one or more qualified entities such as universities, university consortia, or other public or private institutions.

Mr. President, I am convinced that the North American Free-Trade Agreement will create economic opportunities for New Mexico and States in both border regions. If we manage these opportunities correctly, we can create prosperity without compromising our health and environment. This amendment is a useful step toward that goal.

Mr. LEVIN. Mr. President, I am pleased that the managers of the bill and Senator BINGAMAN, the author of the amendment, are willing to accept my modifications to this amendment. It will add the United States-Canada border region to the area in which the EPA must perform a study of numerous important solid waste management issues. The amendment will also require that these studies be completed and reported to Congress within 2 years. Additionally, EPA will have to propose a method by which border traffic in solid waste between the United States and Canada, and the United States and Mexico, can be tracked by source and destination.

My intention is not to create a paperwork burden or force any requirements that would violate our current trade agreements. However, the State of Michigan, and I am sure many other states along the United States-Canadian border, have experienced a great back and forth flow of garbage which no one is tracking. For long-term planning and safety and environmental reasons, Michigan requires the data that will be produced by this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment of the Senator from New Mexico? If not, the question is on agreeing to the amendment.

The amendment (No. 2740) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. KOHL. I commend the Senator from Montana and the Senator from Indiana on their efforts to address the complicated issue of interstate transport of municipal solid waste, and to grant States explicit authorities to regulate the waste coming into their borders from other States. I would like to clarify however, the effects of this bill on Wisconsin's recycling law, which includes certain interstate solid waste transport provisions.

Wisconsin's recycling law, as of January 1, 1995, prohibits the disposal of any amount of specified types of recyclable solid waste in Wisconsin landfills, unless the municipality where the solid waste is generated has an effective recycling program (as specified in S.159.11, WI. stats.) This requirement applies not only to Wisconsin communities, but also to out-of-State communities disposing their solid waste in Wisconsin landfills.

Since this recycling requirement is the basis of Wisconsin's law, and since this requirement applies equally to in-State and out-of-State waste, it is expected that the effective recycling program requirement of the Wisconsin law will be upheld if challenged on constitutional grounds, and therefore needs no specific congressional authority to be valid.

With this understanding, it is my further understanding that S. 2877 would in no way preempt Wisconsin's law, or otherwise prevent it's implementation. As the chief sponsor of this bill, is this the understanding of the Senator from Montana as well?

Mr. BAUCUS. Yes, absolutely. The purpose of this bill is to give States more authority to control the solid waste that they import, in light of recent Supreme Court cases restricting that right. Because the effective recycling program provision of Wisconsin's recycling law places the same restrictions on out-of-State waste entering Wisconsin landfills as it does on in-State waste entering Wisconsin landfills, and absent a court ruling that the Wisconsin law is unconstitutional, it is certainly not the intent of this legislation to preempt Wisconsin's law. And it certainly should not have that effect.

Mr. BREAUX. Mr. President, I rise to make a brief explanation to the Senate. It was my intention to offer an amendment to this legislation that would have expanded the authority granted to local and State governments by S. 2877 to cover restrictions on the importation of out-of-State municipal sewage sludge. I have decided not to offer this amendment in the interests of allowing this legislation to go forward.

My State of Louisiana receives imports of this noxious material, the most infamous instance of which was the so-called poo-poo choo-choo that brought 63 carloads of stinking sewage sludge from Baltimore to sidings near Shriever, Labadieville, and Donaldsonville, LA. These 63 open cars full of sludge were to be disposed of in a landfill in my State. Fortunately, after weeks of exposing these small towns to open cars full of sewage, the private landfill operator in question was forced to send the train back where it came from.

The amount of sludge that the United States will have to deal with in the future is growing. Within the last 16 months, New York City and 8 surrounding New York and New Jersey communities finally halted ocean dumping of sewage sludge. New York City had been dumping approximately 3,878,125 wet tons per year into the Atlantic Ocean, 10,625 per day. The surrounding communities had been dumping a similar amount, for a total of nearly 8 million tons per year. These communities are now in the process of building treatment works for the sludge they used to dump into the ocean, but completion is 6 years away. This sludge now needs a home—a place to be disposed of. I find it disturbing that while my State and a number of others import sludge, the State of New Jersey does not allow any landfilling of sewage sludge in that State—either at monofill or codisposal sites. Western and Southern States should not become dumping grounds for other States' sewage sludge any more than they should become dumping grounds for municipal solid wastes.

My amendment would not have interfered with interstate shipments of sewage sludge that were destined for beneficial uses, such as agricultural fertilizer and soil nutrition. Beneficial use is an acceptable disposal practice, so long as sufficiently stringent State and Federal regulations regarding the content of sludge are followed. This bill, I would remind Senators, deals only with shipments bound for landfills and incinerators.

Mr. President, if we are going to address the municipal waste problem, I would have liked to see us address the whole problem. Sewage sludge shipments are every bit as controversial and potentially hazardous as municipal solid waste. I have other problems with this legislation—it does not adequately protect those States that are neither large exporters nor the largest importers. We will be the recipients of the waste that is left over. However, I will conclude by saying that it is indeed unfortunate that we are not finishing the task we started three days ago on the Senate floor.

Mr. BOREN. Mr. President, the Breaux amendment would have included municipal sludge under the provisions of the bill. This measure is extremely important to my State which has seen a rapid rise in the number of companies interested in applying municipal sludge to land in Oklahoma. However, were this amendment to succeed, it would effectively prevent the bill from being passed by both Houses. We simply cannot afford to let another year pass without taking at least a first step to solve the interstate garbage problem.

Let me explain why the Senate needs to address the sludge issue in the future. Most often, the communities which are targeted by waste disposal companies have no idea what metals or other hazardous materials may be included in the sludge. An analysis of municipal sludge from New York City performed by the Oklahoma Department of Health found it to be very high in hazardous metals. The sludge contains significantly higher levels of heavy metals like copper, zinc, arsenic, and lead than communities throughout Oklahoma in which levels of these toxins are barely detectable.

Because the imported sludge does not undergo as much pretreatment as local sludge, out-of-State sludge often exceeds State guidelines outlining permissible levels of heavy metals.

Only through the extraordinary efforts of grassroots organizations have communities in Oklahoma been able to fend off the disposal of sewage sludge in their community.

In order to ensure the health of rural communities, we must arm local communities with the right to refuse municipal sludge coming in from other States. We must respect and support the efforts of communities to guard and preserve their land.

The bill before us gives communities the right to say no to municipal waste coming in from out of State. I think the bill would have been better had it included municipal sludge, and I will work to see this issue resolved in the future.

Mr. INOUYE. Mr. President, it is with reluctance that I ask permission of the Senate to withdraw my proposed amendment to S. 2877, which would have added language to the Resource Conservation and Recovery Act to authorize the Administrator of the Environmental Protection Agency to accord tribal governments a status similar to State governments for purposes of certain provisions of the Resource Conservation and Recovery Act. This language is identical to a provision that is contained in the bill, S. 976, that was reported by the Committee on Environment and Public Works to reauthorize the Resource Conservation and Recovery Act.

In my view, the amendment is germane to the measure before us because it is absolutely necessary to consider Indian lands when addressing matters of interstate transportation of solid waste, if we intend not to create a significant gap in a comprehensive scheme. The jurisdiction of Indian tribal governments over lands within the exterior boundaries of their reservations is critical to the resolution of these matters. However, I respectfully concede to my colleagues, Senators BAUCUS and CHAFEE, that there may be others who would disagree with my assessment regarding germaneness. Therefore, in the interests of allowing this legislation to move forward, I have asked the cosponsors of our proposed amendment, Senators MCCAIN, BURDICK, and WELLSTONE, for their agreement to withdraw the amendment. They have so agreed.

However, I would like to explore with my colleague from Montana whether he would agree that the Congress needs to adopt such an amendment in order to clarify that tribal governments may be accorded a status similar to that of State governments under the Resource Conservation and Recovery Act, just as tribal governments are accorded that status under all other major environmental statutes, including the Clean Water Act, the Clean Air Act, the Safe Drinking Water Act, and the Comprehensive Environmental Response Compensation Liability Act.

Mr. BAUCUS. First, I thank my distinguished colleague, the chairman of the Select Committee on Indian Affairs, for his agreement to withdraw this amendment at this time. Certainly, I agree that such an amendment is needed and supported inclusion of identical language in S. 976. I should note, however, that I sponsored the amendment in committee with the specific understanding that the committee report states that the provision is "not intended to expand or limit the scope of existing tribal authority under applicable Supreme Court decisions."

Mr. INOUYE. As my colleague knows, under the proposed language, the treatment of tribal governments as States would not be automatic. In order to be accorded such status, a tribal government must be recognized by the Secretary of the Interior, must be capable of carrying out substantial governmental functions, the functions must be within the tribal government's jurisdiction, and the tribal government must, in the judgment of the Administrator of the Environmental Protection Agency, be capable of carrying out the functions it is authorized to exercise. If there are provisions of the act where treatment of tribal governments as States is not feasible, the Administrator may include other methods for administering those provisions.

Mr. MCCAIN. I strongly support the proposed amendment and would like to assure my colleagues that, while I fully understand the reasons for withdrawing the amendment at this time, I am committed to enactment of these provisions in this Congress. While RCRA does treat tribes as municipalities for purposes of hazardous waste, it is silent on the matter of solid waste. Court cases have held that States do not have environmental jurisdiction over Indian lands. This means that Indian tribal governments must deal with the issues of waste management on their own until Congress can act to resolve the matter of delegating the same Federal authority to tribal governments that we now delegate to State governments.

Despite the fact that tribes have never been eligible for grant assistance, tribal governments are still required to meet RCRA waste disposal standards. In addition, these standards can be enforced against a tribe for noncompliance with RCRA. Recent case law supports the conclusion that sovereign immunity may be waived under RCRA and a tribal government may have to participate in remediation costs. It is ironic that a tribal government may be liable for damages in a given situation because of its inability to secure moneys to develop programs to ensure a healthy environment for lands under its jurisdiction. Such programs are clearly needed to address the environmental problems on Indian reservations. The protection of environmental quality on Indian reservations is in the best interest of all residents of a reservation community as well as adjacent non-Indian communities. In the event that S. 2877 becomes the subject of a conference with the House in which the House bill contains the Indian RCRA provisions, may I ask my colleagues if they would be willing to consider receding to the House?

Mr. BAUCUS. As my colleagues understand, it is impossible to anticipate the context of an upcoming conference with the House and, consequently, whether a provision such as this amendment will be an appropriate part of the conference report. However, I agree that this amendment is important, and I hope that we will have an opportunity to enact this and other important RCRA provisions soon, preferably as part of a comprehensive RCRA reauthorization, such as S. 976.

Mr. CHAFEE. Mr. President, while I support the Senator's amendment and would be willing to take up this language in conference, I must stress that I am committed to oppose attempts to broaden this interstate waste bill in conference.

By passing this narrow bill on interstate waste, the Senate is not authorizing us to expend this bill into a full-blown RCRA reauthorization bill in conference.

The conference on this bill is not the place to do a RCRA reauthorization. RCRA reauthorization is far too important to write in conference in a haphazard manner.

But, if the scope of the conference on this bill is expanded beyond the bill we are passing today, I will make every effort to include these provisions in the conference report.

Mr. MCCAIN. As an alternative, would my colleagues be willing to entertain the inclusion of this amendment in another bill in this session of Congress.

Mr. BAUCUS. I would be willing to entertain this amendment on an appropriate vehicle.

Mr. CHAFEE. Yes; I would also like to add that I too support the provision

that would treat Indian tribal governments as States for purposes of certain sections of RCRA. It is very important to bring all of our major environmental statutes into conformance in this very important area. As I stated in my additional views which were included in the report accompanying S. 976, I believe that the tribal government provisions are important and I certainly hope that the Senate can consider them at a more opportune time.

However, I must also note for the record that there are several members on our side that have serious concerns with this amendment.

Mr. INOUYE. I thank my colleagues and wish to make clear my intention to include this amendment on a bill within the jurisdiction of the Select Committee on Indian Affairs but which does not address or raise any other environmental issues.

Mr. GORTON. Mr. President, I do not argue with providing tribes with federally delegated authority to administer environmental problems in Indian country as advocated by Senator INOUYE, the distinguished chairman of the Select Committee on Indian Affairs and others. I understand that several other Federal statutes regarding environmental regulations, like clean air and clean water, allow tribes to be treated as States. I have no quarrel with the tribes exercising this authority on tribally owned land.

I do remain concerned that a tribe's authority to administer its own programs on its reservation conflict with the rights of private property owners who own land on reservations, be they Indian or non-Indian. I have discussed the conflict of private property rights versus a tribe's right to administer its environmental regulations with the EPA. I am pleased that the EPA has considered the issue of tribal enforcement of environmental regulations on private, non tribal land. I am concerned, however, that the EPA does not go far enough in protecting private property rights and misses a major constitutional point. I will briefly outline the Agency's position on the matter and my concerns.

The Agency believes it has protected the rights of private property owners in two ways. First, to receive delegation of environmental authority from the EPA, the agency requires a tribe to create an administrative review process regarding decisions reached by a tribe's court. Anyone with a grievance about a tribal court decision may appeal to this administrative review. The administrative review is designed to be outside of the control of the tribe's court, but it remains under control of the tribe's government.

Second, to further protect the rights of property owners, the EPA says it will review claims that a tribe is unfairly administering its regulations at the regional administrator level. I was told that if the regional administrator finds enough evidence that a tribe is systematically denying due process to those it regulates, the EPA may withdraw delegation of authority.

I doubt that either an additional tribal review of a case or a subsequent revocation of authority will do much to please someone denied due process or discriminated against because he or she is not a tribal member or because the tribe wants to ensure the property is used for something other than that desired by the owner. The EPA is widely perceived as being indifferent to the concerns of the private sector, but at least its actions can be challenged in court. Those of tribal agencies cannot.

I am not just singling out tribal governmental here. I have the same concerns regarding nontribal governments. The difference is that State and Federal Governments are subject to the Constitution of the United States, tribal governments are not.

Just look at what other governmental entities have done with the kind of authority we are delegating to the tribes. Recently, the Supreme Court said in Lucas versus South Carolina Coastal Council that the State of South Carolina had overstepped the bounds of law by confiscating almost all value of a million dollar piece of property without compensation. It was only the individual's recourse to the Supreme Court that saved this individual's property from unwarranted seizure by the government of South Carolina.

Like the States, once the EPA's regulations are in place, tribes will be eligible to control almost all facets of environmental regulations on reservations throughout the country. This is sweeping regulatory authority that Congress is allowing EPA to delegate to the tribes.

Unlike the States, Mr. Chairman, the tribes' decisions with regards to these matters are not subject to the Constitution. It is the constitutional issue of the delegation of Federal authority to the tribe to regulate environmental activities which bothers me the most. The Court has ruled in several cases, including Duro versus Reina, that the Congress cannot delegate the implementation and enforcement of a Federal law to entities which are not subject to the Constitution.

Mr. President, at this point I will not offer my amendment to require tribes to be held accountable for actions taken under the Solid Waste Disposal Act. I will not do this because no provision of this bill refers to tribes being treated as States for purposes of that act.

I do intend to offer this amendment at the appropriate time and place. For the information of my colleagues, my amendment will not block the EPA from delegating authority to administer these programs to the tribes. It will only require that, where a tribe exercises authority under the act which affects nontribal land, the tribe will be subject to the Constitution of the United States. Therefore, under my amendment, individual property owners will be able to seek State or Federal court relief from arbitrary tribal decisions affecting their property.

Mr. President, I do not believe it is unreasonable for Americans to be protected from the uncompensated seizure of property by any government, be it Federal, State, local, or tribal. I intend to provide this protection for private property owners as the Senate debates the Resource Conservation Recovery Act.

Mr. President, I ask unanimous consent that the text of my amendment appear in the RECORD.

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

At the appropriate place in the bill, insert the following:

SEC. . SOVEREIGN IMMUNITY.

(a) INDIAN TRIBE; MEMBERS.—Notwithstanding any other provision of this Act, or any other law, in each case in which an Indian tribe, following the date of enactment of this Act, exercises an option, otherwise agrees, or is required, under the Solid Waste Disposal Act to accept or have the responsibility for carrying out any part of such Act by reason of being considered to be a State for that purpose, or by reason of an inherent power, such Indian tribe, prior to exercising such option or acting pursuant to such agreement or requirement, or carrying out such inherent power, shall enter into an agreement with the Secretary of the Interior, in such form and containing such conditions and other matters, as the Secretry shall prescribe, pursuant to which the Indian tribe agrees:

(1) as to tribal members—

(A) to comply with the provisions of the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.); and

(B) to waive its sovereign immunity in any civil action against such tribe, tribal government, agency, department, corporation, agent, contractor, or official in any United States court involving a claim or other action by a tribal member arising out of or in connection the alleged failure of such tribal defendant to comply with the Indian Civil Rights Act of 1968; and

(2) as to those nonmembers of the tribe and non-Indians over whom the tribe possesses inherent authority—

(A) to comply with the provisions of the United States Constitution and all Acts of Congress, including but not limited to, the provisions of subchapter II of chapter 5 of title 5, United States Code, (commonly referred to as the Administrative Procedures Act); and

(B) to waive its sovereign immunity in any civil action against such tribe, tribal government, agency, department, corporation, agent, contractor, or official in any United States court involving a claim or other action by a nonmember of the tribe or a non-Indian arising out of or in connection with the alleged failure of such tribal defendant to comply with the provisions of the United States Constitution and all Acts of Congress, including but not limited to the provisions of subchapter II of chapter 5 of title 5, United

States Code (commonly referred to as the Administrative Procedures Act).

(b) NONMEMBERS; NON-INDIANS.—Nothing in this section shall be construed as requiring an Indian tribe, possessing inherent sovereignty over a nonmember of the tribe or non-Indian in a particular matter, to allow such nonmember or non-Indian the rights of a tribal member to participate in the tribal government of such tribe.

Mr. BAUCUS. Mr. President, the only remaining matter yet to be dealt with will be some technical amendments.

There are two leadership amendments. I do not know if either the majority leader or the minority leader intends to exercise their right to offer amendments.

But we are virtually at a point where we can finish this bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. CONRAD. Mr. President, as I have indicated repeatedly today, the underlying principle of this legislation causes significant trouble to my State. It caused us trouble before we knew of the specifics of this latest arrangement between General Motors and the small town in North Dakota.

I regret very much that I am put in this position of having to resist this legislation. But I do not know of an alternative. If what we have here is a rush to judgment in which we are saying that the principle that is going to guide us, not only with respect to this bill that involves solid waste, but the principle that we are setting as a precedent for future legislation, is the same as the principles that are the underlying fundamental principles of this bill, that is just not acceptable. I do not know how to say it any more clearly.

If the managers of the bill could find some way to have a statement that the principle here is not going to serve as precedent for future bill that would involve industrial waste, perhaps that would be a way that we could get around this hurdle. But I do not want to be a party to a bill going through that says that the way we are going to deal with these problems in the future is any community that goes out and cuts any deal—and the Governors, unless called on by the community, are just left out there hanging. They do not get to pass judgment. This is too serious an issue, and it is too important, and it is not fair.

So I hope that we will find a way to structure language that would make clear that this does not set a precedent for future legislation that would deal with industrial waste. I hope that can be accomplished.

I yield the floor.

(Mr. GRAHAM assumed the chair.)

Mr. BAUCUS. Mr. President, again, we are sympathetic with the problems of North Dakota. But, in a very real sense, the Senator is asking the Congress to solve North Dakota's problems, problems which North Dakota itself could solve.

I have many times yesterday and today indicated various options to North Dakota, options that North Dakota can take. I strongly urge North Dakota to seriously consider those options.

It is true that North Dakota's legislature is not in session. But it is also true that the next session of the North Dakota legislature probably is in 6 months, in January of 1994. That is the standard pattern.

One other point here. The public is somewhat frustrated with the Congress because they perceive gridlock. They feel Congress does not act to meet their problems. In many cases, that is true. In my experience, Congress has become more gridlocked over the last several years than it was in preceding years, and there are various explanations for that, a great number of reasons which have caused it.

But I think it has happened partly because different segments in America, different interest groups in America—whether they are States, communities, or interest groups that are defined in some other category—want to have it all their way only, and they are willing to stop the process in order to get all that they want. It is the principle of it. If I cannot get what I want, I do not want anybody else to get anything.

Well, I understand that. That is part of human nature. People want things for themselves. But if America is going to be great, if America is going to respond to the challenges of the 1990's and in the 21st century, it is this Senator's opinion that our country must work better together; that we need more teamwork; there must be more shared responsibility between various groups, whether it is business, Government, management, labor, States or local communities, or what not. There has to be more a sense of working together.

Interstate transport of solid waste is a very complicated problem. North Dakota has a point of view. New Jersey has another point of view. Indiana has a third point of view—50 States with 50 different points of view.

We have worked out a solution, although it is not perfect for any one single State. The Senator from New Jersey [Mr. LAUTENBERG] does not like this bill. The Senator from New York has several problems with this bill. The Senator from Indiana, by definition, must have concerns about this bill, because it is not in line with the earlier bill introduced, which was his preference. The Senator from Montana would prefer a different bill than this.

But we are a country, a nation, and we have to give it our best shot. And the vast majority—I say vast majority of the Members of the U.S. Senate—think this is a good solution. The evidence I have is the vote on the Reid amendment yesterday, which is essentially the view propounded by the Senator from North Dakota. Sixty Senators voted against the Reid amendment. They said, no, they like the system that is being worked out here, because it is an accommodation of various State interests.

The bill we have worked out is, while not perfect, good. No bill is perfect. We cannot let perfection be the enemy of the good. It might not be quite good enough of everybody, but for the country, for most States, it is quite good. It is far better than current law for all States, including North Dakota. It is far better than the present situation for all States, including the State of Montana, the State of Indiana, but particularly the State of North Dakota, because it does give local communities the right to say no, if they want to. It gives Governors the right to freeze, if they want to. It gives lots of power to both Governors and local communities if the local communities and the Governors, in their discretion, choose to exercise their right to say "no."

Does it immediately give Governors the right to say absolutely no to all imports of municipal solid waste in a State? No. For it to do that would cause unmitigated chaos in this country.

Garbage would pile up on streets. It would pile up who knows where. Why? Because Americans continue to generate garbage. We generate 4½ pounds per person per day. It has to go somewhere and, because over 40 States export solid waste to other States, if the Governors all said "no," where is it going to go? A lot of States do not have sufficient instate landfill capacity today. Some do, but many do not. Where is it going to go?

It is clear that States must be much more self-sufficient in export, and this bill very much helps accomplish that. Frankly, if the Senator from North Dakota wants to go further, and I am sure he does, he can join with this Senator who, in conjunction with the other Members of the Environment and Public Works Committee, a committee of which the Presiding Officer is also a member, in helping us next year pass reauthorization of the Resource Conservation and Recovery Act. I wish we could have that bill up before us today. I very much wish we were considering that bill today. That was my first preference. But, because there are so many holds by so many Senators on that legislation, we cannot proceed to it.

So we can only deal with what we have, and sometimes a single step is better than no steps. Sometimes a partial loaf is better than no loaf. The

interstate transport of municipal solid waste now before us is a first step. It is a partial loaf. Does it take all the steps necessary we should take in this country? No. I wish we could, but we cannot do that today. Does it go as far as I would like it to go and as far as I am sure the Senator from North Dakota would go? No.

It does take several steps and empower communities and States, including North Dakota communities and North Dakota's Governor, to have a lot more power and to much more significantly restrict the amount of municipal solid waste that comes into his State.

Basically my main point is, no, it is not perfect. But if we are going to live up to it, if we are going to defy some of the American people's expectation that Congress cannot act, that Congress is always gridlocked, that Congress cannot do anything, at least we can get this legislation passed and address other issues at another day. And in the meantime, as I have said so many times, and I must continue to remind all Senators, all Governors, all legislators, all mayors, all county commissioners, that there is a lot that States can do in addition to the provisions of this bill to control and to deal with municipal solid waste in their States.

Now, the Senator from North Dakota, I must say mischaracterizes an earlier statement I made when I suggested fees. I did not suggest fees for all municipal landfills. I suggested fees only for nonhazardous industrial waste landfills. According to my information, there are four offsite nonhazardous industrial waste facilities in North Dakota. I do not know—perhaps the Senator can help me—where North Dakota exports nonhazardous industrial waste to any other State. You have no idea. If we were to close the door today, immediately close the door, say, on nonhazardous industrial waste, that is going to cause a lot of problems under Superfund. I could tell the Senator where we are trying to clean up Superfund sites, some sites which include nonhazardous industrial waste, a lot of that waste is exported. And those are issues we will deal with when we finally get the reauthorization of the RCRA considered. I hope that happens much sooner rather than later.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, first I want to say as to the gracious offer of my colleague from Montana to join him next year on supporting RCRA, I am not going to be here. I am retiring at the tender age of 44 so I will not be around to participate in that effort. I wish him well in it.

Let me say, Mr. President, that certainly the American people are frustrated with gridlock. I think they are even more frustrated when we pass legislation that is not good legislation. The reason I have taken the time to engage in this discussion today is I very much fear we are about to pass something that sets a precedent that is wrong.

Now, the Senator says last night we voted on this proposition. Indeed we did. One of the major considerations was that we were operating under a threat; the threat was if you did not pass this you are not going to get anything, because the other side is going to filibuster; the exporting States are going to filibuster.

I heard Senator after Senator told in the well last night, "You better vote for this, or we are not going to get anything, because the other side is going to filibuster."

I guess two can play that game. I guess we can have other people operate that way and say if it is not my way it is no way. I do not believe in operating that way. I have never conducted myself that way ever. But I say to my colleagues I believe this is so seriously flawed that I am going to resist until there is some movement so it is not just a local community making this decision.

I say to my colleagues, it would be a very simple change in this bill that I think would be reasonable. It would not give the full authority to the Governor, but it would not leave it all just with some small community.

As I have said over and over, I have 4 incorporated towns in my State with 10 people or less. The alternative that I would propose is on page 2 under "Interstate Transportation of Municipal Waste" on line 12, and I read the whole paragraph.

"(1)(A) Except as provided in subparagraph (C) of this paragraph and in subsection (b), if requested in writing by both an affected local government and, if a local solid waste planning unit exists under State law, by an affected local solid waste planning unit, a Governor may—

And I would simply insert the word "or" on line 12, and take out the word "both" on line 11. That would at least provide a situation in which a wider area than a local community has to be in on the agreement.

It certainly is not everything that I want, but at least you would have a situation in which a town of 10 does not make a decision that affects thousands, and the thousands have no say in the decision made by 10. There is just something wrong about that.

In addition, the Senator from Indiana had language that I think would be useful as well.

I understand the problem with it is the other side, the exporting States—I mean they have taken a very hardball stand here and they say, "My God, if every jot and tiddle of the agreement that was made was not agreed to, we filibuster."

That is on their heads, I guess. I think this bill could be improved and should be improved and I would like to contribute to that process.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, it is interesting.

There are two responses really to that suggestion. One is that it does not solve the Senator's problem. It does not do what I think the Senator would like to do. And, second, if it does what the Senator thinks it does, it is going to run into a whole host of problems with other Senators.

Let me take the first one first. This is a municipal solid waste bill, so changing the word "and" to "or" on line 12, page 2, would be dealing with municipal solid waste, not with industrial hazardous waste. That is number one.

Mr. CONRAD. Mr. President, will the Senator yield on that point?

Mr. BAUCUS. Yes.

Mr. CONRAD. I hope the Senator understands, I am fully aware this will not deal with the specific problem we face in North Dakota.

Mr. BAUCUS. Right.

Mr. CONRAD. Mr. President, the thing that is important to me that it does do is set a precedent for the time that I hope we deal with industrial waste; when we deal with RCRA. Because if we fail to set the precedent now that this is more than just any local community, I very much fear when we get to the question of industrial waste, which does bear directly on the problem in North Dakota, we are left with the problem we have here today.

Mr. BAUCUS. If the Senator will yield, I am even more perplexed than I was earlier. Because it sounds like now the intent of this amendment is not to deal with any actual problem that exists in North Dakota. Rather, the intent of the amendment is to deal with the hypothetical problem that may occur in North Dakota, or may occur in any State.

I heard the Senator from North Dakota this morning and last night talk about nonhazardous waste, and he read newspaper articles about it. That is a whole different category of waste. That is nonhazardous industrial waste. That is the problem I heard the Senator address and keep talking about.

Now I hear the Senator say no, that is not the problem. We have a different problem.

That is perplexing to this Senator.

Mr. CONRAD. Mr. President, I do not know whether the Senator does not want to listen or is not listening. I have tried to be very clear and I have tried to be helpful, but apparently there is no desire to be helpful and no desire to have somebody be helpful. I guess that is where we are.

And if that is the case, then I am prepared to talk a long time.

Mr. BAUCUS. I was trying to be helpful by pointing out the Senator's amendment does not solve the industrial waste problems which I thought the Senator was addressing.

Mr. CONRAD. Apparently, the Senator did not listen to this Senator from North Dakota, who tried to be helpful and tried to be clear.

I understand it does not solve our problem. I also understand it at least sets a precedent that something other than one small town makes a decision that affects lots of surrounding communities. I do not know how I could be more clear.

I was willing to back off; not solve my problem in this legislation. I was willing to try to set a principle and a precedent for what I assume will come later.

But if there is no willingness to provide anything, fine. Then I am willing to talk a long time.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, as I understand it, the concerns of the Senator from North Dakota are, as he mentioned several times, the precedent that is being established. It is his worry that the adoption of the legislation that we have before us, in its current form, will be the model for subsequent legislation in RCRA that will deal with industrial waste.

And thus the Senator believes, or is concerned, that this will be accepted in toto; that is, the outline that we use, the approach that has been used here, where there is a requirement that the request originate by the local elected officials.

And, as I understand—and I think I am correct in saying that—the Senator from North Dakota believes that we will be setting the precedent, and I think he used the word "precedent" several times, so that when we deal with subsequent legislation, we will use this as a model.

Am I correct in that, if I might ask the Senator from North Dakota?

The PRESIDING OFFICER. Does the Senator from North Dakota yield for a question?

Mr. CONRAD. I do, Mr. President. I would be happy to respond.

The problem that I have is twofold.

One is with respect to the municipal solid waste legislation we have before us, the underlying principle being that a single community can make decisions that affect many others, and the others have no say. So I have a concern with respect to the municipal waste problem that is before us in this legislation.

Beyond that, as the Senator from Rhode Island correctly states, I have a concern with the precedent that we are setting, the precedent that could be followed in follow-on legislation that would involve industrial waste, which is the specific case of concern in North Dakota that I have referred to with respect to the General Motors Corp.

So I have two concerns. And my initial position was the Governor ought to be able to block these determinations. I understand there are problems with that. Well, there is an alternative to that: Not just to leave it to the local community, but to have a planning district that is between the local community and the Governor. At least, they have a broader area of responsibility and concern.

As I have said over, and over, and over, I have a situation where I have 4 towns of less than 10 people. Are we going to set in stone legislation that says any one of those towns can go out and make a deal with General Motors and dump all their garbage in there, and nobody else has any say?

It is not right. It is not right.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I recognize, as the Senator from North Dakota said several times, he has these communities that are very, very small. I think he indicated that there are 4 communities in his State where the population is 10 or less. And that is unique; no question about it.

The trouble with the suggestion of the local solid-waste planning units is, it seems to me, twofold.

First, these are appointed entities that have no accountability. Yes, eventually they can be replaced, but they are not elected entities. And the Senator from North Dakota would suggest—or he has proposed—by substituting the word "or" in place of the word "and" on page 2, line 12, he would give these local planning units tremendous power.

First of all, as I mentioned before, they are appointed, and thus they lack the accountability that exists with the local government.

Second, they frequently involve interstate entities. In other words, they are not always just for that State, because it is all too often these situations arise across borders, entities that are close to the border of an adjacent State. And so that is a tangle.

Also, I think that the whole purpose of one of these solid-waste planning units is to take care of their own dumps. And I think the answer would be inevitably that they would appeal to the Governor to shut off imports.

And one of the worries we have here in devising this legislation is, as has been mentioned several times, 43 States in the Nation export solid waste—or in this instance, garbage—and 42 import. So this is not something that is some figment of our imagination and we can just sit here and draw up laws that can affect various States, thinking: Well, none of it is happening now, and this will prevent it from occurring. Already we have tremendous interflow.

Somebody pointed out yesterday that if you drew a map of the United States with arrows going from one community to another community, and from one State to another State, it would look like a jar full of polliwogs—lines all over the chart. So, therefore, we have to proceed with considerable caution here.

I would like to, if I might, address the concerns of the Senator about precedent and principle. I do not think that because this is the way we have handled this particular problem of municipal waste, that inevitably it follows that that is exactly what we will do when we come to industrial waste. Industrial waste is a far larger problem than municipal waste. I gave those statistics earlier. I think my statistics show there are 200 million tons of municipal waste and 8 billion tons of industrial waste. So we are going to start fresh when we deal with industrial waste. Industrial waste is so much more complicated.

So I do not think the Senator's concerns that whatever we do here is going to be etched in stone are really justified. He feels that way, but I am trying, to the degree I can, to reassure him that certainly this Senator, who has been on the committee and acted on it for many years, is not necessarily going to say, "Well, that is the way we did it with municipal waste, that is the way it has to be done, this is the way we have to handle industrial waste. Take that prior act we passed in July last year—and just take the language right out of it—and that is the way we will handle it."

The Senator has mentioned he is not going to be here. I regret he is leaving, but I think his concerns about precedent and principle should not be so overriding. I do not know whether he will accept some form of solace it or not.

Mr. CONRAD. I appreciate the Senator's attempt, but it does not provide much solace, frankly. The Senator makes the point, if we alter the language in the way that I propose, that gives a lot of power to the planning district, the solid waste management district.

I say to the Senator, what we have here gives veto authority to a town that may be as few as 10 people; a veto authority over the planning district, a veto authority over the State, a veto authority over the Governor, a veto authority over the State legislature, and there is just something wrong about that.

I know how legislation works around here. I have been here long enough to see what happens. I have been here long enough to have heard the arguments, over and over, "That is the way we solved the problem in the last bill, and that is the way we will handle it in the next piece of legislation."

The thing that troubles me very much is that, without any change, we are left with this underlying principle that I believe will serve as precedent for what is to come.

Not only am I concerned about the precedent, I am concerned about this bill, too. That is why I was vigorous in my defense of the amendment that was offered by Senator REID last night. I remember very well one of the key arguments that was made against that amendment, which would have given the Governor a say in what happens within his State's boundaries, was that, if we do that, if that amendment would have passed, we would have then faced a filibuster by the Senator from New Jersey and we would have no legislation and no bill.

My own view is that this legislation is so flawed I am not sure it is worth much anyway. I guess it is worth something if you are in Indiana. It is worth something if you are in Ohio. It is worth something if you are in Pennsylvania. It is worth something if you are in Virginia. It is worth something if you are an exporting State like New York or New Jersey. They were all up on their feet singing its praises. I guess I can understand that.

But, if you are in a State like mine, there is not much here because individual, vulnerable communities can get picked off one by one and nobody else has much of a say. There has to be a better way than that.

Mr. President, might I add, the Senator from Indiana has some language—I do not know what has happened to the Senator from Indiana. He had some language that I thought was very helpful. It would have been useful language to put into this legislation. I do not know what happened to that language or what happened to the Senator from Indiana. But it just seems to me we have a significant difference of opinion, and there ought to be some way to resolve that difference of opinion.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded so that I may proceed for 7 minutes as if in morning business.

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

Mr. SPECTER. I thank the Chair.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 3019 are located to today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. I thank the Chair and yield the floor.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, what is the regular order?

The PRESIDING OFFICER. The regular order is the consideration of S. 2877, the Interstate Transportation of Municipal Waste Act.

Mr. BAUCUS. Mr. President, I also have a series of technical amendments to the bill.

AMENDMENT NO. 2741

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] proposes an amendment numbered 2741.

On page 4, line 7, strike "(date of introduction)" and insert "June 18, 1992".

On page 5, line 10, insert "annual" before "amount equal".

On page 5, line 22, strike "such landfills" and insert "each such landfill".

On page 5, line 23, insert "annual" before "volumes".

On page 6, line 2, strike "or" and insert "and".

On page 7, line 4, strike "section" and insert "paragraph".

On page 7, line 15, insert "from" before "a Governor".

On page 8, line 11, insert "as determined in accordance with subparagraph (C)" after "1992" and before the comma.

On page 8, line 13, insert "under subparagraph (C)" before "as having".

On page 10, line 11, strike "location" and insert "locational standards".

On page 10, line 12, insert "constructed" after "landfill cells".

On page 10, line 22, insert "the land or" after "over".

On page 11, line 11, strike ", glass, and rock" and insert "and glass".

On page 12, line 8, strike "the" before "property".

On page 12, line 11, insert "generated" after "solid waste".

On page 12, line 16, insert a comma after "composition".

On page 12, line 19, strike "such other" after "mixed with".

On page 13, line 6, strike "(date of introduction)" and insert "June 18, 1992".

On page 10, line 12, insert "on and" after "cells".

On page 12, line 4, strike "industry" and insert "industrial facility".

On page 2, line 26, strike "or 1992" and insert "or twice the volume of the first six months of 1992".

On page 5, line 13, strike "or 1992" and insert "or twice the volume of the first six months of 1992".

On page 7, line 9, after "and", insert "the first six months of".

On page 7, strike line 22 and insert "and the first six months of calendar year 1992, and".

On page 8, line 11, after "and" insert "the first six months of".

On page 2, strike lines 12 through 14 and insert "ment; and an affected local solid waste planning unit, if such local solid waste planning unit exists under state law, a Governor may—".

The PRESIDING OFFICER (Mr. WOFFORD). The Senator from Montana.

Mr. BAUCUS. Mr. President, these are simply technical amendments. We do not need adoption of them. Once this bill goes to conference, we can do these in conference. It is not all that urgent. Since they are technical amendments, it makes more sense to clean up legislation as much as possible as we can as early as we can. I think it makes sense to adopt these amendments at this time regardless of what happens to the rest of this bill.

I urge adoption of these technical amendments.

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

Mr. CONRAD. Mr. President, is there a consent request before us?

The PRESIDING OFFICER. The amendments en bloc are pending for adoption.

Mr. CONRAD. I object.

The PRESIDING OFFICER. There is no unanimous-consent request.

If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2741) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, we have attempted throughout the afternoon to try to find some way, first of all, to alter the bill before us so that we would not be left with the situation in which a tiny community can take action that would bind the other surrounding communities, bind the whole State, while also attempting to do that not only for the purposes of this legislation but in terms of the precedent for legislation that will follow. We have been unable at this juncture to reach a meeting of the minds.

I think it is important for people to understand what is at stake here. I think it is important for colleagues of mine to understand what is at stake here.

Last night, we debated the question of whether or not the Governor should have the ability to block the importation of out-of-State trash when a local community has made an agreement with a company, and we had a vote on that question. And the Senate spoke its mind. That is fair. I accept the judgment of the Senate on that question.

I argued last night that that was a very troubling concept because we can have the trash merchants coming into a State going to a small community. I indicated last night I have 4 towns with less than 10 people in them. A

company can make a deal with them to take out-of-State trash that affects surrounding communities, affects the taxpayers of the State, and there is no way to stop it unless the local community agrees and, of course, the local community is probably unlikely to do so if it has already entered into the contract.

So, Mr. President, we then developed the argument. As I say, we were unsuccessful in sustaining that argument. Then we learned this morning, something that was rumored last night, that General Motors Corp. had made an agreement with a small town in my State of 319 people, the town of Sawyer, to take all of their industrial waste to that facility. And there is no State agreement. There is no county agreement. There is no wider community agreement. Yet we are faced with the prospect of thousands of loads of industrial waste coming into our State because a handful of people have decided that is what is to happen. There is something wrong with that, Mr. President.

Mr. DASCHLE. Will the Senator yield?

Mr. CONRAD. I am happy to yield to my friend and colleague from South Dakota.

Mr. DASCHLE. Let me commend the Senator from North Dakota for again raising this issue. As he said, this was a subject of a very contentious debate for a while yesterday, last night. We had our vote. We failed to persuade many of our colleagues of the consequences of the decisions that we were making regarding waste in this issue.

So given developments in the last 24 hours in North Dakota, the Senator from North Dakota once again felt compelled to come to the floor to do what he could to explain what this once seemingly innocuous bill could be doing to the State of North Dakota. We have had virtually identical problems in the State of South Dakota in this regard—small communities cutting deals that look extraordinarily lucrative for that particular community but having extraordinary problems statewide.

Problems related to the quality of water, whether or not the aquifer under that community could be poison, is still a question left unresolved. Every community in that area is going to be affected. This is not just an issue related to Lone Tree, SD, one of the communities involved. This is an issue affecting a lot of communities all over western South Dakota. Questions having to do with transportation, a level of transportation, the tremendous amount of commerce, the tonnage far exceeds the capacity of the roads to tolerate it.

So what happens? Is it going to be Lone Tree that is going to come up with the highway network necessary to get the garbage from one end of the State to the other? No. Long Tree cannot handle that kind of garbage magnitude. Lone Tree is not going to build the roads. Lone Tree is not going to build the rail spurs. They are not going to be the ones to worry about it.

Somebody is going to have to come up with the money necessary to build the bridges, highways, rail spurs, to do all that it takes to set up the infrastructure required to ensure that small community can keep its deal with some out-of-State waste company. That is what we are talking about here.

So why not involve some entity at the State level to give them the opportunity to take into account these extraordinary economic and environmental and infrastructure situations?

We do not do that. That is why it is so abundantly clear to us that unless we make additional accommodations in this legislation, it is simply unacceptable to Western States. It does not take into account the problems this is going to cause.

I know how narrowly drawn the bill is, that in terms of scope, a lot of things are not covered here. The fact is that is also one of the problems, because if these areas are not covered, what do we do about them? How do we handle them?

The question of the Senator from North Dakota relating to industrial waste brings up that issue. How do we address that? How can you have industrial and municipal waste and decisions being made about one and then the other?

That was the reason we went to the floor last night.

It is the reason why again we raise the issue this afternoon, trying to accommodate the needs of these local communities who indeed, for many good reasons, may want to bring in municipal waste, may want to find some source for economic development, as dwindling as they are in size, and in economic viability.

But this is not the way. We ought not to paralyze or jeopardize the entire State or region of a country simply to ensure that one small community, 10 or 20 people, have the ability to cut a deal with an out-of-State waste company and leave the rest of that State, the rest of their population, at great peril. I do not think it is right.

Frankly, I think we have a lot of work cut out for us as we address these issues.

Somebody said last night that we are facing the prospects of no legislation at all if we cannot simply pass this. Frankly, Mr. President, I have come to the conclusion that this is not better than nothing at all. It creates the extraordinary problems for our State, environmental and infrastructure problems, and the wide range of problems that we have attempted to address both last night and again this afternoon.

So I only rise again to commend the distinguished Senator from North Dakota and to urge our colleagues to think very carefully about this legislation prior to the time we make what may be an irrevocable commitment to a path that will be extraordinarily damaging for many of our people and many Western States.

I yield the floor.

Several Senators addressed the Chair.

Mr. CONRAD. Mr. President, I yielded to the Senator from South Dakota for the purpose of a question. I did not lose my right to the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. Mr. President, I regret that we have not been able to find some way to accommodate those of us who have a situation that is very serious. I would say to any of my colleagues, if you came in this morning or yesterday morning and learned that all of General Motors' sludge was coming your way from 100 plants, and a relatively small community had agreed to take it—in this case, it is not clear, by the way, that small community has agreed to take it. But for the moment, let us assume that is the case—and you found that there was nothing that your Governor could do to stop it, I think you would find that there was something wrong in the legislation we are about to pass.

I understand this relates to municipal waste. We also understand that is going to set a precedent for what is going to come regarding industrial waste.

In a small community in my State, where we have 4 towns of 10 or less, 10 people could have a veto on what is in the interest of thousands of people and, in fact, on what is in the interest of the whole State. That stands democracy on its head, absolutely stands democracy on its head. Since when do we have 10 people making a decision that affects thousands, and have absolutely no chance for others to have an affect on the outcome?

Mr. President, that just cannot be the final conclusion. Last night, so many people voted against the Reid amendment, which would have given the Governor the right to block these decisions—so many people said, well, if you do not pass this bill, you get nothing, and you will get no protection. Really, if you examine this bill, it is very useful for Pennsylvania, Ohio, Indiana, and Virginia. It is not so useful for other States; it is not so useful for North Dakota, and it is not so useful for South Dakota, when we can find that trash merchants move in, make a sweetheart deal with a small town, and in comes the junk and nobody can stop it. If anybody thinks, because of the debate they heard last night, that it is somehow different, and really there are ways to stop it, I tell you, look at the

North Dakota experience, because you will find, sadly, that all of the sweet mutterings about how you can intercede is not going to work.

Mr. DASCHLE. If I could ask the Senator from North Dakota, does he know, for this particular site the Senator is referring to, the degree to which environmental analyses have been done with regard to the aquifer, let us say, for example? Have there been any environmental studies done to determine the feasibility of a waste facility of that magnitude?

Mr. CONRAD. Well, I know this: There were permits that were in question with that facility, which is an industrial waste facility, who was going to take ash from out of State.

And that ash was going to go to that facility. The State challenged it on the basis that they were concerned about the effect on an underlying aquifer. The company challenged that determination by the State, and so now we are poised for a new hearing that will be held later this year.

As far as I know, there has been absolutely no analysis of the magnitude of the industrial waste that is contemplated under this agreement with General Motors. You can imagine taking all the still waste from 100 General Motors plants from around the country and sending it to this small town.

Mr. DASCHLE. If the Senator will yield again, that is exactly the experience we have had in South Dakota. There have been extraordinary cursory studies done with regard to the environmental consequences of sites such as this, and it is for that reason that we have found the need to draw into the discussion and the decisionmaking the State authorities to give us a better appreciation of the environmental consequences, to give us some ability to determine what effect, detrimentally or favorably, a facility of this consequence would have on surrounding areas.

Let me ask the Senator a second question. To what degree has study been accomplished with regard to the infrastructure needs that they are going to have to serve the site? Has any effort been made to better appreciate the infrastructure requirements for a site of this size?

Mr. CONRAD. That is a very good question, Mr. President. The answer is none. All of a sudden, the State of North Dakota is faced with the prospect of taking the waste, the industrial waste from General Motors plants from around the country. And obviously, that has an effect beyond the borders of that small town.

There is no analysis that has been done. Of course, why would there be, since, because of the terms of this legislation, a small community can cut a deal with a company and there is no State review unless the local community asks for it. You are stuck.

Can you imagine being a Governor of a State faced with a situation in which you have the responsibility for the transportation system—you have the responsibility, by the way, for waste planning—and yet, a local community can completely disrupt your statewide plan, a community potentially as small as 10 people can totally throw into question a statewide waste management plan, can totally throw into question a statewide transportation plan, and the Governor has nothing to say about it?

Mr. DASCHLE. Mr. President, will the Senator yield?

Mr. CONRAD. I am happy to yield.

Mr. DASCHLE. In South Dakota, we have communities that are served by merely county roads, that do not have any State roads coming in at all. So here you may have a community completely served by inadequate transportation routes now having just cut a deal for millions of tons of garbage, with absolutely no access to that community except for whatever the State will provide in as expeditious a way as possible.

What an incredible antiplanning approach that you conjure up here. I mean, to what degree is it the responsibility of the community to come up with whatever financing mechanism to ensure that there is adequate transportation? There is none.

They are going to say: It is in your lap, Mr. Governor. You find a way to make good the contract that we have just made with this waste company.

Mr. CONRAD. Mr. President, I just say in response to my friend, the Senator from South Dakota, I talked with my Governor this morning. You can imagine how he feels.

He said to me, "You know, on the one hand, down there in the Federal Government, you tell me I am responsible for planning statewide municipal waste. That is what you tell me. Then, on the other hand, you put legislation through like this bill that says, well, any local community out there can completely disrupt that State plan. It just does not make sense."

Just to give you some idea of the magnitude of what we are talking about here, I say to my friend from South Dakota, the company gave an open house the other day and featured tours of the facility, which includes an administration building, a lab, a processing building, a storage cell designed to swallow up to 400 tons a day—400 tons a day. And I say to my friend from South Dakota: That is a lot of garbage; that is a lot of trash; that is a lot of industrial waste.

And the implications for the road network, the implications for the infrastructure, and the implications for the air and water quality of the surrounding area are enormous. To take the industrial waste from 100 General Motors plants from all around this country, and to stick it into a little town of 319 people—nobody can interpose objection; nobody can be involved at the State level in terms of fashioning a plan—there is something just radically wrong with it.

So that is the reason for the resistance that I am putting up here today.

It seems to me that there really needs to be some better thinking about what we are doing here, because this is just wrong. I do not think it can be sustained. I do not think it can stand the light of day. I do not think it can stand much attention or much focus, because sooner or later our colleagues who are listening are going to realize: It might be North Dakota today; it might be Montana tomorrow. It might be North Dakota today; it might be South Dakota tomorrow. It might be North Dakota today; it might be Minnesota tomorrow.

And when people have a chance to review what is being done here, they will realize that the siren song that you have got protection is not much protection here at all. It sounds good, but what you find out when you study this bill is the Governor can only act if the local community and the local planning authority asks him to abrogate a new contract. He cannot do anything; his hands are tied, otherwise.

Then they say: Well, you know, if you are a big importer, if you are importing more than a million tons a year, you have protection because the Governor can freeze the amount.

That is fine. How many States does that cover? How many States do you think that covers? Four.

Mr. COATS. Mr. President, will the Senator yield on that point?

Mr. CONRAD. I am happy to yield without losing my right to the floor, Mr. President.

Mr. COATS. This point has been made over and over, and I responded over and over on it: Freeze authority extends to all 50 States. It does not extend just to four States.

That was what the original proposal was. This Senator from Indiana insisted it was not fair to solve the problem of a few States, and simply to export that problem to an additional State or another State. So we extended the freeze authority to all States.

My question to the Senator is—I find the reasoning so curious—that because one of his towns agreed to accept out-of-State waste, the Senator's actions will deny every other town in North Dakota the right to say no to out-of-State waste? And his actions mean that tonight, tomorrow, the next day, an uninterrupted, unlimited flow of out-of-State waste could flow to every other town in North Dakota, without any of those citizens having the ability to say no to that?

And so to protect the town that has agreed to it is sacrificing every other town in North Dakota who might not agree to it.

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That is very curious reasoning, to this Senator.

Mr. CONRAD. I will be happy to explain it, Mr. President. It is the position that the Senator from Indiana used to adhere to. He remembers that. That is when I used to support him when he was taking the very same position I am taking now. He used to be right on this issue, and now he has backed off. I can perhaps understand why he did it.

But the fact is I am adhering to the position that the Senator used to have, and he defended it very articulately and very well on this floor.

And the simple concept is: Look; I am faced with the reality of what is, versus the hypothetical.

I am faced today with the situation in which a small town is going to be taking all of GM's industrial waste from 100 plants, and nobody else can say anything about it. My Governor has no say; my legislature has no say; the community planning districts have no say.

Mr. COATS. But the citizens do have a say?

Mr. CONRAD. The citizens of one town have a say. Where are the rest of the folks? This is an interesting notion of democracy and representative government, when a city of 10—a city of 10—could make a determination that impacts tens of thousands. That does not make any sense. That is what we have before us.

Let me say, on the other point the Senator made, I appreciate the point that he makes.

It is also true, is it not, that in order for a community or a State to have a freeze, it has to be asked to do so by a local community?

Mr. COATS. That is correct.

Mr. CONRAD. So we are right back at the problem that causes my States so much difficulty. There is something wrong with legislation that, in principal, sets a precedent that a community of 10 can make a decision that affects tens of thousands, and the other folks, other than the 10 who make the decisions, cannot stop it.

Mr. COATS. Would not the Senator's proposal leave the decisions in the hands of 1 rather than the 10 or the 250 or the 3,000 of a particular community? Because what the Senator's proposal would do is say that the decision of one person, the Governor, would override any decision of a community. And were a Governor to agree that, for an economic benefit for his State, this was a favorite proposal, the citizens of the community in receipt of the waste would absolutely have no say whatsoever.

Mr. CONRAD. Well, I say to my friend, that is the proposal that I was part of last night, and I would like to see a Governor have the ability to represent a State's interest. I think the State's broader population ought to have their interest represented.

Mr. DASCHLE. Would the Senator yield?

Mr. CONRAD. Yes, I am happy to yield.

Mr. DASCHLE. That is why we elect Governors and Senators and Congressmen, to make decisions on behalf of all of us, to make the tough decisions, to take into account more than just one special interest. That is what we are talking about here, the special interest of a very select group of people, maybe 10 people.

And we talk as if those 10 people are unified. You may have a 6-to-4 vote in some of these towns, if South Dakota is any indication. It is a very divisive issue in these communities themselves. It may be that the powerful within that small community have had the ability to generate just enough to get over the top and have what would be considered a majority, but they certainly do not reflect any unanimity, any cohesion within the community itself.

But, certainly, when it comes to budget, when it comes to all of the decisions made regarding the long-term future, the overall effect of all of these issues on the people at large, we elect a Governor to help us make that decision, to set up mechanisms by which a more judicious decision can be made.

So it is not just one person, I say to the Senator from Indiana, it is a decisionmaking mechanism that we have subscribed to now for 200 years, at the Presidential level nationally, at the gubernatorial level in every State. And certainly I cannot think of a better alternative than that. To say that 10 people ought to be making that decision for, in our case, 700,000 people is something that is just not only unacceptable but, frankly, undemocratic.

Mr. COATS. Will the Senator yield?

Mr. CONRAD. Mr. President, I retain my right to the floor. I yielded to my friend from South Dakota for the purpose of a question.

I would be happy to yield to my friend, the Senator from Indiana.

Mr. COATS. I appreciate that.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. As I said earlier, there are many of us here on this side of the issue that are very sympathetic to the arguments that the Senator is making, and we were trying to reach some effective way of addressing that particular problem. And I will not go through all the arguments that we have been through before.

However, the legislation itself defines the term "affected local government" as whatever body of people, whatever jurisdiction, pursuant to State law. So the State can define whatever jurisdiction or body of individuals in the State of North Dakota or South Dakota that it wants to in terms of the question of request for denial of the receipt of out-of-State wastes.

On page 10, under definitions, section (d)(1), it says:

> The term "affected local government" means the elected officials of each city, town, borough, county, parish, district, or other public body created by or pursuant to State law.

I suggest that as one option, and we have suggested a number of other options to deal with the Senator's problem. Because this is industrial waste, it does not fit the definition of municipal solid waste. It will result in no bill, which means no community is protected, including no State, yours or mine, because there are powers that flow to the Governor of a State, health authorities of a State, that your State currently has and can exercise relative to this particular situation. What we are asking is that your State exercise the powers it has. So it does not deny our States the opportunity to do something about the flow of trash that we can now not do a thing about.

So we are just asking, out of courtesy to the Senator from North Dakota, that his own State take action that it already has power to do and allow the other 49 States to deal with something that we do not have the power to do.

Mr. CONRAD. Let me answer that question if I might. It is a good question that deserves a respectful answer.

Let me just read the language to you of the solution the Senator proposes:

> The term "affected local government" means the elected officials of each city, town, borough, county, parish, district, or other public body created by or pursuant to State law with primary jurisdiction over the use of the land on which the facility is located.

Now, I say to my friend, I used to be the State tax commissioner in North Dakota. In that position, I have dealt with a lot of the finest legal minds in the country. And I will tell you, I have done battle with some of the finest Philadelphia lawyers, I say in deference to the current occupant of the chair, Mr. WOFFORD. They are very good.

I can tell you what they will do. If the State of North Dakota would take the action the Senator from Indiana proposes, they would be in a court in a Philadelphia minute. Do you know what they would be asserting? "You are attempting to discriminate against the interstate transportation of a commodity." The commodity happens to be junk. The commodity happens to be industrial junk.

But, do you know what? They would probably prevail, because, unless the State of North Dakota made a decision to change the rulings for every jurisdiction which has primary jurisdiction over control of that land, that type of facility, you would be acting in a discriminatory manner with respect to that community that is set to act as a host community for that sludge.

And I say to my friend, it sounds good, but if you think about it and

think carefully about the rights of the company and their willingness to go to court—and by the way this company as already been to court once on a question of the use of this landfill—I do not find much relief in that proposal.

And I go back to the fundamentals of what is at stake here. Who decides? Who decides? Should it be just a few people in a town that decides something that impacts the lives of hundreds of thousands perhaps tens of thousands of people? I think not.

Mr. DASCHLE. If the Senator will yield, some would say there is another precaution, another way in which States can intervene, and that is the permit process, that they can simply require a series of permits that in and of themselves could preclude an out-of-State waste facility from being constructed.

The problem is that this has already been in the courts, and the courts have said that you cannot discriminate against an out-of-State waste facility; that whatever do you with your other facilities, you have to do with this one.

So regardless of the size, regardless of how ominous it may be for the entire State, regardless of how many problems, practical and otherwise, it may create, the permitting process has already been demonstrated to be ineffectual in dealing with this very problem.

So we really are defenseless. There is no way with which to address this issue. We cannot do it through the permitting process. This legislation precludes us from doing it through the State legislature or the Governor's office.

So if you are sitting 5 miles or 10 miles or 15 miles away from a community like this, and you have property values that are good, you have a pristine stream that runs by that is good, you have a quiet residential community that is good, you have a school system that is adequate, and you see all of that threatened with the prospects of this huge new GM facility or community facility that is going to put their waste dump next to your town, you say: "Look, I'm sorry. We just did not have the resources to stop them. There is nothing we can do."

So, what happens? What happens when the stream is gone and the transportation system is destroyed and the community no longer looks like it used to and property values have plummeted? I guarantee you then we will be back in this Chamber, then we will be starting to talk about the issues that are confronting us in a lot more realistic way.

As long as we can talk hypothetically it is no problem. We can just work it out. Let us see if we can understand one another. The problem is when that happens, it is too late. Then you cannot restore it.

The Senator from North Dakota and I have talked about another problem that we continue to talk about prospectively that is all too real in our States and that is the loss of farm communities. We have told people with the legislation that has come before us time and time again, if we do this we are going to see the loss of farm communities.

It is happening. Our worst expectations in some cases are being realized. and there is a parallel here. There is a relationship between our warnings about the effect of legislation on these communities and the effect, again, of legislation we are describing today on those very communities. It is a double whammy—first with regard to rural policy that virtually does not exist and has not for 12 years. And now, second, another element of rural policy, which is: Just send the trash west. Let them take care of it. Give one community an opportunity to override the will and perhaps even the very best appreciation of what it takes to live in a rural America—override all of that and simply allow a small community to make up for the fact that we do not have a rural policy by taking trash somehow in the name of economic development.

It is pathetic. It is absolutely pathetic. Yet we are doing it again before the eyes of all of those who can appreciate this in North and South Dakota. We may be committed unalterably to a course that is going to accelerate the demise of these small towns.

I just hope people realize the ramifications of this before it is too late, and I thank the Senator for yielding.

Mr. CONRAD. I thank my colleague from South Dakota. It really makes the point the Governor of my State was making to me in a lengthy phone conversation this morning. He said, you know I thought it was summed up well in a letter to the editor by one of our constituents who said, "We are the breadbasket, we are not the trashbasket."

Now we are seeing a situation develop in which more populous States to the east, including our neighbor to the east, have raised all of their fees on trash and on industrial waste. So, you know what the companies are doing who are headquartered there, where they have the jobs, where they are supporting the tax base? They are looking around for a place to dump their junk. And you know what they are finding? Some nice little rural community in North Dakota that has been hit by 4 years of drought, low farm prices, an economic crisis that is forcing people to their knees. And a big company comes in and the company says, "Gee, you know, your schoolhouse needs tending. We can help with that. You know, we look at your streets, they need repair. We can help with that. And we notice a senior citizens center that is in need of some refurbishing. We can help with that."

The next thing you know that community has agreed to take the waste.

I tell my colleagues, if you think this is hypothetical, forget that. My State now faces the prospect of all of General Motors' industrial waste coming to one small town and nobody can do anything about it. My Governor said to me this morning, this is part of the pattern we are seeing play out. Our small, rural States that have been hit by very hard times economically, and we see our young people going to the big cities and we see our population actually in decline, and now what happens? We become the dumping ground for those urban centers, those places where we send our young people, where we send our capital, where we sell our goods wholesale. Now what do we get back? We get back the junk, the garbage, the industrial waste.

On the basis of a decision by a lot of people? By the legislature? By the Governor? By county authorities? No; the decision of one small community. As I said last night, we have a situation in which I have four incorporated towns in my State with less than 10 people.

Mr. DASCHLE. Will the Senator yield on that point?

Mr. CONRAD. I will be glad to.

The PRESIDING OFFICER (Mr. DODD). The Senator from South Dakota.

Mr. DASCHLE. I mentioned Lone Tree earlier. We have another community. The Senator mentioned four towns with fewer than 10 people. We have had similar situations in South Dakota. We had an incident a couple of years ago in Rosebud, where a company, Eastern State company, came in and cut a deal with an Indian tribe. It was all done largely in secret. Nobody knew about it until afterward. And, really, in one of the most spectacularly beautiful parts of the entire State, very near the area where the movie "Dances With Wolves" was filmed, with striking panoramic views and incredible beauty, wildlife. There were people living on the land as they have for hundreds of years undisturbed.

I can recall going up to Horseshoe Butte, looking out over this vast, extraordinarily striking, breathtaking area that had never been touched at all by commerce, by mining, by any one of a number of efforts in the past that have been made to try to get into this area. It was the protection of the land, the attachment to the land and appreciation of incredible beauty that for generation after generation has led decisionmakers to say no, we are not going to allow the disruption of this magnificent land.

Could we make money on it? Absolutely. Will we find ways in which to dig into this and from whatever resources there are, make huge amounts of money for this generation at the expense of the next and the next and the next? The answer was always "no."

Lo and behold, somebody came in, talked to these tribal leaders promis-

ing thousands of dollars to certain people, and ultimately the decision was made. We are going to disrupt tens of—perhaps, I think, hundreds of acres if not thousands of acres, if I recall, of this particular land that had never been touched before.

How are we going to get the garbage in there? Nobody could tell us.

What affect was it going to have on the aquifer below? Nobody could tell us.

To what degree was this decided by the community itself? No one could tell us.

Time and again, as hard questions were asked about the impact this particular site was going to have on the land and on the people, no one could tell us.

But, fortunately, many of those tribal leaders were thrown out of office shortly thereafter, simply because, as it became more public, as the commitment became better understood, the decision was unacceptable to the vast number of people.

But that is really what we are talking about here. Who is going to be there to ensure that the best interests of all the people are taken into account? Who is going to be there to ask the tough questions without the dollars dangling in front of the faces of those who are temporarily given charge to make decisions of this kind? Who will be there to argue for the next generation and the next? Who ought to value the land in all of its resources and beauty, as our predecessors have?

This issue has to be more than just about dollars. It has to be what we treasure most in life. The quality of life in our State is not measured, fortunately, in dollars. If it were, our quality would not be very good because we are a poor State. But I daresay we have quality of life second to none, in part because of our beauty, in part because of our land, in part because of all of the incredible resources we have, in part because of our people.

We endanger that real beauty and quality of life if we do not take adequate precautions, if we do not ensure there is a good decisionmaking process locked in before we commit ourselves to decisions that could cause devastating consequences down the road.

This is more than just a question of trash. It is a question of how well we can protect the quality of life for future generations. It is a question that goes beyond economics. It goes to the very heart of why it is that some of us live in South Dakota and in North Dakota; why it is we hold pride for the land we live on.

And so I hope that as we consider all this more carefully, we also consider what it is we are deciding here; that we remember that what may be a good decision for a local community could be an irresponsible decision for the State. What may be a very appropriate money-making venture for a local community could be a money-losing venture for the State. What may be the opportunity for a couple of jobs in a local community could mean the loss of many jobs for the State. What could mean improved quality of life for one or two people in a community could mean a devastating loss in the quality of life for the State.

What we are saying here is, well, let us just see if we can work it out, let us see if the Governor and local community can somehow come to grips with this thing and we will give the local community for the first time veto power over the Governor as we try to come to some conclusion about these ramifications.

We cannot accept that. The problems are too significant, too consequential. They go way beyond what value they may be for one community.

It is not often this Senator comes to the floor to talk at this length about something of this consequence, but I must say that I do not know unless we talk about it to the extent that we have today and last night people are fully appreciative of what it is they are in store for. I do not want to have to say several years from now: We told you so. I do not want to have to say several years from now: If only back then we had decided differently. I do not want to have to say now that the deal is done there is nothing we can do.

But I daresay we are rushing headlong into that kind of a scenario, an unacceptable scenario for most of us, a scenario affecting reservations, farm communities, rural areas, tourism, recreation, and even the way we govern in Western States. We just cannot accept that. And if we cannot find an amendment that works, then we have to find another way to accommodate these concerns and these interests. The stakes are too high and the problems are too great.

And so, Mr. President, I hope that we consider this very, very carefully, and that is we consider the community of States, States with a lot of population who have a problem, and States with less population who may ostensibly on the surface appear to have a solution to that problem. Consider each other's interests more carefully, consider the way with which we must resolve these matters, and that is with a full appreciation and understanding that one person's solution may be another person's problem, because that is exactly what we have here.

I can see very easily why some of the larger States would view this as an ideal solution, out of sight out of mind, get the garbage out of the State and we will not have to worry about it, especially if it is for as low a price as has been proposed in my State, but out of sight out of mind does not work with garbage. It is never out of sight out of mind entirely. It would be very much on the minds of those affected, those affected not only this generation but the next, and the next, and the next as we have to deal with it in a more comprehensive way.

So I hope, Mr. President, people understand that and deal with it and fully appreciate the problem that those of us from Western States have. We are not trying to be obstructionist, obstreperous. We are simply trying to find a way in which to resolve this problem in a more meaningful, a more reasonable fashion.

So I hope the experiences of South Dakota over the last several years can be understood, can be dealt with, and can at long last be put to rest. I do not want to have to come to the floor 2 or 3 years hence and give this body updates, further reports on the degree to which our quality of life has declined, simply because we failed to deal with it effectively in July 1992. That is really what we are up against.

So I know that the Senator from North Dakota feels as strongly about this as I do. Last night, the Senator from Nevada spoke passionately about the consequences this issue has in his State. The senior Senator from Arkansas came to the floor when fully appraised of the consequences for his State and spoke passionately and emotionally about how detrimental this could be for States like his as well.

It is not just a Western State issue. It is affecting every State that is faced as we are with companies who would like to buy off a community so as to move their trash out of sight and, therefore, out of mind. We just cannot accept that, not when the pristine beauty, not when the quality of life, not when the environmental consequences of these decisions are at stake to the extent that they are in this bill.

I know that there are many who say that this is just a first step; that there are ways with which to deal with this issue later on, but I fear with this step, we set our course irrevocably. I do not know if once we set this precedent we can go back with regard to industrial waste or any one of the other environmental issues that ultimately we are going to have to address with RCRA and say: Even though we made one set of decisions with regard to municipal waste, we are going to make entirely different decisions with regard to industrial waste, hazardous waste, nuclear waste; that somehow this is so unique, municipal waste so unusual that we can put an entirely different set of policies in motion with regard to these other kinds of wastes. That is not going to happen.

I can almost guarantee the Members of this body that whatever it is we do here, you can pretty well count that we are going to be doing something very similar in the future in other forms of waste as well. So that gives us great pause. That causes us a lot of concern.

I can see it happening sometime in the very near future when we come to the floor again and say we have already set a precedent with regard to municipal waste. It is already a done deal, and as a done deal, all we can do now is to accept additional kinds and categories of waste as we have already begun to do with municipal waste in 1992.

Mr. President, that is just unacceptable. That is something we are going to have to address at some point in the future, and I want to have the confidence that we are doing it more effectively and with greater appreciation of the magnitude of the problems we are creating than we appear to be doing with this piece of legislation.

So I, again, reiterate to all of my colleagues to take care as we consider this bill, as we consider the ramifications for future generations, as we consider what it will mean for States such as ours. The stakes are just too high, and the problems too great, and the circumstances far too controversial for us simply to sit idly by and watch decisions like this made without full benefit of an understanding of those consequences prior to the time we make them.

I thank the Senator from North Dakota for yielding this time. I yield back the floor to him.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. SIMON). The majority leader is recognized.

Mr. MITCHELL. Mr. President, will the Senator from North Dakota yield to me for the purpose of making an inquiry of the Chair without his losing the right to the floor?

Mr. CONRAD. I will be pleased to do so.

Mr. MITCHELL. Mr. President, a parliamentary inquiry. It is my understanding that notwithstanding the fact that the Senator from North Dakota has the floor, that I have an absolute right to file a cloture motion, and I inquire as to whether that understanding is correct?

The PRESIDING OFFICER. The majority leader is correct.

CLOTURE MOTION

Mr. MITCHELL. Accordingly, Mr. President, I send a cloture motion to the desk and ask that it be stated.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on S. 2877, the Interstate Transportation of Municipal Waste Act of 1922:

George Mitchell, Max Baucus, Dan Coats, Harris Wofford, John H. Chafee, Conrad Burns, Alan Cranston, Daniel J. Akaka, Frank R. Lautenberg, Paul Simon, Edward M. Kennedy, Christopher J. Dodd, Alan J. Dixon, Bob Dole, Al Simpson, Jake Garn.

Mr. MITCHELL. Mr. President, for the information of Senators, I would like now to describe where we are with respect to this bill and what course of action I believe will be necessary to deal further with it.

We began this bill on Monday with the hope and the expectation we could complete action on it by the close of business Wednesday. That has proved not possible, as is now obvious, and we are now completing the fourth day of debate on this bill. It is an important bill, but there is much other important business with which the Senate must deal. I believe it is imperative we bring debate on this bill to a close.

The Senator from North Dakota has indicated his opposition to the bill in its current form and his intention to use his rights under the rules to attempt to prevent the Senate from acting on the bill or, failing that, to delay action for as long as possible. Therefore, I have just filed a cloture motion which, if approved by 60 Senators, will enable us to bring debate on this bill to an end and complete action on it so we can deal with the other pressing matters which await our consideration.

Under the rules, that cloture vote will not occur until the second legislative day after the end of today. I do not know when that will be because I do not know what other action will occur between now and then.

It had been my intention to call for a procedural vote on a motion to instruct the Sergeant at Arms to request the presence of Senators, but that has proved not necessary as that was to be a step in the obtaining of the necessary signatures on the cloture motion and the filing of the motion. So that vote will not now be necessary.

Under a previous order, printed at page 2 of the Senate calendar, by unanimous consent the Senate vested in me the authority to set a time for a cloture vote on the motion to proceed to the energy bill. It is my intention to exercise that authority later today following consultation with the Republican leader, with the chairman and ranking members of the Energy Committee, and other interested Senators.

So it appears at this point debate will continue for a time at least on the interstate waste bill, and as soon as I am able to complete consultation with the Republican leader and the chairman and ranking members of the Energy Committee, I will make a decision on the time for the vote on cloture on the motion to proceed to the energy bill.

I will simply say in closing that it is very difficult to get anything done in the Senate under any circumstances, and we are now at the point where it appears that cloture, that is, movement to terminate debate, is required on almost every step we take in the Senate. Senators, of course, have the absolute right to exercise their prerogatives under the rules, but the one thing Senators cannot have is sessions 3 days a week and have no votes after 7 p.m. and also require cloture on every bill and every motion to proceed that we have.

So I simply say we are going to proceed. We are going to finish this bill. It is possible that completion will be delayed. Senators have a right to delay, but by a 2-to-1 vote the Senate has already voted on the matter now being debated.

So it is not as though this is something the Senate has not considered. It has considered and voted on it in a decisive way.

I simply say to Senators we are going to stay and finish this bill, whenever that is, and we will proceed to other matters and complete action on them as necessary, however long it takes, however many days it takes, and however many hours of each day it takes.

I thank my colleagues for their courtesy, and I now yield the floor.

Mr. CONRAD. I thank the majority leader for his courtesy. I thank my other colleagues for their patience as well.

This is a matter of very serious concern to our States. The Senator from South Dakota outlined very eloquently the problem we face.

I say again to my colleagues, if you came to your Senate office and you learned that all of a sudden 100 plants of General Motors are sending all of their industrial waste your way, sending it to your State, because they had a company which had agreement with a small town and there was no way for the Governor to intercede, there was no way for the Governor to raise objection, there was no way for the Governor to stop that kind of arrangement, you would be mighty exercised as well. One hundred plants of General Motors Corp., the largest industrial corporation in the world, all of that waste is coming to a little town in North Dakota, and we cannot do anything about it. A little town has the ability to veto what is in the interest of the State's population. There is something wrong with that.

That is the principle entailed in the legislation before us. That is the principle many of us are fearful will be carried over into an agreement on industrial waste. That is the agreement that is in place with respect to municipal waste. It is really not acceptable. It is not acceptable to the Governor—not just the Governors of our States, the Governors of all the States.

The national Governors made a very clear stand on this question, and as I have said to my colleagues earlier and repeatedly, in a discussion with my

Governor this morning he felt very strongly that he is presented with a situation which is really intolerable and yet his hands are tied.

I have a State that is not unlike other rural States where there are many small towns. Many of them are very hard pressed economically. We have just been through a decade, the decade of the eighties, when we had the lowest farm income of any 10-year period since the Great Depression. We have been through a period in which we have faced 4 years of drought, a drought that is more intense than any drought since the 1930's.

Many of the small towns of my State are in very serious economic trouble. It is pretty appealing when a big company flies in in their corporate jet and comes around and tells that local community: We can take care of your problem. We can employ people. We can put people on our payroll. We can rebuild the city's streets. We can rebuild the water system, the sewer system. We can help refurbish the local school. We can help assure that your school is not consolidated with the neighboring town.

It is a pretty appealing set of inducements. The result, unfortunately, is that over and over communities hear that siren call, respond to it, react to it, and accept it.

Under the terms of this legislation, there is nothing a Governor can do if they decide to sign up to take the trash from the city of Chicago, take the trash from the city of New York, take the trash from the city of Minneapolis or, in the case of industrial waste, be faced with a situation in which a little State like mine, a small town in our State, is now lined up to take the industrial waste of the General Motors Corp.

Mr. CHAFEE. Will the Senator yield for a question without losing his right to the floor?

Mr. CONRAD. I am happy to yield.

Mr. CHAFEE. I have followed the discussion of the Senator from North Dakota most of the day, but not all of his presentation. He deplores the situation that industrial waste is going into the small town of Sawyer. So he is filibustering the bill. Could he tell me what will happen if he is successful and defeats the bill? Where is he then? Where is the town of Sawyer or the State of North Dakota in that situation?

Mr. CONRAD. Very good question. We are in a better position. Why are we in a better position? Because the pressure stays on to have a solution that deals with the problem that we have. Right now we have a situation where there is a lot of pressure from Ohio, and a lot of pressure from Indiana, a lot of pressure from Pennsylvania, a lot of pressure from these other States to get their problem taken care of. If their problem gets taken care of, they are out the door.

Let me just finish my answer, if I might.

So, as we see it, we would like the opportunity to get our problems addressed as well.

I understand this is a municipal waste bill. I would like to extend it. I would like to have industrial waste covered in this bill as well. But the one thing you know for sure around the United States Senate is a precedent that is set in this bill is going to have weight on what comes later.

One of the things we are concerned about is if we established the principle here that a local community can cut a deal with an out-of-State company, and the Governor cannot override that deal unless he is invited to by the community, we have a problem when it comes to industrial waste as well, understanding we have a problem with the principle that relates to municipal waste. But we also have a problem that the precedent is being set for the future on industrial waste.

Mr. CHAFEE. So if I could pursue that question, am I correct that the conclusion is that General Motors industrial waste—when the Senator has completed his successful maneuver here, if he is successful, nothing will change as far as Sawyer, ND, or North Dakota itself is concerned?

Mr. CONRAD. Not, not at all.

Mr. CHAFEE. General Motors industrial waste will still continue to pour in, through this legislation, and if the Senator should prevail, there will be no law whatsoever.

Mr. CONRAD. That is not the Senator's goal. The Senator's goal—perhaps the Senator from Rhode Island is not aware of the Senator's goal. The Senator's goal is I would like to amend this. I would like to see the legislation that is before us amended so it is not just up to one community, 10 people, to decide what happens to thousands. If I were successful in achieving that goal, we would improve this legislation that is before us, we would guard my State against trash merchants coming in and dumping their municipal waste in my State. In addition, we would set the precedent for the future handling of industrial waste.

So the question is, Would we be better off in my State if we are able to amend this bill? Absolutely. That is why we tried last night to amend it, amend it to allow the Governor to have a say.

When the Senator from Rhode Island was a Governor, I will bet he would have been signing on with the other Nation's Governors who said to us, amend this bill, and give the Governors a greater say.

The Senate turned down that position last night. So now I have gone to a fall-back position. I say instead of just letting one small community have a veto, on page 2, instead of an "and" put in an "or" and at least allow some broader district to be involved.

Mr. CHAFEE. Has the Senator presented an amendment to do that?

Mr. CONRAD. The Senator cannot under the terms of the unanimous-consent agreement that is in place. As the Senator well knows, the managers have two amendments reserved, and if there was a determination to solve the problem that way, we could all go home. We would have improved this bill. We would have set a precedent for the future in the handling of industrial waste. And I might say that it would probably get pretty good support.

Mr. CHAFEE. In conclusion, should the Senator prevail in killing off the bill before us, Sawyer, in North Dakota would still be in exactly the same position it is today; is that correct?

Mr. CONRAD. No. That is not correct. The Senator is not seeking to prevail in killing this bill. It has never been the Senator's goal. The Senator's goal has been I think abundantly clear; it has been to improve this bill. It has been to fashion legislation, to help fashion legislation that would prevent the absurd situation of what we face in North Dakota today. One small town enters into an agreement with a company, the town of several hundred makes a decision that affects tens of thousands, the several hundred make the decision, and the tens of thousands have no role. What kind of democracy is that? What kind of decisionmaking is that? What kind of legislation is that? What kind of precedent is that?

So it has never been my goal to kill this bill.

We have heard from the other side. We heard from the States that are exporting the garbage last night. Boy, if you do not take this deal, we will filibuster and we will kill this bill. And, boy, did everybody dance to that tune.

Remember last night here in this Chamber when the exporting States, the States that have the big trash that they want to dump someplace, they want to dump on the rest of us? Boy, they were tough. They were saying if you do not take this, you get nothing. Unfortunately, maybe that is what we will wind up with. Maybe we will wind up with it if there is not a way to accommodate the views of others.

My State is a recipient State. My State is a State that is on the receiving end. My State is a State that is vulnerable. My State is a State that now is faced with the prospect of taking all of General Motor Corp.'s sludge from 100 plants around this country. There is nothing anybody can do about it because the small town has made a decision, and under the terms of this legislation, under the precedent being established here, the small town cuts a deal, that is it. See you later, Charlie, you are out of luck.

Mr. CHAFEE. I wonder if the Senator would yield to another question without losing his right to the floor.

Mr. CONRAD. I am happy to.

Mr. CHAFEE. What does the Senator say about page 10 of the legislation, little (d)? And I will read it because the Senator has eloquently spoken here for the last 2 days on the situation in North Dakota where I think he said there are 4 towns where the total population is 10 people or less. He points out that these towns of 10 people or less would enter a contract with General Motors or some mammoth sludge processing company and open a great big dump there.

And, indeed, that is his point about Sawyer, which has something less than 400 people in it. Here, it seems to me, is an escape hatch for the State of North Dakota, where it says: "The term 'affected local government' "—that means the entity that can appeal to the Governor, saying: We do not want this—"The term 'affected local government' means the elected officials of each city, town, borough, county, parish, district, or other public body, created by and pursuant to State law, with primary jurisdiction over the use of the land on which the facility is located."

If North Dakota feels so strongly about this possibility, they could easily make the term "affected local government" be a county, for example. Why is that not a solution to the Senator's problem?

He has these very small towns. I suppose, once upon a time, they were sizable; and with the decline of the population in the rural districts, people moving to the cities, what was once a thriving town of a couple thousand people may well be a town now of 400 people, or maybe even 10 people.

So the State can say that the term "affected local government," as it applies to this legislation, passed by the Congress of the United States on such-and-such a date is the county?

Mr. CONRAD. Mr. President, it was a very good question. It was asked earlier by the Senator from Indiana. My response then and my response now will be simply this:

I was State tax commissioner in my State before I came to the Senate. I have dealt with a lot of very good lawyers. I can tell you precisely what would happen if the State of North Dakota moved in that way.

Unless the State of North Dakota did it with every jurisdiction—unless the State of North Dakota did it with every jurisdiction—a legal action would arise in which the lawyers for the company would go to court and say: The State of North Dakota is discriminating against taking our waste. Federal law prohibits that, and the State of North Dakota is violating our rights.

And in a Philadelphia minute, the court would rule that the State of North Dakota was discriminating. And do you know what? We would lose.

We have been down roads like that before, and unless you treat everybody that is in a class in the same way, you are discriminating. And I think it would be highly impractical to treat every town similarly situated in the same way in the State of North Dakota, and all of a sudden have the counties make all of these decisions. They are not set up to do that. That is the problem with that particular solution.

I say to my friends, it is almost as though we talk past each other. If there are all these solutions, all these things that a State can do to protect itself, then why not accept the simple amendment to allow the Governor to be involved? If you do not like that one, why not accept a simple amendment to interpose a planning district or a county government? How about that for a solution? I ask that question of my friend, the Senator from Rhode Island.

If we have all these things that are available to the State of North Dakota to protect itself, then why not say to the people who are resisting our solution: Hey, why not allow the county government to go to the Governor and agree with him to stop a new contract? Why not?

If we have all these supposed tools that are available to us, why not do it in a more straightforward way?

Mr. CHAFEE. Well, Mr. President, I think we really better go back a little way here, and discuss what are the concerns of the Congress of the United States; and, indeed, going way back to the Framers of the Constitution, about States having the arbitrary right to cut off interstate commerce. That was decided when this country was founded.

When this country was founded, those who drew the Constitution very, very wisely said that one State does not have the ability to shut off commerce coming from another State. The Senator is a thoughtful individual and a student of history, and he well knows that the commerce clause is an integral part of our Constitution.

And, indeed, this Nation would just be a bunch of satraps if we did not have that, instead of being a massive unit, where we all grow. Because of the exchange of crops to one State, going across the borders and back, from its machinery and equipment, with no tariffs, no intercessions whatsoever, no nontariff trade barriers, this country is going to be the richest in the world.

Then we come to the very real problem of what about the power to intercept things that might be considered distasteful; namely, trash.

And so the Supreme Court has dealt with this in a very, very careful fashion. The Supreme Court has said that a State cannot arbitrarily just decide that they will refuse to accept imports from another State. They then said that if the Congress gives certain powers, then that is possible, and we, in this Congress, approach this very carefully. Because, as we have pointed out innumerable times in this discussion, 43 States of our States are exporting States of trash, and 42 are importing States.

And it is a matter that there cannot be each tub standing on its own bottom. We cannot have a situation where each State will say: Nothing doing; we are neither going to export nor import; we are going to keep it within our boundaries, because we believe that would create tremendous additional expenditures and not be a wise way to proceed.

So as the Senator well knows, the courts have decided that—indeed, in the Supreme Court case shown to the Senator earlier today, it is very clearly pointed out that a Governor, within his State, can say at a landfill: You are going to be reduced; it is going to be capped, how much can you take.

The only point is that that must apply equally to out-of-State trash, as it does to in-State trash.

Mr. CONRAD. If the Senator will yield on that point, is it not also true that in order to invoke that clause, the local community has to request the Governor to do so?

Mr. CHAFEE. No, no, no. That line that I quoted to you is what exists now in the law. That has nothing to do with the legislation we have before us.

Mr. CONRAD. I was referring to the ability of a Governor to freeze, based on the previous levels——

Mr. CHAFEE. The Senator is talking about our legislation. I was talking about existing law as quoted in the Supreme Court case that was shown him earlier today.

In that Supreme Court case, it points out that limitations can be made on an individual landfill, but they cannot be directed against out-of-State trash; in other words, if a landfill last year took 10,000 tons, and the Governor decreases it this year, and it will only take 5,000; he has that power, if the State law gives it to him. There is, and he can do that. But he cannot say it is restricted to 5,000 tons this year and only domestic, only State-created trash is possible. So we proceeded, in crafting this legislation, to try to direct ourselves to the problems that have arisen that the Senator is well familiar with.

What we recognized is—and the Senator mentioned that I had the privilege of serving as Governor, and many others in the Senate have likewise—any Governor is under tremendous pressure to restrict all incoming trash. We all know that. There is no group out there that is demanding that the State be a repository for garbage, and, indeed, have heard the Senator speak about the loveliness of his State and how some of its citizens deplore they are going to be a trash heap.

We voted on this last night 60 to 30. If we just give the Governor the unilateral authority to say no, we know what

will happen. That will end all interstate transfers of trash in this country very quickly, and we believe that will be detrimental to the Nation. Maybe someday we can work to that goal, but not straight out of the box. That is the first national legislation ever passed to deal with trash. That is what has been one of our guiding principles.

Mr. BAUCUS. I wonder if the Senator, without yielding the right to the floor, will answer a question?

Mr. CONRAD. If I might first respond to the Senator from Rhode Island.

The Senator from Rhode Island makes the point we are united States, we are a collection of States, and we have mutual obligations, and, without question, that is the case. That is the underlying rationale for the commerce clause. It seems to me a fundamental principle that a group, small group of people, citizens of a small town ought not to be able to veto something which is in the interest of the larger community, the people of the State. The legislation we have before us does just that.

Mr. BAUCUS. Will the Senator yield on that point?

Mr. CONRAD. Let me finish the point, and I will be happy to yield.

The fact is we are faced now with a situation in my State that involves industrial waste, different than the municipal waste that is covered in this legislation. Nonetheless, we face a situation that is in many ways similar to what we might face with municipal waste. A small town makes a deal with a company; they are going to take all of GM's industrial waste. And the Governor has his hands tied. Unless that small town asks him—asks him—unless that small town agrees, his hands are tied.

There is something wrong with that.

And those of us who live in States that are very vulnerable—we can read the tea leaves here. We know what is about to happen. Restriction is put on the States that are big importing States now—Pennsylvania, Virginia, Ohio, Indiana. Where is the trash going to go? I know where it is going to go. We have already seen where this industrial waste is going. It is coming to these sparsely populated States that are under economic pressure where the companies can go in and make an inducement to a small town, and the next thing you know here comes a tidal wave of garbage, tidal wave of industrial waste, tidal wave of municipal waste, and the Governor has his hands tied because the citizens of a small town can veto any intercession. It is just wrong. I do not know how else to say it.

I am certain that the Senator from Rhode Island, if he were still the Governor of Rhode Island and if he faced a sitution in which he woke up and read in the paper all of GM's industrial waste is coming to Rhode Island and he was told, "There is nothing you can do about it, Governor, unless that small town asks you or agrees with you," he would wonder what has happened in Washington that would lead to a result like that.

I am happy to yield.

Mr. BAUCUS. The question I really want to ask the Senator has to do with an earlier statement he made that suggested that perhaps the Congress could designate counties as the local authority to make these decisions.

As I understand the situation in North Dakota, that might help, frankly, because Sawyer, ND, is apparently in the same county as Minot, ND, and it is my understanding that the people of Minot are not very happy with the decision made by the folks in Sawyer.

If the Senator is serious about his proposal that the Congress designate counties as the appropriate, relevant local authority here and not have States do it, I am just surprised, frankly, because it seems to me that what he is asking us to do is asking Congress to make a decision that probably most people in most States think the States should be making. Is the only planning unit which will make this request a county, or is it a town, or is it something else?

I think most people in most States would want to reserve that decision for themselves. Most people in most States would like the States to decide, the legislatures, and through their legislative process make that decision as to what is the relevant local authority. I do not think most people would like the Congress to say, in all cases, for every State in the Union, it is a county, or for all cases in every State in the Union it is a municipality, for all cases for every State in the Union it is a solid waste planning district, or whatever.

In response to the Senator's point, if I understood it correctly, and I perhaps misunderstood it, if I understood it correctly, he suggested that we in the Congress designate counties as the local planning unit.

Mr. CONRAD. The Senator did perhaps misunderstand. Here is the thought that I had. If you look on page 2 of the bill, section 2 on page 2, interstate transportation of municipal wastes in (1)(A):

Except as provided for in subparagraph (C) of this paragraph and in subsection (b), if requested in writing by both an affected local government and, and if a local solid waste planning unit exists under State law, by an affected local solid waste planning unit, a Governor may—

And then there are a series of authorizations for a Governor's power.

Mr. BAUCUS. That is right.

Mr. CONRAD. The point I was making earlier, I had suggested that instead of "and" we put in "or." And then objection was raised by the Senator from Rhode Island saying those local planning districts are appointed; we ought to have elected officials making these decisions. I simply offered the alternative, instead of having the local planning district be it or in juxtaposition to the local communities, have a county, so that, in the situation we face in Sawyer, ND, which is in Ward County, the county could make a request to the Governor and this would trigger his authority.

Mr. BAUCUS. I understand that. I appreciate the clarification. Obviously, the State of North Dakota can accomplish the same result by the State designating the county as the affected local government. And I heard the Senator's earlier response to that suggestion, that it might be interpreted by the courts as discriminatory. It would not be so long as the State of North Dakota said it is up to each county to decide whether to accept the sites or not and that would be a county decision.

It would not be discriminatory for the State of North Dakota to designate the local affected government as the county. I do not think any court would call that discriminatory so long as each county, when it made the decision, would decide—"No, we do not want this out-of-State municipal solid waste to come into our county." North Dakota, as I understand it, does not have—or maybe it does have—local solid waste planning units. I do not know if it does or not. If it does, they can abolish them so the counties can do it. All I am saying is there are ways that North Dakota can designate counties as the local affected unit in a nondiscriminatory way to solve this problem.

Mr. CONRAD. Let me just say, I know the Senator is struggling to find a way here that works and is helpful, and I appreciate that.

In discussions earlier, we explored some of these alternatives with the State, and their reaction was twofold:

One, if you do not do it with everyone, as the Senator states, then you have the discrimination problem, and the earlier proposal that some had made would present that difficulty. The other problem from the States' perspective is if you start changing who has these authorities for everyone, now you have a whole other set of problems that arise.

Mr. DASCHLE. If the Senator will yield, there is another question. I would be interested if the distinguished Senator from Montana might address this.

If I recall, a couple weeks ago we passed legislation that said municipalities in a Superfund site would only be liable for 4 percent of the cost. That legislation as I understand it, limited municipalities to 4 percent of the overall liability. Were a municipal waste facility to become a Superfund site and this legislation is enacted into law—I do not know where it is in the legisla-

tive process, but I know the Senate passed it—who, then, in the view of the distinguished Senator from Montana, would be responsible for the other 96 percent?

Mr. BAUCUS. Obviously, that is a whole different kettle of fish, because we are dealing there with the Superfund liability. It is extremely complicated and extremely onerous on a large number of parties, not only the responsible parties but potentially the lenders and municipalities. It really got to the question, I think, of bond ratings and financial viability of the communities. That is why we enacted that provision.

As I recall, the Superfund liability, I think, is joint and several. I am not sure. There are a lot of parties involved, so it is very difficult to know who is responsible for the other 96 percent. If I am right that it is joint and several liability, then it is who never is jointly and severally liable.

Mr. DASCHLE. Will the Senator agree, just based on past experience, and his understanding is far beyond that of this Senator, that States oftentimes have been held liable for some of the responsibility. They are not precluded from being liable for issues of this magnitude. And so it is likely that, were that limitation to be in effect, other parties, including the State, would be brought in as participants in determining the ultimate liability of that Superfund site. Would that not be the case?

Mr. BAUCUS. It may or may not be. But I do not see the relevance to this issue.

Mr. DASCHLE. The relevance is very simple. If a municipal waste facility becomes a Superfund site, and that Superfund site then develops serious legal ramifications, the municipality could, according to this legislation, be limited to 4 percent, and a State ultimately then may be liable for additional responsibility beyond that 4 percent.

So you have a fairly plausible scenario. A municipal site is developed. A municipal site 20 years hence becomes a Superfund site. A municipality is limited to 4 percent liability. Among other parties, the State is brought in as one of those responsible for the liability beyond that 4 percent. It just goes again to the point that I think the Senator from North Dakota and I have made on many occasions, that beyond infrastructure and beyond property values and beyond all the other issues, you have a legal question having directly to do with the site that is not addressed adequately in this legislation.

Mr. BAUCUS. Well, the answer to that question is very clear. This is not an energy bill. This is not a defense authorization bill. This is not an agriculture bill. This is not a Superfund liability bill. This is a municipal solid waste interstate transport bill. That is all this is.

Next year, the Environment and Public Works Committee, under the leadership of the chairman of the Appropriations Subcommittee on Transportation, Senator LAUTENBERG, is going to be addressing Superfund liability. That is the time to address Superfund liability questions. That may or may not apply because of industrial waste disposal. That is not in this bill.

I can tell the Senator that it is a valid concern, it is a concern that many people around this country have. But there is no way in the world on this bill we are going to deal with that. That is the first time this issue has ever been raised. No one else has ever raised Superfund liability questions on the interstate bill.

Superfund liability is a separate issue which we will take up next year if we take up Superfund authorization. If the question is infrastructure, there are ways for dealing today with infrastructure problems.

What are they? Well, No. 1, that State could do all kinds of things.

But I have heard this concern that this site in Sawyer, ND, is on an aquifer. There is nothing in the world that precludes the State of North Dakota from passing legislation stating that sites will not be located on aquifers or near aquifers. That is certainly within the power of the State. There is no problem there whatsoever.

A State could also impose fees, if it wants to, on industrial waste sites. Now maybe it can even do so on offsites. And in North Dakota there are 4 offsites and I think there are 16 or something onsites. It could impose the fees on the offsites, which will have no effect on the onsites, if North Dakota would so desire.

Or, North Dakota, if it wanted to, could raise the standards of offsites for industrial waste to such a high level that it would preclude out-of-State and in-State waste.

If North Dakota wanted to—South Dakota may not like this—it could ship industrial waste to other States which may not want it. Who knows? Sawyer, ND, did want it. Some do not.

Mr. CONRAD. We just came up with a solution. I just realized it. We are going to take all that sludge, those 400 tons a day that is coming our way, and we are just going go to load it up into trucks and bring it over to Montana. We will find a nice small town over there that is hard pressed economically that wants this stuff, and we will dump it all over there. And your poor Governor will be in the position of our poor Governor, wondering what happened to him.

Mr. BAUCUS. If I might, you know, for this site, really there are a couple of questions. What is the opposition? Is the opposition because of a health or safety hazard? That is one question. Is the opposition because of infrastructure? That is the second question. And is the opposition because we just do not like somebody else's garbage? That is another question.

But to the degree that the problem is the first one, it presents some kind of health or safety hazard with aquifers or whatever it might be, the Governor has it within his police power to stop it.

There is nothing in the Constitution today that prevents the State from exercising its police power to protect the health and safety of its citizens and stop a site. It is true that it could not discriminate against out-of-State. But in this case, the Sawyer site, for example, if it truly is a health and safety hazard, it can just close down the site. Period.

It would not discriminate because neither in-State nor out-of-State waste could go to that site. That is not discriminatory.

But then those folks in Sawyer or other parts of the State would have to go to some other sites. That might be the answer here if, in fact, the Sawyer site does present a health and safety hazard.

Mr. CONRAD. I am happy to yield to the Senator from South Dakota without losing my rights to the floor.

Mr. DASCHLE. I thank the Senator from North Dakota.

First of all, I think it is important we not become too site specific. This is not a referendum on Sawyer, ND.

I do not know all of the specifics with regard to Sawyer. South Dakota has had some experiences over the last several years that relate very directly to this debate that have nothing to do with Sawyer.

The issue is not exclusively to what extent is the problem an environmental one; to what extent is the problem a legal one; to what extent is the problem a property value one, an economic one—all of those questions are very real, as we consider this. And it is the process, not the specific environmental problem, or economic problem, or legal problem that is the question here. It is the process.

Because, as one analyzes a specific problem relating directly to that locality, you could easily come up with a different solution, or different answer than you would get with the analysis of a problem that is far more regional in its nature.

The economic consequences for the State would be different, perhaps, than the economic consequences for that particular locality. That is the experience of South Dakota.

I know the Senator from Montana said earlier that this is not a Superfund issue today. But it has very specific relationships to Superfund.

Let us assume that the company responsible for that particular waste facility went bankrupt. Let us assume,

going back to the earlier question about the 4-percent liability, that a community is held to 4 percent. Who, then, takes responsibility for the balance? You have a bankrupt company, a community limited to 4 percent. Ultimately it is going to be the State. I do not think there is any way around that. We have to address the consequences economically, and legally, of a site such as this. And certainly that would have to be addressed at the State level.

So I think it is really important that all people—as understandably concerned as the Senator from North Dakota is—look beyond one industrial site in the State of North Dakota.

That is not the entire reason why those of us who are arguing this issue are standing here this afternoon talking about it. We are talking about it because it goes way beyond a Sawyer, ND, or a Rosebud, SD. It goes to the process. And it really goes to setting in motion a precedent that will likely be referred to again and again as we address this issue in the future.

If, indeed, this becomes the understanding, that local communities will have the opportunity to decide for themselves with an out-of-State company what future there will be for that particular venture, without including other communities and the State as a whole, then I think we are setting a very dangerous precedent that very likely is not going to be adequately addressed in the future either.

Mr. BAUCUS. Will the Senator yield? Perhaps I can help the Senator on that point?

Mr. DASCHLE. I yield the floor on that point—assuming the Senator from North Dakota yields the floor.

Mr. REID. Will the Senator from North Dakota yield?

Mr. CONRAD. I will be happy to.

Mr. DASCHLE. The Senator from Montana wanted to respond to a point I made.

Mr. CONRAD. I will be happy to yield to the Senator from Montana for the purpose of responding to the Senator from South Dakota if I do not lose my rights to the floor.

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

Mr. BAUCUS. It is a point, frankly, I know the Senator from North Dakota is interested in as well, and that is the precedent here. As manager of this bill and as chairman of the relevant subcommittee, I can say I in no way treat this as precedent with respect to hazardous waste. That is, the structure that is set forth in this bill with respect to the transport of municipal solid waste in my personal view is not in any way precedent for what we may or may not do in the future with respect to industrial hazardous waste.

Having said that——

Mr. CONRAD. How about nonhazardous industrial waste?

Mr. BAUCUS. Including nonhazardous industrial waste.

Having said that, I must say this is an area which is very complicated. It is very important. And an area where the EPA, the States, the Congress, have not addressed the situation as well as we should. About 7 billion tons of this stuff is generated every year. A lot more industrial waste generated each year than municipal waste, a lot more.

Frankly, there is so much industrial waste generated, and because it is so difficult to deal with industrial waste as well as municipal waste, we in the reauthorization of RCRA this year only began to touch the tip of the iceberg with respect to industrial waste.

Most industrial waste generated by companies is disposed of on-site, settling ponds or what not. A lot of industrial waste, however, is transported to some other site, and much industrial waste is transported intracompany. That is, a company that generates industrial waste will often transport it to some other site owned by the company within the State or another State and dispose of it there. It is very complicated. It is a very large issue because of the large tonnage involved, 7 billion tons a year.

And, I must say to the Senators, there are many Senators even on the committee who want to very tightly restrict industrial waste, including oil and gas waste—whether it is drilling muds, or tank bottom sludge, or associated wastes. Associated wastes are the parts of oil and gas wastes which are potentially the most carcinogenic, or the most dangerous. Refineries today must treat tank bottom associated waste as hazardous waste, but associated waste out in the field—tank bottom waste out in the field—is not treated as hazardous waste today. It is just treated as industrial waste.

There are many groups that say it has to be regulated very, very tightly.

Then there is mining tailings; there is mining waste. The question is: What should be done about mining waste?

All I am saying to the Senator is that it is a very big area. He has raised some very good questions. But as far as this Senator is concerned, in no way do I intend that the structure we have set forth in this bill governing the interstate transport of municipal waste be precedential with respect to what conditions or limitations we may enact in the future with respect to interstate transport of industrial waste. I do not know what we are going to do with it, frankly. It is a whole different ball of wax, a whole different area.

A very specialized area, obviously, is hazardous waste; and hazardous waste as the Senators know, under subtitle (c), is very, very tightly regulated because it is hazardous. And there are not very many hazardous waste disposal sites in this country. There are very few. And the reason there are very few is because it is such wicked stuff, and the standards and requirements are so stringent. As Senators know we do not allow States to ban the importation of hazardous waste. Again, we do not in our Federal legislation, because there are so few sites.

But I am just trying to help the Senator's concern about this being precedential. I do not mean this to be precedential, but I must say, it is a difficult problem because it is so complicated and next year I hope we can deal with it very responsibly.

Mr. REID. Will the Senator from North Dakota yield to the Senator without losing his right to the floor?

Mr. CONRAD. I will be pleased to yield to the Senator from Nevada.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Nevada.

Mr. REID. Mr. President, through you, to the Senators of North Dakota and South Dakota, I want them to know, especially my friend from North Dakota who spent so much time today, that the absence from the floor of the Senator from Nevada in no way is any indication of my nonsupport of what is being accomplished here today. The Senator from North Dakota should know the Appropriations Committee is marking up four bills today. They are being marked up right now, and I have to go down there and participate on the Commerce, State, Justice; Agriculture—which is important to his State—DC, and Energy and Water.

I think this matter should be resolved. I know how hard the chairman of the subcommittee has worked. But that in my opinion does not allow this Congress to pass a bill that is not good for the country as a whole. I think it is fortuitous that my friend from North Dakota learned today of what is happening in a town called—Sawyer, I believe is the name of the city, in North Dakota. Because there will be places like Sawyer called by many different names as we proceed through the years. It will be places in the State of Nevada, trying to stop the flow of waste coming over the borders from the massive State of California. And I would think those trying to work this matter out should take into consideration maybe we should have a different standard in the Western part of the United States. Maybe in fact the Governors of those States west of the Mississippi should have the authority that was sought in the amendment that was defeated here last night on the Senate floor.

I do not know what consideration has been given to that. It would seem to me that would be constitutionally allowed.

But unless we get something like that where the Governors of the States, the Western States, have the power to stop the flow of garbage coming into their State, I am afraid we are going to wind up with no bill. I think that really would be too bad.

I would be interested in hearing from—I see on the floor the Senator from Indiana who has worked on this. I would refer a question to him as long as the Senator from North Dakota would not lose his right to the floor. That question would be, would the Senator have a problem with those States west of the Mississippi having the Governor have the authority, as sought in the amendment, that was defeated on the Senate floor last night?

The PRESIDING OFFICER. The Senator from North Dakota has the floor and would be required to yield.

Mr. COATS. If the Senator from North Dakota will yield for purposes of answering the question.

Mr. CONRAD. I am pleased to yield to the Senator from Indiana without losing my right to the floor.

Mr. COATS. Mr. President, in response to the Senator from Nevada, we have been attempting now for the past several hours to find a solution to the particular situation of the Senator from North Dakota. We have suggested a number of alternatives. As I speak, we are seeking to resolve an additional solution and proposal.

As I have said many, many times and will say again, the intent of the Senator's effort is one that I am very sympathetic to and one that I offer, and the Senator was a great ally when I offered that, and I appreciated that support and assistance.

So it is not something that I am not sympathetic with. However, while it made great rhetoric, the reality was that we could not enact it into law.

Mr. REID. If I could interrupt my friend and ask if he would direct his attention to the question, and that is, what would be wrong with giving the States west of the Mississippi the authority sought in the amendment that was placed on the floor last night rather than the whole country?

Mr. COATS. We would entertain any serious effort—and I believe this is a serious proposal—at attempting to resolve this impasse. However, as we have discovered here, as I have discovered, frankly, over the last 3 years, but particularly as we have discovered in the last 4 days on this floor, any time we attempt to fashion a solution in one direction, it creates a problem in the other. When we try to address a particular State's problem unique to that State or a particular problem of a group of States unique to that group of States, then it creates another problem in some other State or some other groups of States.

And so while we might come forward and address the problem the Senator has raised in a manner satisfactory to the Senator from Nevada or the Western States, all of a sudden, we now have problems with Senators from the Eastern States. Reconciling the needs and interests of all 50 States has been an extraordinarily difficult problem, and we have climbed a number of mountains in this effort. I thought we were there.

I appreciated the debate that was made yesterday. It was some good debate. We went to a vote. None of the arguments we are making today are really substantively any different than what were made yesterday. The State had an opportunity to work its will on the proposal of the Senator from North Dakota and it voted by a more than 2-to-1 margin to defeat that effort because it believed the point that this Senator has been making, not that the substance of the Senator's argument was flawed, but they believed that the only hope of producing any relief to any communities or any States lie with the extraordinarily complex and difficult agreement hammered out over a period of days and that was the only way we were going to move the bill.

So if we went back in the direction the Senator wants us to go, having lost that battle last night, 61 to 30, if we went back the other way, then we would just find ourselves dealing with a problem on the other side.

Mr. CONRAD. I say to my friend from Indiana, I want to acknowledge we have had a good going back and forth today, and I have taken some shots at my friend from Indiana, he having been in the position I am in now and was an early leader on this subject and I do it in good humor and I do it with respect to the strong position he had taken. He reached a conclusion that he could not accomplish more than what is in the current bill.

The bill is this, I say to my friend from Indiana: Last night, I saw many votes influenced in the well by the exporting States threatening that if anybody went further, if the amendment that the Senator from Nevada offered last night were to be adopted, that the Senators from the exporting States, the big trash producers, would then filibuster the bill and kill it and there would be no protection for any of the States. The large importing States that did get some protection last night were other States that had some additional benefit perhaps of what is in this bill.

Unfortunately, it still leaves us with a very, very serious problem. Those of us who represent rural States, those of us who represent States with small towns that are hard pressed economically, who are vulnerable to inducements offered by large corporations to come in and tell them, boy, do we have a deal for you. Here you are struggling, your school is failing, your streets need repair, there are not many jobs around, we can solve all those problems for you right there in this little town, we can take care of these problems for you. You know what we will do? We will have a big waste dump and we will employ some of your folks around town, some of the young people who are leaving town because there is no place to get a job, we will fix up those streets and we will take care of the infrastructure and all you have to do is sign on the dotted line. And you know what, you know what? You can enter into this agreement with us and nobody can stop it.

It does not matter if by doing this you burden the roads in the surrounding communities and the surrounding counties and burden the State transportation plan. It does not matter if you have upset the State's solid waste management plan. It does not matter if you are creating air and water problems in the area because all that matters is that a local community signs on with a company. From that point, we go forward and have a deal.

Last night, we were arguing theoretically. About halfway through the debate last night, somebody came up to me and said they had seen a press report in Ohio that General Motors is going to send all their industrial waste to, guess where? My State. They are going to send it to a little town of Sawyer, ND. The industrial waste from 100 General Motors plants is all coming to my State.

I dismissed it. I thought that cannot be, that cannot be. I talked to the senior Senator from Montana. He said, oh, no, that cannot be happening. It seemed too far-fetched. It seemed farfetched to me. But you know, lo and behold, it is true. It is all coming to North Dakota.

I talked to my Governor this morning, Gov. George Sinner, an excellent Governor, very serious minded. And I asked him, what posture are you in with respect to General Motors' industrial waste that is coming to North Dakota?

He said, well, it is just unacceptable. A little town can make an agreement and the Governor cannot intercede. The Governor cannot have an effect on the decision.

He said, you know, we had a letter to the editor from a woman who said we are the breadbasket, not the trash basket. He said, you know, the thing I resent the most is that I am told as Governor I have a responsibility to manage the solid waste of this State and to have a plan. We have a plan, and yet a community can come in, make a deal, and totally disrupt the State plan, and there is nothing I can do about it.

There is something wrong with that. And so that is the reason some of us have talked at some length today, in the hope we would be able to reach an accommodation, reach an understanding, find a way to compromise this issue, so that with respect to solid waste there would be some additional statement in this particular legislation, but beyond that we would not set a precedent which would allow perhaps a community of only 10 people to veto a plan that was in the larger interests

of the State and the surrounding communities. That is really what this discussion is all about.

Now, I am told there is language that is now being discussed on two amendments that perhaps could resolve this issue if we could reach a meeting of the minds on them.

One of those amendments would say, on page 8, that "except as provided in paragraph (1)(C), at any landfill that receives more than 100,000 tons of out-of-State municipal waste in any calendar year, the Governor can limit the disposal of out-of-State municipal waste at that landfill during that year to 30 percent of all municipal waste received."

The Governors support this amendment. They think it would be useful to them if this amendment were included in the legislation before us today.

In addition, we are working on a study amendment that would allow us to better understand, when we turn our attention to the question of industrial waste, what we are really dealing with. Because when you turn your attention to the larger issue, one finds there is very little known about industrial waste in this country: What are the volumes of industrial waste being produced in the various regions in the country; what are the sources of that industrial waste; where is it going; how is it being treated; what are the risks of that industrial waste? Those are questions to which we ought to have answers.

So we have language that calls for a proposed study on industrial waste that says the following:

The administrator shall conduct a comprehensive study of the transportation and disposal of nonhazardous industrial wastes, including the transportation of such wastes across State lines for the purpose of disposal. The study shall include consideration of the hazards posed by the transportation of such waste, the sources, the volume and location and production of this waste, the current pattern of movement of this waste, the location of the disposal of the waste by volume, the type of facility where the waste is disposed, proposals to reduce the interstate flow of this waste, and the overall capacity available for the disposal of this waste in the country.

Further, that the report shall be submitted to the Congress no later than January 1, 1993.

Now, these are two amendments which we think are important. The Governors would like to see these amendments adopted. We would like to see these amendments adopted.

I am hopeful that, as we proceed, those who want to see some sort of rational outcome will be supportive because it has never been the desire of this Senator—I am certain not the desire of other Senators who have participated in this extended discussion—to kill this bill. We do not want to do that. But if we are going to be left with nothing, then it is better to have no bill. It is better to keep those who are energized on this issue as part of the team to do something about it for the future, because this is an enormous problem in this country. It is growing. And every other State is going to face what my State is facing today.

It is kind of your worst nightmare coming true. You wake up and you find out that some company, in this case General Motors Corp., the largest industrial corporation in the world, is sending your State all of its industrial waste. Where is it going? A small town that is not really able to defend itself, maybe even a small town that wants that waste to come there, even though it may not be in the larger interests of the community. Maybe it is not in the larger interests of the surrounding communities. Maybe it is not in the larger interests of the State.

The State cannot stop it. The county government cannot stop it because a deal is a deal. And in this legislation we have been working on today we are establishing the principle whereby a community can enter into an agreement with a company and achieve a result that will mean the importation of hundreds and thousands of tons of waste, impacting the road systems, impacting the infrastructure, impacting surrounding communities, threatening air and water quality, and the Governor cannot act. The legislature cannot act.

So I would ask my colleague from Montana if the amendments that have been provided have been reacted to by others and what their reaction is.

Mr. BAUCUS. Mr. President, if I may respond to the Senator from North Dakota, without the Senator from North Dakota losing his right to the floor, I asked relevant staff to contact their Senators to see what reactions they would have with respect to the 30-percent amendment in particular. I have not heard back on that amendment. As I understand it, there is also an effort to contact Senators with respect to deleting the word "and" and inserting "or" on line 12, page 2 of the bill. I do not think there has been a response to that yet, either.

I must say to the Senator, one slight problem we are having is that one of the key Senators involved is in appropriations markup, particularly the transportation bill, and it is difficult to get the Senator's attention to this proposed amendment. But we are working on it and trying to get some reaction to it.

If the Senator will also yield again, the Senator not losing his right——

Mr. CONRAD. I will be happy to yield without losing my right to the floor.

Mr. BAUCUS. Mr. President, earlier the Senator from Nevada suggested there be a separate regime or constructure, scheme, for Western States and Western Senators. I guess the implication was that perhaps this bill was not adequately reflecting Western, more sparsely populated States' interests.

I must say, Mr. President, that the Environment and Public Works Committee, has five very able Senators from the West: The chairman of the committee, the senior Senator from North Dakota, steering this makes sure it has a very adequate Western point of view; myself, from a Western State, Senator SYMMS from a Western State, Senator REID from a Western State, and Senator SIMPSON from a Western State. There are very adequate Western State interests represented on this committee.

When Senator REID in committee offered essentially the proposal we are now in some sense discussing, it was defeated by all Senators but for one. Senator REID was the only one who was in favor of his amendment. Other Western Senators felt it was not necessary.

The main point is this committee has very adequately gone the extra mile to help the West.

I am thinking particularly of two major bills which were very helpful to the West as well as to other parts of the country. One is the Clean Air Act and the other is the Highway Act. In the Clean Air Act, for example, we in the Environment and Public Works Committee included what is called the clean States exemption. That provision exempted States which emitted fewer than 50,000 tons of sulfur dioxide per year in their utilities from phase 1 and phase 2 of the act which would require those States to ratchet down the amount of SO_2 they were otherwise emitting into the air.

That is a very progressive bill. It is probably one of the most significant bills this Congress has passed and will pass in, say, 10 or 25 years. It will have the effect of reducing overall sulfur dioxide emissions from 20 million tons, as was the case 1 or 2 years ago, down to 10 million tons by the year—past the year 2000.

The point is the clean States exemption was specifically put in that amendment because Western States had done a very good job in limiting their SO_2 emissions, and the beneficiary was also North Dakota.

There are many other provisions in that bill which very dramatically helped Western States, again which came out of the Environment and Public Works Committee.

Second, the highway bill. Eastern States did fine by that, but Western States also did well under the highway bill, with considerable Federal highway dollars going to Western States. I am sure the same is true for other States as well. But Western States, I know, received more dollars per capita than they did in the past. It came out very, very well.

The fundamental point is that at some point the Senate must decide. The basic principle, articulated by the

Senator, was already decided in committee, and lost unanimously but for one vote. The same basic principle was before this Senate last night.

Senator REID spoke earlier in support of the Senator from North Dakota. It is basically the same point, the same amendment. We voted on it, and the vote on that amendment was 60 to 31. By a 2-to-1 margin, the Senate decided. So here we are, in essence asking for the third bite of the apple. I guess we can keep on going for the fourth bite of the apple and the fifth bite of the apple.

But, essentially, No. 1, Western interests in all areas are very well accommodated. No. 2, we have already decided this issue.

I do not want to get into a fight here with the Senator from North Dakota. But just so the RECORD is accurate, the Senator keeps mentioning over and over, about the 400 tons a day that go into this facility.

It is my information that it could be wrong; I will check again with the State of North Dakota. I found out that that is not what the figures are. According to the State official that my staff consulted with in North Dakota—I brought it all; I do not know what all these newspaper articles are all about—but the newspaper articles are wrong. He just volunteered this to my staff.

My staff said: What is right, what is the information? Again, the information is there are 60 mil double liners, and a composite liner, going in. Fifteen to thirty loads per week, an average of 18 yards a load, which comes out not to all of General Motors' industrial waste, but 2 percent of the industrial waste produced by the company.

I think the RECORD should state what the officials of North Dakota stated, what the facts are, at least given to my staff and to me, and who volunteered on his own, without being prompted, that the newspaper articles are just wrong; they just do not have the right information.

So I think it is important that the RECORD show that at least the North Dakota officials that we have consulted with—and maybe they are the wrong officials; I do not know—have a different point of view as to the magnitude of the situation in Sawyer, ND.

Mr. CONRAD. Mr. President, let me just say that frankly my position would be the same whatever the specific numbers are. The press accounts say that 20 million tons have already been delivered—20 million tons. They say that the capacity of the plant is 400 million tons a day.

Then they say that all of the industrial waste from 100 GM plants is coming to this site. I do not know if those specific numbers are accurate or not. But they are not just in one press account, but in press account, after press account, after press account. Press accounts are sometimes wrong. Goodness knows, any of us in public life knows that. I have had many situations in which I was involved in a story, and I read the press account and it bore almost no relationship to what was happening.

But aside from the specifics of what might be going to this plant, it highlights the problem. And the problem, as the Senator from South Dakota said, is a process problem. Who decides what is going to happen within a State's boundaries? Can it be that a small town makes a decision, and nobody else can have an impact on it, even though it impacts other people's lives? That is the principle that is at stake here. I hope we are able to resolve this in some way that is acceptable.

I suggest to my colleague that we put in a quorum call and await the working out of this language, if it can be worked out.

If it cannot be worked out, we will cross that bridge when we come to it.

But I suggest, if there is not an objection, that I put in a quorum call and see if we can get reactions to this language.

With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—DEBATE ON THE MOTION TO INVOKE CLOTURE ON THE MOTION TO PROCEED TO H.R. 776

Mr. MITCHELL. Mr. President, pursuant to a previous order, approved unanimously by the Senate and printed at page 2 of today's calendar of business, I have the authority to set the time for a vote on the motion to invoke cloture on the motion to proceed to H.R. 776, the energy bill, following consultation with the Republican leader.

Mr. President, I have consulted with the Republican leader, as well as with the chairman of the Energy Committee and the manager of the pending bill, and I now announce that the vote on the motion to invoke cloture on the motion to proceed to Calendar No. 493, H.R. 776, the energy bill, will occur at 7:30 p.m. this evening.

Mr. President, I now ask unanimous consent that the 40 minutes prior to that time be for debate on the motion to invoke cloture on the motion to proceed to the energy bill with the time controlled as follows: 10 minutes each for Senators BENTSEN, PACKWOOD, JOHNSTON, and WALLOP.

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

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I am advised by the Senators involved in discussion of the pending matter that negotiations are underway, indeed have been ongoing for some time in an effort to resolve the matter the way a majority of Senators would find acceptable. Under this procedure, that can continue until 6:50 p.m., approximately another 1½ hours, at which time we will turn to the energy bill. I hope and I encourage my colleagues to try to reach agreement in a way that will permit us to finish the pending interstate waste bill. If agreement cannot be reached, either between now and 6:50 or thereafter, then the cloture motion on the pending bill, which I earlier filed, will ripen under the rules on the second legislative day following today, unless there is agreement otherwise.

I wish merely to restate my intention that we will at some point, sooner or later, I hope sooner, but in any event sooner or later complete action on the interstate waste bill. I encourage my colleagues to try to do that in a way that we can complete action on it this evening.

Again, so that Senators can adjust their schedules accordingly, between 6:50 p.m. and 7:30 p.m. there will be 40 minutes of debate on the energy bill, with 10 minutes each under the control of Senators BENTSEN, PACKWOOD, JOHNSTON, and WALLOP and the vote on the motion to invoke cloture on the motion to proceed to the energy bill will occur at 7:30 p.m.

Mr. President, I thank my colleagues. I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I just reported to the majority leader, we are making progress on the pending matter and hopefully we can complete that before the end of the day. We have made substantial progress in the last hour or so and hopefully it can be resolved in a way that is acceptable to all parties.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, I ask unanimous consent that the previous order relative to debate on the cloture vote on the motion to proceed to H.R. 776 be modified to delete the 10 minutes for debate under Senator PACKWOOD'S control, and that the cloture vote occur at 7:20 p.m. this evening.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to proceed for 10 minutes as in morning business.

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

HIGH VALUE ECONOMIC GROWTH PACKAGE

Mr. DOMENICI. Mr. President, yesterday, I came to the floor and spoke for a few moments about a measure that Senator SPECTER and I introduced which is styled S. 2612. We introduced that bill on April 9, 1992.

Since then, as I indicated last night, we picked up six additional cosponsors, and I included those six cosponsors in the RECORD last night. But let me repeat them tonight: Senator RUDMAN, Senator SIMPSON, Senator SMITH, Senator BURNS, Senator MURKOWSKI, and Senator WARNER.

Mr. President, it is obvious to this Senator that while the economy of the United States is growing, the unemployment in the country is not diminishing as it should commensurate with that growth. So this measure is more important today than it was when we introduced it. This bill, when we introduced it last April, contained five provisions. Each of those provisions meets a very high test. They create jobs, reduce the cost of capital, reduce the cost of labor, and act as an investment incentive for the here and now to keep us on the track of economic recovery.

So this is Senator SPECTER'S and my definition of a high-value economic growth package and what it should look like. Let me indicate that there are other tax measures either working their way through the House, or through the appropriate committees of the Senate, and I submit that many of the measures which we introduced in April will be similar in these measures. So it will not be hard to modify our high value economic growth package to include these other changes, which are also vital to our Nation's economy: The enterprise zone provisions of H.R. 11, the repeal of the luxury tax, the extension of most of the expiring provisions. And then we would like to submit to the Senate for its consideration the way these would be paid for, consistent with the pay-as-you-go provisions of the current budget arrangement.

Mr. President, a lot of days have passed. I have been to the floor a couple of times urging that we pass something like this. The controversial issue, when we failed to pass this—for the Democrats the issue was capital gains; for the Republicans, it was how we paid for the capital gains and the other provisions.

What we had decided to do in this bill days and days ago was to take the capital gains out and take the tax increase out and bring to the floor the remaining measures. If they were all good, they certainly ought to be still very good, without the capital gains provision. I have spoken to a number of Senators who feel that capital gains is absolutely imperative.

This Senator believes capital gains should be added to any litany or inventory of tax changes which are apt to cause the American economy to grow and prosper and produce jobs. But I believe most of those who think we ought to have capital gains would also think that rather than do nothing, we ought to take the capital gains out, the controversial democratic tax increase out, and pass the rest of it and add the provisions I alluded to, such as the enterprise zones, the extenders for research and development tax credits, and the like.

So, Mr. President, we are prepared, and we urge the Senate, we urge the President, we urge the Democratic leadership here, to put this measure before the Senate at the earliest possible time. I bring this up because we cannot—the Senator from Pennsylvania and the Senator from New Mexico—originate a tax bill here on the floor. But we do want to call to the Senate's attention that when a tax bill appears—and there happens to be one almost with us in the body of the energy bill—the Senator from Pennsylvania and the Senator from New Mexico truly believe we ought to affix this package, which will cause growth in the American economy and produce jobs.

Having said that, I want to just, one more time, tick off the proposals that we were for, that we voted for, and that died because of the controversy over the two items I have alluded to:

A 15-percent investment tax allowance. Everyone has on their shopping list of what this country should do to stimulate prosperity and growth some significant investment tax credit or allowance. This was a temporary one, 15 percent, spreading over this year and next year. We ought to pass it. We ought to pass it.

Second, simplify and change the alternative minimum depreciation. Everyone now knows that is causing punitive, punitive taxes on those who would invest and grow in many American industries, and as a result they do nothing. Passive loss relief, we are all aware of that, $5,000 first-time home buyer credit, facilitate real estate investment by pension funds, and penalty-free IRA's for the two purposes that we had in mind: One of which was home buyers and the other that was for automobiles, and we can adjust that to what the majority feels is most appropriate. Add to that the enterprise zone. Add to that the extension of expiring tax credits, and you have a package that reduces revenues or cuts taxes by $20.3 billion in a very targeted manner, high valued in terms of jobs, lowering the cost of capital, and the other matters that I mentioned.

We will now again ask that the RECORD include at the end of my remarks the offset provisions for that $20.3 billion. I do not believe any of those are so controversial that they would cause the bill to die, as happened before.

So I send those to the desk again for the inclusion in this RECORD so that we put the package together so everyone understands this is a "can do" if we only want to create jobs in this country and to do it quickly.

I ask unanimous consent that the material be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. DOMENICI. Mr. President, I urge the leadership to give serious thought to this. I urge the President to support this kind of measure. I believe we were right on April 9, and I believe we are more right tonight. The only thing is we already have lost some serious, serious gains that could have been there for working men and women in the country and for those who are in need of jobs.

EXHIBIT 1

REVISED HIGH VALUE ECONOMIC GROWTH ACT

[In billions of dollars, fiscal year 1992–97]

	1992	1992–97
Short-term growth proposals:		
15 percent investment tax allowance	.....	−2.3
Simplify and enhance AMT depreciation	−(1)	−1.4
Passive loss relief	−0.1	−2.5
$5,000 first time homebuyers credit	.....	−6.1
Penalty-free IRA w/d for 1st time homebuyers	.....	−.6
Facilitate real estate investment by pension funds	−(1)	−.3
Enterprise zone/urban-rural distressed areas (H.R. 11):		
Create 50 enterprise zones	.....	−2.5
Additional assistance for tax enterprise zones	.....	−.5
Extension of expiring provisions for 18 months:		
Research and experimentation tax credit	−.2	−1.7
Health insurance for self-employed	−.1	−.6
Targeted jobs tax credit	−(1)	−.6
Mortgage revenue bonds and credit certificates	−(1)	−.4
Qualified small-issue bonds	−(1)	−.2
Repeal luxury excise tax on airplanes, jewelry, furs, and boats, index automobile luxury excise tax	−(1)	−.5
Subtotal, revenue losers	−.4	−20.3
Offset options:		
IRS 45-day processing rule	.....	.3
Eliminate CSRS lump sum	.....	5.0
Patent and trademark surcharges	.....	.2
Customs user fees	.....	1.5
VA housing reforms	.....	.8
FEHB reforms	.....	.4
Extend depreciation period for certain real estate	(1)	3.1
Mark-to-market for securities dealers	.1	2.7
Taxable years of partnerships	.....	.2
Tax treatment of certain FSLIC financial assistance	.2	.4

REVISED HIGH VALUE ECONOMIC GROWTH ACT—Continued

[In billions of dollars, fiscal year 1992–97]

	1992	1992–97
Corp est tax, modify and extend permanently	.....	3.2
Tax precondition gain on partnership redemptions	(1)	.2
Extend 53 percent and 55 percent estate tax rate on large estates thru 97	.....	1.4
Reporting for seller-financed mortgages	(1)	.6
Increase excise tax on certain ozone-depleting chemicals (on top of increase in energy bill)	.....	.3
Repeal diesel fuel tax exemption for motorboats	.....	.1
Subtotal, possible offsets	.4	20.3
Deficit impact	0	0

[1] Gain or loss of less than $50,000,000.

Mr. DOMENICI. Mr. President, whatever time I have remaining I will yield to Senator SPECTER, and I assume he might ask for a few minutes on his own.

The PRESIDING OFFICER. The Senator from Pennsylvania has a minute and 30 seconds.

Mr. SPECTER. Mr. President, we had been in a quorum call. I ask unanimous consent that I might proceed as if in morning business for up to 10 minutes.

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

ECONOMIC RECOVERY PROGRAM

Mr. SPECTER. Mr. President, I am delighted to join my distinguished colleague from New Mexico, Senator DOMENICI, in urging the adoption of an economic recovery program which has essentially been agreed upon by both the Congress and the President.

We are regrettably in a state of gridlock in the Government today. The political air in Washington is so thick you can cut it with a knife. It is high time that the Congress and the executive join together to break that gridlock.

When the President submitted an economic recovery program to the Congress there were 7 points, and the program was summarily rejected by the Congress, I will submit, on political grounds. The Congress then crafted its own economic recovery program, sent it to the White House. Candidly it got equally short shift.

Senator DOMENICI and I conferred, examined both of the legislative proposals, and found that there were core provisions which were the same in both of the plans. That led us to introduce legislation which really had been agreed upon. As already outlined by my distinguished colleague from New Mexico, the legislation involves provisions which really have been as solid as apple pie and milk.

The issue on an investment tax allowance would stimulate the purchase of hard goods, stimulate job opportunities. The provision for a $5,000 tax credit for first-time home buyers would allow young Americans to buy houses to stimulate the real estate industry. The provisions on passive losses on real estate would be geared to allow a reinvigoration of the real estate industry. And the provision to change the investment opportunities for pension trusts on real estate matters would again stimulate the economy.

Mr. President, there is widespread disenchantment in America today with politics as usual. We have seen the emergence of a potential third-party candidate in Ross Perot, who essentially was a question mark, but a question mark that millions of Americans thought preferable to either of the major parties.

We have the situation in this country where millions of Americans are hurting and are out of jobs. I see that as I travel the 67 counties of Pennsylvania. Pennsylvanians are looking for a stimulus to the economy.

These four basic points, which have already been subject to agreement, ought to be enacted promptly. The result would be a very substantial stimulus to the economy.

My colleague, Senator DOMENICI, and I had previously introduced legislation which would utilize the existing funds in IRA's for stimulating the economy. We abandoned the IRA's pretty much in 1986 but in the last couple of years there has been a proposal for a Super IRA which would be a new form of IRA. This proposal, sponsored by more than 70 United States Senators would allow IRA funds to be used to purchase major items such as new homes, medical expenses, and tuition.

When we took a look last fall at the economic straitjacket that this country was in where we had a budget agreement that provided a "priming of the pump," Senator DOMENICI and I noted that there were $800 billion in IRA's and 401(k)'s in addition to approximately $3 trillion in other retirement funds. We then introduced legislation which would allow middle-income Americans, those earning individually $75,000, or married up to $100,000, to be able to withdraw from the IRA's $10,000, without tax and without penalty in 1992. The $10,000 would be repaid to the IRA's, $2,500 a year over 4 years, 1993, 1994, 1995, and 1996. Or, in the default on replenishing the IRA, an individual would pay a tax on $2,500 in each year of 4 successive years.

An independent analysis showed that our plan would yield up to $120 billion in immediate investment if that $10,000 would be used for big ticket items such as homes, tuition, medical expenses, and new cars.

That is a proposal which is certainly worth considering. It passed as an amendment to the Senate version of the tax bill but was stripped in conference. That proposal is separate and distinct from the four points which Senator DOMENICI and I have outlined today. That is a proposal for another day.

There may be some disagreement as to that proposal but, on the four items already enumerated, I join my colleague, Senator DOMENICI, in calling for prompt action by the Congress for legislation to go to the desk of the President. We have every reason to believe it would be signed, because those are the President's proposals as well.

I thank the Chair and yield the floor, and note my colleague Senator DOMENICI has moved to the podium again.

Mr. DOMENICI. Mr. President, will the Senator yield me the 2 minutes remaining of the Senator's time?

Mr. SPECTER. I will.

Mr. DOMENICI. Mr. President, let me put this another way. I say to my fellow Senators had we done this, it is our estimation that 1.2 million families could be moving into new homes today. Instead houses that should have been sold are still on the market, many of them with for sale signs on them, many of them are empty. They have signs on them instead of children playing in the yards. It is not too late. We ought to do it now.

Second, the 15-percent investment allowance for American business large and small would clearly have boxes of equipment to make workers more productive, arriving right now in response to that investment tax allowance. Instead of doing something we keep talking, and we keep talking about competitiveness. That poor word is going to probably ask that it be changed to something else. It is used so much.

But had we done something instead of the word "competitiveness," new equipment would have been flowing, the people who would have been making it would have been employing people, the people who would have bought it would have been getting the equipment and improving themselves so that the American marketplace would be creating better jobs. Instead, we are talking again.

I just note for the record, one of the committees that I serve on, the Banking Committee, held 23 hearings on how to make America competitive since that bill was introduced. It seems to me, the time is right to do something about it.

I yield the floor and yield back whatever time remains with Senator SPECTER.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE ACT OF 1992

The Senate continued with the consideration of the bill.

Mr. BAUCUS. Mr. President, I ask unanimous consent that notwithstanding the consent agreement with respect to limited amendments on this bill, that the Senator from North Dakota, [Mr. CONRAD] be allowed to offer an amendment to the bill.

The PRESIDING OFFICER. If there is no objection—without objection, it is so ordered. The Senator from North Dakota is recognized.

AMENDMENT NO. 2742

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 2742,

On page 10, delete line 18-23 and insert in lieu thereof:

"(1) The term 'affected local government' means the elected officials of either the city, town, borough, county, or parish in which the facility is located. Within 90 days of enactment of this Act, the Governor shall designate which entity listed above shall serve as the 'affected local government' for actions taken under this Act after July 23, 1992. No such designation shall affect host agreements concluded prior to July 23, 1992. If the Governor fails to make such designation, the affected local government shall be the city, town, borough, county, parish, or other public body created by or pursuant to State law with primary jurisdiction over the use of the land on which the facility is located.".

Mr. CONRAD. Mr. President, I ask unanimous consent to amend—or modify the amendment, in the second to the last line, by saying "primary jurisdiction over the land or the use of the land on which the facility is located." That is the actual language that has been agreed to.

Mr. BAUCUS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. Is there objection? The Senator from Montana.

Mr. BAUCUS. Reserving the right to object—the Senator is correct. Those are two words that were suggested some time ago and unfortunately were not included in the last draft. Those two words should be included and I do not object.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, No. 2742, as modified, is as follows:

On page 10, delete lines 18–23 and insert in lieu thereof:

"(1) The term 'affected local government' means the elected officials of either the city, town, borough, county, or parish in which the facility is located. Within 90 days of enactment of this Act, the Governor shall designate which entity listed above shall serve as the 'affected local government' for actions taken under this Act after July 23, 1992. No such designation shall affect host agreements concluded prior to July 23, 1992. If the Governor fails to make such designation, the affected local government shall be the city, town, borough, county, parish, or other public body created by or pursuant to State law with primary jurisdiction over the land or the use of the land on which the facility is located.".

Mr. CONRAD. Mr. President, let me just indicate very briefly that what this does is allow the Governor to designate a unit of government, other than just the town, to make the decision on whether or not we should go forward with a particular project or not. This would allow the Governor to designate an entity of government that could interact with the Governor to then make the final decision.

Mr. President, we think this is a dramatic improvement over what was in front of us before. Basically, what it would allow is that we are not in a situation in which a very small town can enter into an agreement and not have the ability of the Governor to intervene. Instead, the Governor, if he acts within 90 days, could designate the county to be the affected entity of government. We think that makes great sense.

I would like to thank the chairman of the subcommittee and his staff for their patience. I would like to thank the ranking member and his staff for their assistance. And I would like to very much thank my colleague from South Dakota, Senator DASCHLE, who has been very active in this effort to improve the legislation.

I ask unanimous consent that Senator DASCHLE and Senator REID appear as original cosponsors of this amendment.

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

Mr. CONRAD. Mr. President, I want to indicate that we not only feel this makes a significant improvement to the legislation before us, but also sets a precedent for legislation that may come later; not a legal precedent, but it serves as an outline of what can be done to assure that we do not find ourselves in a situation in which a small town can be unduly influenced, and nobody else would be in a position to review the decision.

So, Mr. President, I will conclude my remarks by saying this has been a long day. It has been a difficult day in many ways. But there was certainly good-faith effort by all those concerned to work something out, and I think we have achieved that.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I heartily commend the Senator from North Dakota. He has stood here on the floor diligently, in the last couple of days, protecting the interests of North Dakota.

He had a very legitimate concern. It is a concern that we all appreciated; a concern we have all been working with. Frankly, it is largely—in fact, almost primarily—because of his diligence and, I must say, the diligence of other Senators, as well, that we have been able to find this agreement, this accommodation.

The Senator from North Dakota will be the first to admit it is not a perfect solution for North Dakota, but it is a significant contribution compared with the pending legislation. I heartily commend him, and the Senator from South Dakota, who has worked as diligently in representing South Dakota, and helped us find a solution.

I urge its adoption.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, one of the joys in the Senate, particularly in serving on committees, is that you get to know the Senators quite well, and you get to know their speeches quite well. In fact, there is a capacity to deliver their speeches for them, in case they flag or flail.

I do not serve on any committees with the distinguished Senator from North Dakota, but through the course of these 3 days, particularly the last day, I have memorized his speeches. In fact, he has given the same speech several times, and it is a good speech: "I have, in North Dakota, some four towns with a population less than 10." And on from there.

He is a tenacious advocate, and I think deserves a lot of credit for pursuing this so diligently, and his associate from South Dakota, likewise. I have not mastered the speeches of the Senator from South Dakota, but I will, because he serves on the Finance Committee, likewise, and there we will have an opportunity in future days.

But the Senator from North Dakota will be leaving us, and I am glad to have had a chance to work with him in connection with this matter.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I also want to commend those who have been involved so diligently over the last couple of days. I do not know what else can be said for the distinguished Senator from North Dakota. He has done a very effective job in providing important leadership and giving us an opportunity to at least partially resolve this very difficult problem. The amendment does not go all the way, but it makes a real improvement in the bill.

Obviously, there are ways, as the Senator from Montana has alluded, that we could address this more effectively, but this amendment does give us some hope that someone other than the proverbial town with four people will have some say with regard to an issue of this magnitude and consequence.

So I think it is a very significant improvement. It allows me the confidence

that we are going to be making some decisions that reflect, in part, the beliefs, the attitudes, and the concerns of people beyond those who may be directly the ones to benefit from any facility, or any contract relating to a facility.

So I commend the Senator from North Dakota. I thank the managers of the bill for their cooperation, their efforts, and their willingness to work with us. I urge the adoption of this amendment, as well.

I yield the floor.

Mr. CONRAD. Mr. President, if I might, before we conclude this, I just want to again thank the chairman of the subcommittee, who has shown remarkable patience today. This has certainly tried his patience. I do appreciate very much his willingness to work with us to try to get a resolution.

This was not easy. We understand the forces on the other side that did not want something like this. He has really gone the extra mile, and it is appreciated.

I also want to say to the ranking member, who has also shown great patience, I think I only gave that speech maybe six or seven times—it may have seemed like several dozen—but I was prepared to give it some more. So I appreciate his patience and generosity, as well.

I want to conclude by saying, again, a special thanks to my very dear friend and colleague from South Dakota, who stood with me during these long hours in trying to achieve a result. It really made a difference. I just want to say to my friend from South Dakota, I deeply appreciate his assistance on this.

I ask unanimous consent that Senator RIEGLE be shown as an original cosponsor of the amendment.

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

Mr. BAUCUS. Mr. President, I would like to say to the Senator from North Dakota, it is always a pleasure to work with my neighbor to the east. North Dakota and Montana share a border, with many things in common.

One is, I find whenever I want to get something on the news in Montana, very often I have to go to Williston, ND; go to the TV stations and newspapers in the western part of North Dakota, to reach eastern Montana.

I appreciate working with him.

Mr. President, I ask for the regular order.

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

The amendment (No. 2742), as modified, was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I think there is one other matter we have to deal with. That is another amendment.

I ask unanimous consent, notwithstanding the consent agreement with respect to this amendment and this bill, that the Senator from North Dakota be allowed to be recognized for the purpose of offering an amendment to the bill.

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

AMENDMENT NO. 2743

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

Mr. President, I first ask unanimous consent that Senator DASCHLE and Senator METZENBAUM be shown as original cosponsors of this amendment.

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

The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. CONRAD], for himself, Mr. DASCHLE and Mr. METZENBAUM, proposes an amendment numbered 2743.

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

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

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . (a) Not later than January 1, 1993, the United States General Accounting Office shall conduct a study of the interstate transportation of nonhazardous industrial manufacturing wastes, including waste generated from construction and demolition operations. Such study shall identify the volumes and general types of nonhazardous industrial manufacturing wastes generated in each State, the place of ultimate disposal of such wastes, and the hazards posed by the transportation of such wastes. The General Accounting Office shall also identify, to the extent possible, opportunities available to States to reduce the interstate transport of industrial nonhazardous manufacturing waste.

(b) For purposes of this subsection, the term "industrial nonhazardous manufacturing waste" shall not include the following waste categories:

(1) fly ash waste, bottom ash waste, slag waste, and flue gas emissions control waste generated primarily from the combustion of coal or other fossil fuels;

(2) solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore;

(3) cement kiln dust waste;

(4) drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy; and

(5) solid waste regulated under subtitle C of the Resource Conservation and Recovery Act.

Mr. CONRAD. Mr. President, this is a simple study amendment, but we believe it is an important one.

One of the things we have learned as we have gone through this long day is that there is not much very good information on the question of industrial waste: What are the sources of it? What are the movements of industrial waste? What are the volumes? A whole series of other questions that are addressed in this amendment. Suffice it to say, we think the Senate, if it is to deliberate on these matters in the future, could use some basic information. We, hopefully, have outlined the information needs in this amendment. I urge my colleagues to support it.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. BAUCUS. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2743) was agreed to.

Mr. BAUCUS. Mr. President, I think there is no more business. I ask for the regular order.

Mr. CHAFEE. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I am pleased we are finally able to deal with the issue of interstate trash. It is an issue that I know has taken a lot of thought and negotiation. However, I believe we have achieved a good result and a workable compromise that provides protection for States like Kansas that are threatened with long haul imports from the east coast.

Frankly, the timing of this legislation couldn't be more appropriate.

In a June 1, 1992, opinion, the U.S. Supreme Court struck down a Michigan statute that allowed the State's counties to regulate out-of-State solid waste disposal differently from solid waste generated within the county for no other reason other than place of origin. The Court highlighted the point that the interstate movement of wastes is protected by the commerce clause of the U.S. Constitution unless Congress says so otherwise.

Also, after nearly a month, and 3,000 miles later, a 2,200-ton trash train that originated in the South Bronx, NY, and at one point found its way into Kansas City KS, finally has been off-loaded at a landfill on Staten Island. It only serves to underscore the point that something needs to be done about the interstate transportation of trash and the responsibility individual communities need to take toward this issue.

I am also pleased the legislation allows for flexibility for our own border areas, such as the Kansas City area and the southeast Kansas area, to continue to provide sanitary landfill services for the region as has been the practice and desire over the years.

Mr. President, I applaud the level of cooperation that resulted in this agreement. Senators COATS, SPECTER, WAR-

NER, and CHAFEE have worked overtime to find ways to accommodate States that have an interest in this issue. Also, the solid waste and railroad industries who have to live with these requirements and are working to provide these services under strict environmental controls have been cooperative as well.

The concept of allowing communities the right to choose whether they will accept interstate garbage is fundamentally sound. In the absence of this legislation, the commerce clause of the Constitution controlled the flow of interstate trash. Now, communities can say no to out-of-State trash if they want to. Likewise, they can negotiate directly with trash companies if they choose to.

This legislation is also important for what it doesn't do: disrupt contiguous State flows in Kansas and other States where arrangements already exist. Six landfills in Kansas accept out-of-State trash in a mutually acceptable arrangement. This legislation will allow those landfills to continue this practice. The Kansas City area is largest, and has the greatest potential for unnecessary disruption. However, the legislation has a specific provision to allow the Governor the authority to freeze out-of-State trash coming into these landfills at 1991 or 1992 levels. This protection was built into the legislation to protect States like Kansas from becoming the dumping ground for long-haul trash from big east coast States.

Mr. President, this is a workable compromise and provides adequate protection for small States that fear they are targets for east coast garbage. I believe we have substantially eliminated the threat that was highlighted in McPherson last summer and provided important new protection for communities who want to say no to out-of-State trash.

Mr. DODD. Mr. President, I rise to express my strong support for S. 2877, the Interstate Transport of Municipal Solid Waste Act of 1992. My compliments to the managers of this measure and Senator COATS in working to develop a balanced approach to address this difficult problem.

Garbage, while not anyone's favorite subject, is however one of the most prevalent realities of our everyday life. Our Nation generates over 180 million tons of waste each year—over half a ton for every man, woman, and child in the United States.

The issue here today is what we should do about all this garbage. In the past, the answer has been relatively simple—dump it. But the dumps are filling up; some are worse than full—they are dangerous; and, as we all know from experience in our own States, there are few communities volunteering to host new dump sites.

The reality of this crisis was brought home to many in the saga of the trash train which traveled across the Nation for 26 days in search of a place to dispose of its cargo. The train began its long journey in New York City with 2,200 tons of municipal waste from the Bronx and traveled through the Midwest looking for a dump site. The train was ordered out of at least three States and was forced to return to New York State, monitored by local sheriffs, planes, and helicopters ensuring it departed each State without pause. Mr. President, this is no way to manage our Nation's solid waste.

S. 2877 is an important step in the right direction. However, today's debate is about moving garbage, not about how to reduce it, and I believe that reduction of our waste stream is truly the best way to alleviate our Nation's garbage crisis.

I recognize that the managers of this measure have chosen a strategy, which they believe is necessary, to move this important bill forward—a strategy defining a very narrow scope for this measure and limiting other amendments. I understand this effort, but think it is most important and appropriate that we take a little time to discuss some of the other steps which should and must be taken to reduce our waste stream.

Reduce, reuse, and recycle—are the buzz words of a new environmental movement. Children, families, neighborhoods, and communities have been inspired by the difference they, as individuals, can make by adopting this simple ethic. Their interests are reflected in new corporate policies on products, advertising and packaging to respond to the public commitment to reduce, reuse, and recycle.

In many communities, the effort has moved beyond sorting trash at the curb. In Greenwich, CT, the National Audubon Society, Procter & Gamble, and the Greenwich Audubon Society earlier this year sponsored a month long experiment in wet bag composting; 700 households in Greenwich participated in the experiment. They collected food waste, yard waste, wet and soiled paper, cereal boxes and other items normally considered nonrecyclable. These compostables were collected at curbside and transferred to the Fairfield compost facility, a state-of-the-art composting facility constructed in 1989, where the waste is being processed for use as compost. While the final results are not yet out, I understand that the program reduced the overall volume of household waste significantly, produced usable compost and was popular among the participants.

While communities across the Nation work to address the issues confronting their neighborhoods, we in Washington must move ahead to address the national issue of municipal solid waste. Most importantly, it is my hope that we will see action on the Comprehensive Resource Recovery and Conservation Act this year. While this issue is complex and mired in some controversy, we cannot delay reauthorizing this important measure.

There are other steps which I believe would move us forward. I am an original cosponsor of the national bottle bill. Connecticut has had a very successful bottle bill since 1980. We have achieved a recycling rate of nearly 85 percent for beverage containers. And the bottle bill has not impacted curbside recycling programs which now serve many communities in my State. Connecticut's experience with the bottle bill is not unique, other States have enjoyed similar results. It is time we move ahead to adopt this important legislation.

On another front, we should also continue our efforts to expand the marketplace for recyclables. Today, all Government documents are printed on recycled paper. We must look at other ways the Federal Government can assist this emerging market.

Mr. President, S. 2877, the bill before us, is also an important step in this comprehensive effort to address the issue of municipal solid waste. It provides States and local governments with additional control over garbage entering their States. This legislation gives the Governor of any State, on the request of local officials, the authority to ban municipal solid waste imports or cap imports at the 1991 or 1992 level—which ever is less—provided that present contracts are not abrogated.

This is a carefully balanced approach to a difficult problem. Forty-three States in our Nation export waste and 42 States import waste. Legislation impacting the movement of waste will obviously affect nearly every State. We have been fortunate in my State of Connecticut—to a great extent, our State government's waste management efforts have been successful. Unfortunately, other States have not had the same experience. Many local communities across the Nation feel that they do not have the tools necessary to address the disposal of out of State waste in their communities. This bill gives Governors and local officials these tools. No State should be a dumping ground for another's garbage and this measure will prevent that. It will reduce exports, and provide significant local control over waste imports into their communities.

I know some would be reluctant to look at this balanced piece of legislation before us, which deals only with municipal solid waste, as a precedent for future waste legislation. However, we cannot ignore that, as a Nation, we have yet to resolve the issue of high level nuclear waste and, to some extent, the issue of low level waste has been thrown into question by the recent Supreme Court decision. There are recognized efficiencies in limiting the

number of these facilities in our Nation and it behooves us little to set policies today which hamper the resolution of these problems tomorrow.

Mr. President, it is clear this legislation is only a first step in confronting our Nation's municipal waste crisis and that we must rededicate ourselves to moving forward on the other critical pieces of legislation in this area that await our action. However, as I think of the 26-day journey of that train, it is also clear how critical this step is to communities and States across this Nation and I would urge my colleagues to join me in supporting this measure.

Mr. MCCONNELL. I would like to expand and clarify with my friend from Indiana a point he made in a colloquy with the senior Senator from Idaho on Tuesday. In that colloquy, the Senator from Idaho was concerned that the legislation before us might expand States' authority to impose restrictions on materials other than municipal waste. In response to that concern, the Senator from Indiana indicated that he did not believe that this legislation would corrupt the requirements of narrow tailoring and compelling State interest that have been developed by the Supreme Court over the years.

My concern is with the corollary of the proposition offered by the Senator from Idaho. Is it the intent of this measure to prevent States and localities from using their authority under other Federal, State, or local laws, to curb the importation of other wastes that are not included in this bill, provided such laws are found to be consistent with the commerce clause and Supreme Court precedent?

Mr. COATS. No, it is certainly not the intent of this bill to limit State and local governments from controlling other problem solid and hazardous wastes. The definition of municipal solid waste in this bill is not all-encompassing, and there are certain types of wastes that are not included here, that are of significant public concern because of their potential toxicity. These include combustion ash from incinerators, sludges from waste water plants and industries, medical wastes, and other commercial, industrial and institutional wastes. This bill supplements whatever authority State and local governments have to regulate the transportation and disposal of those wastes.

Mr. MCCONNELL. Is it fair to say then that this bill does not intend to preclude such State and local measures that are found to be constitutional.

Mr. COATS. That is correct. There is no attempt to preclude State and local initiatives, provided such initiatives are otherwise lawful and would not be considered by a court to be unjustifiably discriminatory under the so-called dormant commerce clause. The purpose of this legislation is to explicitly delegate Congress' authority to regulate municipal solid waste. It is not intended as a limitation on the authority of States to regulate any other type of waste if it is found constitutional by the Supreme Court.

Mr. MCCONNELL. Then, the legislation before us is intended neither as an expansion nor a limitation on the authority of local governments to regulate wastes that are not municipal waste.

Mr. COATS. The Senator from Kentucky is correct.

Mr. MCCONNELL. Would the Senator from Indiana be willing to include language to this effect in the conference report to clarify the purpose of this legislation.

Mr. COATS. Yes.

Mr. MCCONNELL. I thank the Senator.

INTENT OF S. 2877 TOWARD THE RETREADING INDUSTRY

Mr. BUMPERS. Is it the Senator's intent to restrict retreading in any way?

Mr. COATS. No. The list of specific materials that are exempt under item 4(c) is essentially a laundry list of the most commonly recycled materials in municipal waste. The intent of this section is not to have a conclusive list of such materials. The example that Senator BUMPERS raises is an excellent one. I certainly recognize that recyclable tire casings intended for retreading must move across State lines, and nothing in this bill is intended to interfere with retreaders obtaining their necessary raw materials.

Mr. HEFLIN. Mr. President, I am pleased to come to the floor today in support of legislation granting States the power to restrict importation of municipal solid waste generated in other States.

Our country stands in the midst of a solid waste disposal crisis as the number of landfills has dropped dramatically, the siting of new landfills has become extremely difficult and the volume of interstate waste has exploded. Understandably, States currently receiving large amounts of out-of-State waste do not want their waste disposal capacity to be used up by garbage generated outside their borders. These States do not want other States to evade their responsibility to manage trash responsibly. Most of all, these States do not want their own communities to become dumping grounds for the rest of the country.

In States like Alabama which imports only one-fifth of the waste it exports, legislators have desperately enacted a variety of bans and restrictions on waste imports in an effort to protect the health, environment and future of their communities. However, courts are consistently striking down these statutes on the grounds that they violate the commerce clause of the Constitution which forbids States to interfere with interstate commerce without congressional authorization. Just 6 weeks ago, in fact, the Supreme Court struck down related laws enacted by Michigan and Alabama.

Fortunately, the bill before the Senate today responsibly addresses the concerns of States like Alabama which are net importers of waste. At the same time, the bill seeks to address the concerns of States like New Jersey and New York which are net exporters of waste. Those States argue that they are trying to become self-sufficient in waste disposal but that they need more time to avoid economic disruption and environmental damage from improper disposal.

The Coats-Baucus bill would address these concerns by enabling Governors to immediately ban disposal of out-of-State garbage in any landfill or incinerator which did not receive such waste in 1991. For those facilities which did receive out-of-State waste in 1991, the Governor would be permitted to freeze the volume of waste at the 1991 level. The bill would also deprive a Governor of this right to restrict or ban out-of-State waste if all of the municipal waste landfills operating in the State are not in compliance with all design, location and schedules by 1997.

This bill represents a real departure from current law by removing the commerce clause as a barrier to a State's assertion of control over solid waste coming into its borders. It may also prove to be a forerunner of efforts to restrict the interstate transportation of other types of waste. I urge my colleagues to join me in supporting these changes in the law by voting for this legislation.

Mr. LIEBERMAN. Mr. President, on Monday, July 20, 1992, Senator COATS suggested that many states, including Connecticut, could not take actions to deal with their solid waste because they are being "inundated in the flowing of trash from other States that overwhelms our ability to take reasonable steps to decide our own environmental future."

For the purpose of clarifying the record on this point, I want to note that Mr. Richard Barlow, the chief of the bureau of waste management of the Connecticut Department of Environmental Protection spoke to my office, indicating that with respect to the State of Connecticut, this statement is not correct. According to Mr. Barlow, the State is implementing a solid waste management plan based on and addressing the needs of the State of Connecticut; the State's ability to take action to deal with its own solid waste is in no way being hampered by trash from other States, according to Mr. Barlow.

My staff has reviewed the interstate issue dealt with in this bill extensively with the Connecticut DEP during the course of the last 3 years. The Connecticut DEP has indicated that it would like the authority to ensure that

additional waste disposal facilities built in Connecticut, if any, be sized to meet the needs of the citizens of the State. Some local officials also have expressed similar interests, as well as a desire to vest the decisionmaking authority in local governments. This legislation provides Governors, in conjunction with the local governments, such authority, in addition to other authority to restrict the flow of waste.

Finally, Mr. President, I want to note the Connecticut DEP shares my frustration that the Senate's consideration of solid waste issues is focusing only on this interstate transport issue, rather than including critical issues such as recycling and pollution prevention. I hope we can come back to these issues later in the year.

Mr. PRESSLER. I supported the Reid amendment last night because of exactly the reasons you have been hearing today. Governors should have the right to a say in the location of the landfills within their borders. The infrastructure of the State is always affected—roads and bridges, and so forth. Once garbage is moved in, it is there to stay. The potential for pollution always exists.

An out-of-State company, RSW from Colorado, has been trying to bring out-of-State waste into South Dakota. They have not succeeded as yet, but that is only because of eight lawsuits that have been filed against their plans.

Now, the same company is willing to sell a huge landfill site to any Indian tribe that will take jurisdiction of the landfill site for the sum of only $1. That tells me that trash is a big business. I strongly opposed this action. I met with Secretary Lujan regarding the tribal land issue. I talked about this on the floor of the Senate on May 19, 1992.

Two years ago, the Rosebud Sioux tribal officials signed an agreement with a Connecticut company to accept out-of-State trash. I worked hard to help the local people defeat this measure.

There are trash brokers out looking for small, rural communities to take trash. One of my constituents brought a Reader's Digest article to my attention. It is entitled "Will this Man Trash Your Town?" It tells the story of a trash broker that is looking for communities like those that can be found in South Dakota or North Dakota or other States that are perceived to have the land space for the huge amount of garbage generated each day.

There is also the loss of agriculture lands due to siting of large landfills.

Mr. President, I ask unanimous consent that the article to which I previously referred be printed in the RECORD.

[From the Reader's Digest, July 1992]

WILL THIS MAN TRASH YOUR TOWN?

(By Trevor Armbrister)

In Vincentown, N.J., new owners take control of the Big Hill landfill. Throughout its 12-year history, the dump has accepted only ten truckloads of garbage per day. Much more, engineers warn, could worsen the pollution already appearing in the area's ground water.

Ignoring this advice, the new owners dramatically increase the volume of trash over the next five years. Nearby residents complain of litter, noise and a growing stench. Then one side of the landfill collapses, and a river of mud and garbage pours into the kitchens and living rooms of neighborhood homes. Authorities order the dump closed.

Near Ravenna, Ohio, the 127-acre Portage landfill is cited for violating the law. State officials threaten to close it down. Then an East Coast businessman appears with a plan to solve the problems.

The landfill begins accepting trash from out of state. Soon it's collecting nine times the amount the law allows; it's also receiving vast quantities of industrial waste. Hazardous juices called leachate flow into nearby Breakneck Creek at the rate of 42,000 gallons per day. "I used to fish in this creek, even swim in it," says resident Tom Hooks. "Now it's not fit to fall in." After 14 months, the state closes the dump; the man with the plan walks away.

In tiny (pop. 250) Center Point, Ind., a limited partnership buys the town dump. Soon the facility is taking tractor-trailer loads of asbestos, more than all other landfills in Indiana combined.

Then truckloads of garbage pull in from Brooklyn and Queens, N.Y., and elsewhere. Poking through the bales, inspectors find hypodermic needles, blood bags and I.V. tubes—medical waste meant for special disposal at other sites.

These nightmares, and others like them, have a common denominator—an elusive 47-year-old former schoolteacher named David Ehrlich. For nearly two decades, Ehrlich has been involved in almost every phase of the garbage trade. He has been an officer in companies that owned or operated landfills, as he was in New Jersey, and a broker of landfill sales, as he was in Indiana. In recent years, he has been orchestrating the dumping of thousands of tons of urban trash in rural communities in several Midwestern states.

Trash and Run: Operating from different positions in various corporations and partnerships, Ehrlich has found a treasure in trash. But in his wake lies controversy, litigation and environmental anxiety. Three of the dumps to which he has been connected have been designated as federal "Superfund" sites and will cost the taxpayers at least $80 million to clean up.

"Ehrlich is a Pied Piper of polluters," says Maurice Hinchey, chairman of the New York State Assembly's Environmental Conservation Committee. "The garbage haulers he services have wreaked havoc." Adds Alan A. Block, a professor at Pennsylvania State University and co-author of "Poisoning for Profit," a book on the scandal of toxic-waste disposal in America: "Ehrlich is a callous profiteer, adept at moving from state to state with virtually no opposition from law-enforcement and environmental regulators."

Born in Merion, PA., in 1945, the only child of a shirt salesman and a mother who died when he was young, Ehrlich attended local schools, graduated from the Philadelphia College of Textiles and Science, then earned a master's degree from Johns Hopkins University in Baltimore. After two years as a substitute teacher in Philadelphia, he teamed up with Richard Winn, a real-estate developer from Pottstown, Pa. Ehrlich would seek out and recommend undervalued properties. If Winn bought them, he'd give Ehrlich a finder's fee.

In 1976, Ehrlich met a sand and gravel contractor named Anthony Amadei, who needed financing to expand his landfill activities. Winn put up some money, and Ehrlich got a piece of the deal.

Playing the Game: Anyone could see that East Coast landfills were rapidly running out of space, and tighter government regulations would force "Mom and Pop" landfill owners to make costly improvements, sell out or shut down. Enormous profits could be made in collecting urban trash and hauling it to faraway disposal sites.

Ehrlich, Winn and Amadei acquired the rights to operate three landfills in southern New Jersey. When Winn and Amadei dropped out, Ehrlich found new partners and pushed west to Ohio, Indiana and Kentucky.

One common thread in these activities is a greatly increased volume of trash delivered to landfills in rural, sparsely populated communities. Then there are the families whose lives have been disrupted by the dumps:

In 1973, after Bill and Sharon Worrell started building a home in Florence Township, N.J., officials approved the siting of a small landfill across the street. No more than 15 trucks would be going to the dump weekly, the Worells were told.

Soon that number shot up to between 60 and 75 a day. Then in 1976, a firm called Jersey Environmental Management Services (JEMS) began operating the landfill. Ehrlich was an officer and part-owner of JEMS. One day, Sharon counted 225 trucks. By law, landfill employees were supposed to cover the trash every day, but for weeks they applied no cover. The stench was putrid, the noise unending; at night the Worrells could see rodents scampering across the road.

Aware of mounting complaints, Ehrlich met with township residents. "He told us he was doing nothing to damage the environment," Sharon says, "He said he was doing what he came here to do, and there was nothing we could do about it."

Then a fierce fire broke out at the dump, terrifying the neighbors. Shortly after, state officials rejected JEMS's application to expand and cited it for repeated violations. Ehrlich and his partners left town, and eventually the landfill was closed.

"To think this could go on year after year across the country," Sharon Worrell says. "Who can stop this man?"

Early in 1983, Diane and Walter Zarzycki of Chester County, Pennsylvania, purchased a home atop a steep hill in rural Newlin Township. Soon after moving in, the Zarzyckis discovered that the 22-acre Strasburg landfill was just over the hill behind their property. Through a limited partnership, Ehrlich was part-owner of the land that was leased to the landfill operator. The dump had already been cited for violations, and Ehrlich and his associates were trying to expand it to four times its original size.

In April 1983, after discovering significant levels of toxic chemicals at the site, the Pennsylvania Department of Environmental Resources (DER) fined its operator $53,025 and directed it to make the necessary repairs. When the operator failed to act, the agency ordered the dump closed.

For their household needs, the Zarcyckis used a deep well. When DER hydrogeologists tested the water, they found 20-odd hazard-

ous chemicals. The Zarzyckis shelled out almost $6000 to drill a second well, but its water was contaminated too. Today, both wells contain high levels of benzene.

Last December, the Environmental Protection Agency warned the Zarzyckis and 200 other families living in the area about hazardous-waste contamination from the landfill: "Residents could potentially experience increased risks of cancer."

One evening in September 1988, businessman John Moore of Center Point, Ind., said to his wife, "Terri, I have really bad news." They had known their lakefront home lay just a third of a mile from the local dump, but they had been assured it would never expand. Now, John had spotted drilling pipes on the property across the street from the dump—a clear sign that change was imminent.

The invasion of out-of-state refuse began in July 1989. Prairie Resources, a company listing Ehrlich as an officer, arranged for the dumping of millions of pounds of trash at the site. Terri researched Indiana's environmental laws and convinced her neighbors they could fight back. She and her Dump Patrol then launched their counterattack.

Six mornings a week, they documented with copious notes and photographs every truck entering the dump. Some were far heavier than the 80,000 pounds allowed by law. Terri gave her reports to the Indiana Department of Environmental Management and the media. Pressure to stop the trash invasion intensified. In July 1990, with just three weeks remaining on its permit, the limited partnership—which included Brazil Holdings, Inc. (president: David Ehrlich)—sold the landfill.

In one year at Center Point, more than 100,000 tons of trash had been dumped. But the operator had never installed a leachate collection system, and Terri Moore is convinced it's only a matter of time before contaminants enter the water supply. "They used us as a garbage can," she says. "I want to find a way to hold Ehrlich and the others responsible for what they've done."

Vanishing Act: Ehrlich, however, is hard to track down. John A. MacDonald, a former deputy attorney general of New Jersey, conceded, "I have never laid eyes on him. It is very hard to find people who have." In Indiana, the senior environmental investigator said, "He's like a piece of smoke."

After months of trying to locate him, I got a tip to check out a New York City address. Another source gave me the unlisted phone number. For days I called and left messages. Finally, my phone rang.

"I'm not trying to be mysterious," Ehrlich said, "but there are public-relations problems being David Ehrlich. My hands are clean, but I don't want the aggravation. These stories of loot and scoot are just not true."

Did he feel sorry that tens of millions of dollars would be needed to clean up the dumps? Absolutely not, he said, adding that he and partner Winn had spent $1.7 million implementing a court order to remove leachate from the Strasburg site. That order had been unjust, he continued, because "we never ran the landfill. We were officers of a company that owned an interest in the land." Pennsylvania's Environmental Hearing Board agreed, ruling in 1989 that although the company was liable for cleanup costs, Ehrlich and Winn were not. Concluded Ehrlich: "I think taxpayers owe us money."

Taxpayers Billed: Cleaning up the Strasburg facility, a SuperFund site, will cost at least $10 million. The other SuperFund sites in New Jersey will require a total of at least $70 million. Big Hill is not on the SuperFund list, so the state's taxpayers are shouldering some $20 million there. "We're going to have to pay out tens of millions and then sue to get it back," says John MacDonald.

Ehrlich may be spending a lot of time in court. New Jersey's Department of Environmental Protection has filed an action against hundreds, including Ehrlich. The firm that insured one of the three landfills in that state has sued him—as well as former partners Amadei and Winn—in U.S. District Court. The defendants have denied any wrongdoing. For what happened at Ohio's Portage landfill, Ehrlich and others are being sued by the state.

Despite these troubles, Ehrlich is hardly destitute. By his own admission, he receives salaries from four different corporations—two of which broker trash. Those brokers earn a commission of about $2.50 for every ton of garbage they move. The dollars add up. In 1991, for example, the Ehrlich-brokered Spring Valley landfill in Wabash, Ind., agreed to accept some 1000 tons of trash every day. The broker's cut of that: $2500 per day—from a single dump.

Ehrlich spends most of his time today in Florida seeking ways to expand to other states. "I would head anywhere to make a living," he said.

That may be difficult for him now. In 1978 the U.S. Supreme Court ruled that the commerce clause of the Constitution precluded states from barring garbage from other states. But the Court has recently heard two new cases that could overturn that finding. A decision is expected soon.

Ehrlich is watching the Supreme Court carefully. "A negative decision would mean I would not be able to broker interstate shipments of waste," he told me.

In a weed-strewn lot in Chester County, Pennsylvania, stands a gleaming white sign: "Strasburg Landfill. U.S. EPA SuperFund site, Danger, Hazardous Materials. No Trespassing."

Jack Hines, West Bradford, Pa., town manager, points to the marker and offers advice to people who might be tempted by the Pied Piper's promises: "Stop the trash trucks before they start. If you don't, they're going to ruin your community."

MODIFICATION TO THE BINGAMAN AMENDMENT

Mr. LEVIN. Mr. President, I am pleased that the managers of the bill and Senator BINGAMAN, the author of the amendment, are willing to accept the modification I have proposed. It will add the United States-Canada border region to the area in which the EPA must perform a study of numerous important solid waste management issues. Additionally, the modification requires the EPA to propose a method by which border traffic in solid waste between the United States and Canada, and the United States and Mexico, can be tracked by source and destination.

The State of Michigan, and I am sure many other States along the United States-Canadian border, have experienced a great back and forth flow of garbage which no one is tracking. For long-term planning and safety and environmental reasons, Michigan requires the data that will be produced by this amendment.

Mr. President, the bill that we are discussing is very important to the State of Michigan's efforts to protect its natural resources and environment. This bill will provide the States with the authority to ban or restrict the importation of solid waste under certain circumstances.

Right now, in large part due to the Supreme Court's recent decision in the Fort Gratiot Landfill versus Michigan Department of Natural Resources case, States, counties and local governments are at the mercy of landfill operators who may choose to contract for the importation of large quantities of out-of-State municipal wastes. This bill allows the local people responsible for long-term management of local resources to take some measure of control over the solid waste coming into their area. In Michigan's case, they are required by State law to work together at all levels of government to manage their waste responsibly so that there will be sufficient capacity for locally generated waste.

Mr. President, S. 2877 is a step in the right direction of self-sufficiency, pushing States that have been slow to manage waste generated within their boundaries to enact more responsible laws and programs in those States. S. 2877 is necessary, given the Supreme Court's decision, to allow States to continue to operate with some ability to prevent out-of-State waste from displacing locally generated waste and prematurely filling sited landfills or forcing the siting of new landfills. S. 2877 is a good basis from which I urge the conferees to develop a better bill, one that would encourage States to adopt model solid waste management programs like Michigan's.

As the National Governors Association, the National Association of Counties, and the National Association of Towns and Townships have indicated to me, a better bill can be obtained. I ask unanimous consent that those organizations' letters to me be printed in the RECORD following my remarks.

As S. 2877 is presently written, prohibition of waste imports may only occur when several levels of government are in complete agreement—the local government, the solid waste planning unit, and the Governor. Achieving agreement to obtain this prohibition should not be a serious problem in Michigan, since State law already requires the development of management plans requiring cooperation by the local government, the local planning unit—the county in Michigan's case—and the Governor.

Mr. President, this bill is not perfect. The parliamentary situation is such that amendments to substantially improve the bill cannot be passed. But this bill is better than no bill for Michigan. My preferred option would have been to simply authorize Michigan's program in this bill, thereby providing explicit congressional approval of that program, which the Supreme

Court found to be partially unconstitutional. I cosponsored an amendment that would have had the effect of authorizing Michigan's program. However, as the vote in the Senate last night on that amendment shows, the majority of Senators felt that the amendment did not help their States enough.

I encourage my colleagues to consider making changes to this bill in conference that will incorporate the need for long-term capacity planning, increase the options for States to prevent the importation of out-of-State waste, and provide greater flexibility and authority to States and local governments to adopt management schemes that best suit their circumstances. This bill can be improved in these areas and I will be working with the conferees to do that.

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

NATIONAL ASSOCIATION OF TOWNS AND TOWNSHIPS,
Washington, DC, July 21, 1992.

Hon. CARL LEVIN,
U.S. Senate, Washington, DC.

DEAR SENATOR LEVIN: On behalf of the 13,000 local governments represented by the National Association of Towns and Townships (NATaT), I am writing to express concern over a provision in S. 2877, the Interstate Transportation of Municipal Waste Act.

NATaT and its members have a concern about the provision in Section 4011 that requires the written request of both an affected local government and an affected local solid waste planning unit in order for the Governor to prohibit the disposal of out-of-state municipal waste. NATaT strongly believes that this language should be changed to read that a request by the "affected local government or, if a local solid waste planning unit exists under State law, by an affected local solid waste planning unit" can be made to the Governor.

Local governments are solely responsible for the disposal and management of solid waste. If a local government does not want to accept out-of-state waste and the planning unit does want to accept it, the local government should be able to request the Governor to halt the import of the waste. The local government is responsible for the roads that surround the landfill, the safety of the water near the landfill, and other responsibilities that the solid waste planning unit does not have. Thus, the local government should not have its hands tied by the wishes of the planning unit.

On behalf of NATaT's members, I urge you to support language that requires only the request of either the affected local government or the solid waste planning unit to allow the Governor to prohibit the disposal of out-of-state municipal waste.

Thank you for your attention to this important matter.

Sincerely,

JEFFREY H. SCHIFF,
Executive Director.

Washington, DC, July 17, 1992.

Hon. CARL LEVIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEVIN: We are writing to you about S. 2877, the interstate waste bill introduced by Senators Max Baucus and Dan Coats. This bill addresses interstate transportation of municipal solid waste and its disposal in unwilling states and communities, one of the most pressing problems facing state environmental managers.

The nation's Governors have agreed that state self-sufficiency in the management of municipal solid waste is the best long-term solution to this problem. We also agree that differential fees and limited bans to protect and ensure optimal use of state capacity offer the best way to encourage states to take responsibility for their own waste, while avoiding short-term disruption of interstate waste markets. In our view, S. 2877 is an important step forward in empowering states and communities to deal with interstate waste, but stops short of giving states the tools needed to respond adequately to this problem.

We suggest the following improvements:

Provide Governors Direct Authority to Protect Wider State Interests. We recognize the important and legitimate interests of local governments in the issue of waste importation. This bill, however, must also give Governors direct authority to represent the numerous state interests and responsibilities that lie beyond those of a single local government.

States are responsible for coordinating state-wide solid waste management plans including long-range disposal capacity planning and source reduction and recycling efforts. We also have a stake in the effect on transportation patterns, the concerns of neighboring communities, the total "loading" of disposal facilities on the state's economic, political, and ecological environment, potential near and long-term environmental liabilities of a facility, and the state's overall economic development philosophy and image.

The bill, as written, provides no direct authority, even to the four largest importing states, to protect state interests at facilities that did not receive waste in 1991 and at future facilities. States would not be able to protect in-state capacity needs or limit the development of capacity that far extends states needs and is used primarily for waste imports.

Because there may be an economic incentive for a community to accept waste from outside the state rather than waste from a neighboring community, more communities may be hurt than helped by a system that does not encourage the coordination of capacity needs. These conflicts can be averted by allowing states to ban waste imports that would conflict with in-state capacity needs. In addition, states should be permitted to set limits on waste imports so that facilities handle primarily in-state waste. These limits could be expressed as a ratio of in-state to out-of-state waste handled at each facility, unless a waiver is granted.

Authorize states to impose a fee on waste imports that will compensate the importing state for the costs of state oversight of facilities as well as for long term liability costs. Unfairly, citizens of importing states end up subsidizing the costs of state programs to carry out these responsibilities for waste generated outside the state.

Authorize all states to freeze waste imports at 1991 or 1992 levels at facilities that received waste in 1991, upon the Governor's initiative. As written, the bill allows only four states currently importing more than one million tons per year of out-of-state waste to exercise such authority.

Delete the loss of authority section. This provision requires that all operating landfill cells in the state meet the 1993 federal design and location standards by 1997 or be on a closure schedule for the year 2000. If a facility fails to meet this test, the Governor of the state in which the facility is located loses all interstate waste authorities. This provision is illogical from an environmental standpoint because it requires that if one landfill cell in the state is not meeting design and location standards then the floodgates must open to out-of-state waste. This inappropriately places the burden on the importing rather than exporting states.

Unlike the bill, the federal landfill rule makes no reference to operating landfill cells. It sets standards for the landfill as a whole based on whether it is an existing or new facility. If the effect of this ambiguity is that the more stringent standards for new facilities will be applied to all operating landfill cells, even if they are part of an existing facility (one that was receiving waste in 1993), a Governor would be forced to decide between shutting down an environmentally-sound facility that a community may depend upon or losing all interstate waste authority. The bill also does not recognize that states will be permitted flexibility under the rule for design standards if the state has an approved permit program.

Allow either the affected local government or the local waste management planning unit, if one exists, to request a freeze or ban. The bill requires that both entities initiate the request.

State governments are implementing a wide variety of progressive solid waste programs. Interstate waste transport, along with market development for recycled materials, are areas where we need assistance from Congress. While we have raised serious reservations about this bill, S. 2877, with the above changes, would provide a predictable means of reducing waste flows, encourage waste reduction and recycling efforts in both importing and exporting states, and contribute to better capacity planning efforts.

Sincerely,

Gov. GEORGE A. SINNER,
Chairman,
Gov. NORMAN H. BANGERTER,
Vice Chairman, Committee on Energy and Environment.

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, July 20, 1992.

DEAR SENATOR: As the Senate begins debate on interstate transport of solid waste, I am writing to reiterate the position of the National Association of Counties (NACo) that local governments or solid waste planning units, in those states where they exist, should have authority to decide whether a landfill or incinerator can accept solid waste from another state. NACo is pleased that this principle is recognized in S. 2877.

Counties and solid waste planning units are best positioned to assess the health, social, economic and physical impact of waste disposal facilities on the immediate community. In incorporating these facilities into economic development strategies, some communities have successfully negotiated terms, conditions and fees under which they are operated to provide environmental safeguards. NACo recognizes a state role to ensure that facilities meet applicable state and federal environmental laws.

A closely related problem that NACo hopes the Senate will consider during its deliberation on S. 2877 is the ability of state and local governments to designate waste to par-

ticular facilities and limit the export of locally generated municipal waste to another site. Counties currently face problems in financing state of the art landfill, recycling and waste-to-energy projects unless they can assure lenders that sufficient waste will be available to allow a facility to function efficiently and meet its financing costs. Control over the disposition of locally generated waste is important to the success of municipal waste management.

NACo urges you to consider both aspects of the import/export equation so that counties can undertake effective planning and implement comprehensive municipal solid waste plans. Attached are NACo resolutions on these critical issues. I thank you for your attention.

Sincerely,

LARRY E. NAAKE,
Executive Director.

Mr. GLENN. Mr. President, I rise today in strong support of passage of S. 2877, the Interstate Transportation of Municipal Waste Act of 1992. While this bill does not provide everything I would like, it is a major step in the right direction and a substantial improvement in the current situation.

The accumulation of solid waste in municipal landfills is one of the most urgent and fundamental environmental problems facing Federal, State, and local officials today. According to the Ohio Environmental Protection Agency [OEPA], all the landfills in Ohio could be full by the year 2000.

The legislation before us gives States the authority to prohibit and limit out-of-State waste at landfills and incinerators. Under an amendment which I cosponsored, the bill also gives additional powers to large importing States. It permits Governors to freeze imported municipal waste imports and to decrease levels of waste accepted in the future if requested by the local government. This authority is particularly important to large importing States like Ohio whose volume of imported waste declined from a peak of 3.7 million tons in 1989 to 1.7 million tons in 1991. This decline in imports is in all likelihood a temporary aberration as new Federal RCRA subtitle D regulations on landfills take effect in all States, more waste may move toward Ohio's already existing new best available technology [BAT] facilities.

Mr. President, it is important to note that the authority to reject out-of-State waste is linked to a State's demonstration of planning and siting of environmentally sound capacity within its own borders. Banning imported waste is not a substitute for long term and comprehensive solid waste management. That's why we need an overall evaluation of where we and our environment stand now and where we're headed on this issue. For this reason, the General Accounting Office [GAO] at my request, is researching questions that need to be answered in order to create long-term solutions to the increasing waste problem. I have asked GAO to focus on several critical issues including: options for dealing with waste disposal, management and transportation, the role of the U.S. Environmental Protection Agency, and ways to coordinate States' efforts to dispose of solid waste.

As old landfills are closed or filled up, Ohio has reached the point where of 88 counties, 28 have no landfills and 35 have 5 years or less capacity. We cannot implement our environmental objectives and handle thousands of tons of imported trash at the same time. Requiring my State and others to manage both their own solid waste problems as well as other States' problems is neither fair nor possible.

We owe it to future generations not to simply act in the short term, or to just sweep all this garbage under the rug. Our environment is too fragile and the impact on our citizens is too severe for us to ignore this problem any longer.

Mr. President, we must act decisively and we must act now to avert a national crisis in solid waste disposal. I urge my colleagues to join me in supporting S. 2788.

Mr. BRADLEY. Mr. President, it has been a long 4 days. We have spent a lot of time on the Senate floor and a lot of time in intense negotiations.

Mr. President, I am informed that the bill before us, as amended, is acceptable to my State of New Jersey. This bill will not be punitive. Garbage trucks will not be backed up on the interstates. Trash will not fill up in our streets while we wait for new facilities to be built. There will be no sticker shock. My constituents won't be forced to pay untold millions in garbage ransom to politicians in a hostile State. New Jersey has asked for time to provide for a transition and this bill will give us the time we need.

Having said that, however, I must return to the central focus and purpose of this bill. This legislation is not intended to improve the environment. It's not likely to create jobs. It is now and has always been driven by local politics and not public policy. As public policy, this legislation is sadly misguided. It pits State against State, Governor against Governor. It makes many decisions increasingly political that should be based on environmental and economic criteria. This bill makes it likely that we'll soon be facing other attempts to manipulate crassly and politically issues that are best considered in light of their national implications.

Today, we start with a focus on municipal waste—household garbage—a less than pernicious commodity. What is the rationale for stopping with garbage? Why not include sewage sludge or hazardous waste, as some would demand? Why not address nuclear waste, as the Senators from Nevada would surely prefer? The problem with this bill is that there is no good response to these questions. Now, we deal piecemeal with an issue that must be considered comprehensively. If any such interstate waste restrictions ever make sense—and I am skeptical that such a case can be made—it has to be as one element of a national solid waste policy. In isolation, this legislation represents little more than a political assault on our federation of States, dividing and diminishing our collective strength.

Mr. COATS. Mr. President, I wonder if I could just take one moment to acknowledge the very real help of the chairman and ranking members of the committee, the floor managers of this bill. Senator BAUCUS and I have been working on this matter for a long time, and it has been a long, tough, hard road. He has been someone who has kept his word and negotiated in good faith. I appreciate his patience and his persistence.

I also want to thank my friends from North and South Dakota for their willingness to work out an admittedly serious and difficult problem, and, once again, reiterate my sincere sympathy with their concerns and trust that this will go a long way to resolving them.

I also thank our staffs, particularly Sharon Soderstrom and Ziad Ojakli, on my staff, and others who have worked so extraordinarily hard and for so long on this.

Senator BOREN and Senator MCCONNELL have asked to be original cosponsors, and I ask unanimous consent to do that.

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

Mr. COATS. Mr. President, I yield the floor.

Mr. CHAFEE. Mr. President, first, I would like to thank the manager of this bill for all he has done in connection with it. I know he made a commitment to Senator COATS the end of last year, and he followed through on that commitment and has driven our actions in the Environment Committee in trying to report something out because the distinguished Senator from Montana felt he made this commitment and was going to pursue it and fulfill that commitment. I think that is very honorable, and I know he has given a lot of time and careful thought and patience to this legislation.

I also would like to thank the majority leader, who has permitted us to work on this for 3½ days now, which is a long time for a very small piece of legislation.

Next, I would like to commend the staff. Senator COATS had already mentioned Sharon Soderstrom and Ziad Ojakli, on his staff, and I know that Senator BAUCUS will mention those on his staff. I would like to join in tribute to Cliff Rothenstein and Tom Sliter and Mike Shields; on our staff, of course, Steve Shimberg and Claudia McMurray, Rich Innes, Cheryl DeSiena; and with Senator METZEN-

BAUM, Ellen Bloom; Morrie Ruffin with Senator SPECTER; Ann Loomis with Senator WARNER; and Greg Schnacke with Senator DOLE. All of these folks have made a tremendous contribution.

I must say we soon learn that the staff knows the details and knows how to reach accommodation. Thank goodness they were all here, and it is because of their work these various accommodations were made possible.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I heartily join the Senator from Rhode Island in his thanks to the staff. We all know that, as often said—it is essentially true—the Senate sometimes is run by staff; maybe not all the time but certainly many times they are the people who enable us to do what we do.

In addition to the minority staff, on our side, Cliff Rothenstein and Tom Sliter, Jim McCarthy, and those who are staff members of the principal Senators involved in this issue, namely, Rick Erdheim with Senator LAUTENBERG and Roy Kienetz with Senator MOYNIHAN on the majority side, in addition to Senator CONRAD and Senator DASCHLE with respect to this amendment. I would also like to thank Kate Kimball, Rich Innes, Steve Shimberg of the Environment and Public Works Committee.

I would like to also pay particular attention to and thank Mr. Jim McCarthy. Jim McCarthy, on the floor seated second to my left, is delegated to our staff from the CRS. Jim McCarthy is the one who thought up the solution to this amendment. I must say Jim McCarthy is not a lawyer. He sat back and watched all this, working diligently, and it was he who came up with this suggested solution. It is he who found a way to solve this puzzle and to untie the Gordian knot. Cliff Rothenstein, Tom Sliter, and Jim McCarthy have been a super team on our side, and I particularly thank them.

Mr. CONRAD. Mr. President, might I add my own words of commendation to Mr. McCarthy because he came up with a very creative solution to a difficult problem. It has divided us for many hours, and he really does deserve all of our commendation and thanks. I want to add my voice to that as well and thank my own staff person, Liz Magill, who was here late last night and all day today, and I very much appreciate the efforts of all staff who contributed, as well as the staff of Senator CHAFEE, who also pitched in creative suggestions.

Mr. COATS. Mr. President, I wonder if the Senator will yield for 30 seconds. I do not want to turn this into an Academy Awards effort here this evening.

Mr. BAUCUS. Why not. Why not.

Mr. COATS. I was remiss in not mentioning the extraordinary patience of Senator MITCHELL, who was reluctant to even schedule this legislation in the first place, given the busy Senate Calendar, with few remaining legislative days in this session. Senator MITCHELL not only scheduled the legislation but extended it on two occasions—extraordinarily helpful to this Senator and to others.

I would just relate the very brief story relative to this final solution being devised by someone who is not an attorney. When I first left law school and went to work for a business that employed attorneys, on hiring me, the president of the company called me in and said, "You know, we operated this business for 35 years without an attorney. You are the second one hired and they tell us we need a third. We never knew we had a problem until we hired an attorney."

I do not know what relevance that might have for the future of this body, but it may be we need more Jim McCarthy's around to help solve our problems.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Is there further debate?

Mr. BAUCUS. Mr. President, I ask for the yeas and nays on final passage of the bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the vote on final passage of S. 2877 occur immediately following the cloture vote scheduled to occur at 7:20 p.m., notwithstanding the outcome of that cloture vote, provided that if the cloture vote is vitiated, then the vote on final passage of S. 2877 occur at 7:20.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BOND. Mr. President, I rise this evening to congratulate the managers of S. 2877, Senator BAUCUS and Senator CHAFEE, and all those who worked so hard on this legislation.

I especially commend and congratulate my colleague from Indiana, Senator COATS, who has worked tirelessly to see that States are given the necessary tools to deal with the problem of out-of-State waste.

The "Trash Train Terror" or the "P.U. Choo Choo" could be the title of a grade B movie or a horror novel. Unfortunately, Mr. President, it was a horror for my State of Missouri. I talked to the people. I talked to the folks who picketed the landfills to stop the trash from coming in. I talked to the local officials who were terrified that their landfills would be overwhelmed by trash that had not been planned for that community.

It happened once, it could happen again. I am certain if we do not do something it will happen again, and I think that is why we need this bill and need it so urgently.

The bill managers, joined by Senator COATS, Senator SPECTER, and others, yesterday agreed on the compromise. Many provisions in this bill were compromised. I think it is reasonable and balanced. Clearly it is not everything that any of us really wanted, but that, as they say, is a sign of good compromise. The key point is that we do have a compromise, one which everybody can live with. They can be sullen but not rebellious, and I hope we can see this legislation passed by both Houses and signed into law.

This action tonight moves us one step closer to giving States the authority that they so badly need to control their trash destiny.

Mr. President, this is a bill that we need very badly. It is not the most pleasant subject we have ever dealt with on the floor of the Senate, but at least we have been able to deal with it at a distance. Those people in the communities threatened by the invasion of unwanted garbage will now have some means of protecting their future and planning for their communities.

I thank the Chair.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

IMPROVED ENERGY EFFICIENCY

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to the previous order there will now be 30 minutes of debate relative to the motion to invoke cloture on the motion to proceed to H.R. 776.

The Senator from Texas [Mr. BENTSEN], the Senator from Louisiana [Mr. JOHNSTON], and the Senator from Wyoming [Mr. WALLOP] each control 10 minutes of the debate time.

Mr. BENTSEN. Mr. President, tonight we can pave the way for the passage of a very comprehensive energy

bill to help production, to help conservation, and to curtail dependence on foreign oil.

In accordance with the unanimous-consent agreement reached prior to the Fourth of July recess, we are scheduled to vote on cloture today on the motion to proceed to H.R. 776, the House-passed energy bill.

As my colleagues are well aware, the Senate has already considered and passed energy legislation once this year. In February, the Senate, after debating at length, passed by an overwhelming 94 to 4 vote S. 2166, the National Energy Strategy Act of 1992. The House, however, did not act on that particular bill. Instead, the House acted on a new bill—H.R. 776. And they included in it an energy tax title, in addition to the nontax titles.

Of course, since the Senate had already acted once on energy legislation, it would have been easier to have gone straight to the conference on the House bill by unanimous consent. That would have been the most direct approach. However, some Senators raised objections to that approach, as was their right. Thus, H.R. 776 was referred to the Finance Committee for review of its tax provisions, and the Finance Committee promptly reported out a substitute for the tax title. When the Senate turns to H.R. 776, the energy legislation we will consider will combine this new tax title with the nontax provisions from S. 2166 passed by the Senate in February.

I urge my colleagues to vote for cloture so that we can move expeditiously to consider this bill—to debate and vote on the merits of the legislation. It is a major energy conservation measure. It is important to the future well-being of our country. We have a lot of work to be done in conference to iron out the differences between the House and Senate bills, and we have a short time to get it done.

Undue delay in the Senate—of a bill that has, in large part, already been passed by the Senate—could well be fatal to passage of energy legislation in this Congress. But this energy bill is simply too important to delay indefinitely on procedural grounds. Most of us know that. Ninety-four of us have already voted for S. 2166. And the Finance Committee has approved the new tax title.

These are important provisions that are critical to the development of a meaningful national energy policy—something I think this entire country has been without for far too long. For many, it took a war in the Persian Gulf to drive that point home. In fact, the U.S. energy policy as it exists today is best described by just two words: Desert Storm.

We simply cannot continue to go down the road of an increasing—and I believe a very dangerous—dependence on foreign oil. We now import almost half of the oil we consume—some 46 percent on a gross basis. That represents an increase by almost one-half over our import dependence in 1985.

This trend of increasing imports is expected to continue. I do not see it turning around, even under the most optimistic production estimates, assuming we can maintain current production levels, estimates place U.S. oil dependence in excess of 50 percent by the middle of this decade. But it is far from clear that domestic production is going to hold. For example, in the last 6 years, domestic oil production has plunged nearly 15 percent, resulting in production that is at its lowest level in over 30 years. A quick look at the active drilling rig count—which recently dropped to the lowest level since World War II—does not bode well for future domestic production either.

We talk about the loss of jobs in the automobile industry. Perhaps we have had far more loss of jobs in the oil industry. People do not seem to share the concern on that. Yet, if you look at the deficit in trade and merchandise trade, almost 75 percent of that comes from oil.

If you look beyond the current decade, the Congressional Office of Technology Assessment suggests that oil imports could reach almost 70 percent by the year 2010. Let me give you an example of what that means. That means 36 supertankers every day. Thirty-six supertankers every day to meet that kind of a need. That is what they will have to deliver.

That kind of dependence has obvious energy and national security consequences, and so far this is just a sampling of the possible consequences. By our dependence on foreign oil, we have had a very adverse effect on our economy every year. Look at our balance of payments deficit. In 1991, oil imports accounted for about $50 billion, or as I stated earlier, some 75 percent of our $66 billion merchandise trade deficit. As import levels increase, we can expect our oil import trade deficit to also mount.

We must act this year to address this kind of a situation, and we should not imperil energy legislation by further procedural delay.

All of you are familiar with the nontax provisions that the Senate passed in February, and I will leave it to the distinguished chairman of the Energy Committee to get into that detail and make those very valid points. Let me speak to how the Finance Committee's tax provisions address the growing dependence on foreign oil, and also at the same time doing things to benefit our environment. I think fending off 36 supertankers filled with oil every day is one of those things that reflect concern for the environment.

These provisions follow, to a significant extent, the so-called green tax package that was adopted by the House. There are three main components to the Finance Committee package.

First, the Finance Committee amendment encourages energy conservation to reduce our Nation's energy consumption. For example, it encourages conservation in the transportation sector—which accounts for almost two-thirds of our oil consumption in this country. It does it by tilting the tax treatment of employer-provided transportation benefits more toward mass transit and less toward parking provided by employers for their employees. It also promotes conservation in the residential, commercial, and industrial sectors by excluding utility rebates, and they do that to encourage the use of conservation machinery and equipment. It excludes those measures from the taxpayer's income. So he has a major bonus if he utilizes it.

Second, the Finance Committee amendment stimulates the development of alternative and renewable energy sources that will lessen our reliance on foreign oil and also provide significant environmental benefits. For example, it provides tax credits for solar, geothermal, ocean thermal, wind, and renewable biomass energy sources. It also provides tax incentives to further the use of domestically produced, clean-burning fuels in both cars and trucks used on our Nation's highways—clean-burning fuels, such as natural gas, electricity and, as the Presiding Officer is well concerned and interested in—methanol and ethanol.

Third, the Finance Committee amendment provides incentives for the domestic production of oil and gas by providing limited relief from the minimum tax, to reduce our reliance on foreign oil.

Thus, the Finance Committee amendment offers a balanced approach. Its tax components complement the energy bill that the Senate has passed. And it has the backing of major environmental groups, who recognize the importance that energy conservation and alternative energy sources, in particular, will have on our energy future. These groups, incidentally, also back the excise tax increases on ozone-depleting chemicals that are used to pay the energy tax provisions in the committee amendment.

I urge my colleagues to vote to invoke cloture on the motion to proceed so we can ensure that these provisions are enacted this year.

We should at least have the opportunity to debate the substance of the provisions, and we should do nothing that jeopardizes the enactment of this very important energy policy legislation. The Senate has spoken very strongly on the nontax provisions, and the Finance Committee strongly supports the provisions it reported out.

I urge my colleagues to support this piece of legislation and proceed on it.

The PRESIDING OFFICER. The time has expired.

Mr. BENTSEN. I yield to my distinguished friend, the chairman of the Energy Committee, who has done a massive, excellent effort in putting this legislation together.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I thank my colleague from Texas.

I yield myself 5 minutes.

Mr. President, when we set out to craft an energy bill some time ago, we did it in the afterglow of Desert Storm when we had sent 500,000 American troops on account of energy to the Middle East. We did it at a time when energy production was going down fast, when energy consumption was going up fast, when the country was taking no steps, no steps to reverse that trend.

So we set about to put together a comprehensive, balanced, effective energy bill that would reverse the trend. And some thousand pages and over a year later, we have it, and it has passed this Senate by 94 to 4. A similar bill, not exactly the same, has passed the House by almost a 10 to 1 margin, and the question tonight is whether the Senate is going to allow us to consider that bill.

Mr. President, we are being held hostage to those who want to pass other legislation or who oppose other legislation and will not let us get to the bill.

This is a highly controversial bill that has many sections that are going to take a long time to work out. We have transmission access which is part of the Public Utility Holding Company Act reform, is one of the most far-reaching, one of the most controversial, one of the most difficult areas of the law that anybody ever considers. I think we can work that section out, but it is going to take a lot of time.

We cannot do it overnight. We have got everything in this bill—from alternative fuels that mandates 4 million vehicles by the year 2000, to use alternative fuels. That is in the Senate bill. The House has no such mandate. That is a central question that is going to take a lot of time to work out.

Mr. President, if we do not get to this energy bill tonight, if we do not invoke cloture, I fear for the future of this bill. I do not think we are going to have time. I mean you just cannot get over there and work it out in a few hours. This is over 1,000 pages long.

There are a lot of people who would like to see this bill defeated—big oil does not much like this bill; some of the bigger utilities do not particularly like this bill. They like the natural monopoly they have but across the broad range of American energy users and consumers, and environmentalists and most producers like this bill very, very much. And to use the words of a letter just received today, "it would be tragic if this well-crafted legislation, representing strong bipartisan and multi-interest efforts, were allowed to flounder after having passed both Houses with an overwhelming majority of votes."

Mr. President, this letter, by the way, urges prompt Senate action on this Comprehensive Natural Energy Policy Act, and points out that "The result, if enacted, will be vigorous competition in wholesale power generation and more efficient use of wholesale electricity transmission grids, benefiting electricity consumers, the environment, and America's international competitiveness."

That letter is signed by the Sierra Club, the American Wind Energy Association, Citizen Action, Electricity Consumers Resource Council, Friends of the Earth, Integrated Waste Services Association, National Wildlife Federation, American Public Power Association, Consumer Federation of America, Environmental Action, Independent Energy Producers, National Rural Electric Cooperatives Association, Texas Industrial Energy Consumers, and the Union of Concerned Scientists.

Mr. President, I ask unanimous consent that the letter referred to, signed by the environmental groups, be printed in the RECORD.

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

JULY 23, 1992.

Re Conference on S. 2166 and H.R. 776—National Energy Strategy.

Hon. GEORGE J. MITCHELL,
Majority Leader, U.S. Senate, Washington, DC.

DEAR SENATOR MITCHELL: We, the undersigned, are a broad and diverse coalition representing industrial and residential electricity consumers, competitive power generators, electric utilities, and environmental advocates. We write to urge prompt Senate action on the Comprehensive National Energy Policy Act, recently sent to the Senate by the House and amended by the Senate Finance Committee.

Each signatory has worked closely with Members of the Senate and House to ensure that the electricity title—amending the Public Utility Holding Company Act of 1935 ("PUHCA") and expanding access to electricity transmission systems—contains strong incentives to bring competition and increased efficiency into the country's wholesale electric power markets. While the House and Senate bills differ in how they would achieve such a wholesale power market, we are confident that the Senate provisions can be reconciled with the greater competitive incentives and consumer protections contained in the House proposal.

As you know, Congress has been debating PUHCA reform for over ten years. In the past two years, our unique coalition has found common ground by integrating PUHCA reform with expanded access to electricity transmission systems. The result, if enacted, will be vigorous competition in wholesale power generation and more efficient use of wholesale electricity transmission grids, benefiting electricity consumers, the environment, and America's international competitiveness.

We understand that difficult issues have delayed Senate action. However, it would be tragic if this well crafted legislation, representing strong bipartisan and multi-interest efforts, were allowed to founder after having passed both Houses with an overwhelming majority of votes.

In closing, we thank you for your leadership and urge you to bring this important legislation to the Senate floor and to conference with the House as soon as possible.

American Wind Energy Association, Citizen Action, Electricity Consumers Resource Council, Friends of the Earth, Integrated Waste Services Association, National Wildlife Federation, Sierra Club, American Public Power Association, Consumer Federation of America, Environmental Action, Independent Energy Producers, National Rural Electric Cooperatives Association, Texas Industrial Energy Consumers, Union of Concerned Scientists.

Mr. JOHNSTON. Mr. President, I read this because this is sort of the environmental side of this equation. I could have an even longer list of those who consume, such as the National Association of Manufacturers, such as the Chamber of Commerce, those who produce, from big utilities to those who produce natural gas, down the line.

This is the most balanced bill we have ever had.

If we do not get cloture tonight, then just what do we do? We move on to other legislation. We have a bill in here that the majority leader has promised to consider on dealing with abortion. How long is that going to take? Before we know, we will be out for the August recess and we will not be coming back until September 7. And there is not going to be time.

This Senate has to make up its mind whether it is going to sacrifice this bill which is supported by the Democrats, supported by the Republicans, supported by the Senate, supported by the House, supported by the President, supported by the environmentalists, by the producers, by the consumers, by everybody, and yet the question is, are we going to tie ourselves in knots and not even consider the bill?

America is watching and America has been watching, Mr. President, as we have not acted on various pieces of legislation. They call it gridlock, and some people in Congress say, well, the American people just do not understand, they do not understand how difficult this legislation is.

Mr. President, the question is the very simple, straightforward: Are you going to consider this legislation or not? And if you vote not to consider it, then count yourself as a Member who stands for gridlock. And if this bill goes down because we do not have time to work it out, then point the finger at yourself if you vote no on cloture.

We need to get to cloture. We need to do it tonight because we have a lot of work to do, and I hope the Senate will invoke cloture.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. BREAUX). The Senator has 3 minutes remaining.

Who yields time?

The Chair will advise that the time will be deducted equally between the Senator from Louisiana and the Senator from Wyoming if no one yields time.

Mr. JOHNSTON. Mr. President, who has time remaining?

The PRESIDING OFFICER. The Senator from Wyoming controls 10 minutes, and the Senator from Louisiana has approximately 3 minutes.

Mr. JOHNSTON. Mr. President, I ask unanimous consent, since I do not have but 3 minutes, that the time be deducted from those who are not here, since they are not here to defend themselves, and I do not think they are coming.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Hearing none, it is so ordered. The time will be deducted.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum, with the time charged as previously stated.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WIRTH. Mr. President, I realize that time is controlled by Senator JOHNSTON. I ask unanimous consent that the remaining minute be yielded to me.

The PRESIDING OFFICER. The Senator from Louisiana has 2 minutes remaining.

Mr. JOHNSTON. Mr. President, I yield 1 remaining minute to the Senator from Colorado.

Mr. WIRTH. I thank the distinguished Senator for yielding. I wish to commend him, Senator WALLOP and others on this legislation. It is absolutely imperative that we vote for cloture. This is one of the single most important pieces of legislation that we are going to face this year.

We have an opportunity now, for the first time in well over a decade, to do something about energy. The situation that we face was clearly illustrated over and over and over again. We are seeing ramifications of that now with all the potential reaction from the Persian Gulf war, plus the enormous hemorrhaging of our scarce national treasury that is going out for energy.

I just wanted to come over and put in a word or two in support of the chairman in proceeding to H.R. 776, which we have to do as rapidly as possible.

I hope my colleagues all vote for cloture, and let us get on with this very, very important piece of national legislation.

Let us get to the point. This bill is our one and only chance to enact an energy policy this year. If we stop here, we are not going to get another chance. If we want an energy bill, now is the time.

The chairman of the Energy Committee and the chairman of the Finance Committee have made clear their intention to substitute the text of the energy bill the Senate passed last February for the nontax provisions of the House bill, and to resist all amendments to those provisions.

I am going to support that strategy, and support it strongly. I urge all my colleagues to do the same.

The Senate-passed bill was thoroughly debated. Dozens of amendments were offered, debated, and decided. We went through every issue, and everyone had their fair shot. The chairman had to make major changes in the bill in order to get a consensus on moving it forward. To his credit, he made those changes, because he was committed to getting the best bill possible enacted into law. Not a perfect bill. Not everything I wanted. Not everything the chairman wanted. Not everything the administration or the ranking member of the committee wanted. But the best—the most—that could actually be successfully passed by this body.

The bill took the Energy Committee a year to put together. After it was reported, it took us months to get to the point where we could proceed. To the credit of all involved, we did find that point, and kept moving forward. Let us not stop now.

Was the result perfect? No. But it must have been pretty good, because we passed it 94–4.

That is the way the legislative process is supposed to work. It worked last February. Let us not forget that. We passed an enormously complicated, comprehensive, 400-page energy policy bill, by an overwhelming margin. Let us not lose sight of that for one minute.

Let us not lose that now in an effort to see who can use the threat of killing this bill to get more into it. We have already been through that. We had to set aside some very important issues in order to reach consensus. Let us not destroy that consensus, or kill its product. If we want the Senate to work, we should honor the work we have already done.

Mr. President, there is a very strong argument to be made that the single best thing we could do for this country's energy policy would be to require our automobiles to go further on less gasoline. This bill would not do that. But I also know that an amendment to raise the CAFE standards would cut the consensus behind this bill to shreds. So I strongly believe such an amendment should not be offered now.

Mr. President, there is strong disagreement on some of the tax items in this bill. But we will not get to vote on those issues and move forward if we do not get cloture on the motion to proceed.

I want to remind people what is in this bill, and why we need to move forward on it. The Senate version of this bill includes conservation initiatives which will cut consumers' energy bills by more than $30 billion over the next two decades. It creates a comprehensive energy planning process which, for the first time, will be aimed at meeting our energy needs at the least cost. It will change the way we regulate our utilities to enable far greater competition in the generation of electric power, and change utility regulation to encourage private investment in even more energy conservation.

It provides a breakthrough in requiring us to develop real, workable alternatives to gasoline as a fuel for our cars and trucks. Without those alternatives, we are doomed to increasing dependence on imported oil.

It takes giant steps in streamlining the approval of new natural gas pipelines, and in promoting the use of natural gas as an efficient, cleanburning, and domestically produced fuel for our future.

And the tax provisions of this bill not only help promote the development of solar, wind power, and other renewable energy resources, but also provide significant aid to independent oil and gas producers, enabling them to continue to explore to replace the fuel reserves we are using up today.

Can we turn our backs on that? I hope not. If you are interested in achieving some real, on-the-ground progress on energy policy in this country, please vote for cloture on this bill. Without that vote, all our work, and all the on-the-ground results I spoke of before, will die.

I urge all my colleagues to join in keeping this energy bill alive.

Mr. President, I think that uses up my time. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will now state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to

proceed to the consideration of H.R. 776, an act to provide for improved energy efficiency:

J. Bennett Johnston, David L. Boren, Alan Cranston, Fritz Hollings, Bob Kerrey, Robert Byrd, Howell Heflin, John Breaux, George Mitchell, Howard M. Metzenbaum, J. Lieberman, J.R. Biden, Jr., F.R. Lautenberg, Jim Sasser, Slade Gorton, Warren B. Rudman, Phil Gramm, Connie Mack, Jake Garn, Frank H. Murkowski.

CALL OF THE ROLL

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

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 776, an act to provide for improved energy efficiency, shall be brought to a close? The yeas and nays are required. The clerk will now call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Utah [Mr. HATCH], the Senator from Oregon [Mr. PACKWOOD], the Senator from Alaska [Mr. STEVENS], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] and the Senator from Delaware [Mr. ROTH] are absent due to illness.

I further announce that, if present and voting, the Senator from Utah [Mr. HATCH] would vote "nay."

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

The yeas and nays resulted—yeas 58, nays 33, as follows:

[Rollcall Vote No. 150 Leg.]

YEAS—58

Adams	Fowler	Moynihan
Akaka	Glenn	Nickles
Baucus	Graham	Nunn
Bentsen	Grassley	Pell
Biden	Harkin	Pryor
Bingaman	Heflin	Reid
Boren	Hollings	Riegle
Bradley	Inouye	Robb
Breaux	Johnston	Rockefeller
Bryan	Kennedy	Sanford
Bumpers	Kerrey	Sarbanes
Byrd	Kerry	Sasser
Conrad	Kohl	Shelby
Cranston	Lautenberg	Simon
Daschle	Leahy	Specter
DeConcini	Levin	Wellstone
Dixon	Lieberman	Wirth
Dodd	Metzenbaum	Wofford
Exon	Mikulski	
Ford	Mitchell	

NAYS—33

Bond	Chafee	Cohen
Brown	Coats	Craig
Burns	Cochran	D'Amato
Danforth	Kassebaum	Pressler
Dole	Kasten	Rudman
Domenici	Lott	Seymour
Durenberger	Lugar	Simpson
Gorton	Mack	Smith
Gramm	McCain	Thurmond
Hatfield	McConnell	Wallop
Jeffords	Murkowski	Warner

NOT VOTING—9

Burdick	Hatch	Roth
Garn	Helms	Stevens
Gore	Packwood	Symms

The PRESIDING OFFICER. On this vote the yeas are 58, the nays are 33. Three-fifths of the Senators duly chosen not having voted in the affirmative, the motion is not agreed to.

Under the previous order, the next order of business is the vote on final passage of S. 2877, as amended. The yeas and nays have been ordered. The clerk will call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that I be allowed to ask the majority leader a question before we have the vote.

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

Mr. JOHNSTON. Mr. President, despite the best efforts of the majority leader and those of us who are trying to pass this bill seems to be the victim of what is being called gridlock across America. I wonder if the majority leader has any idea about where we might go from here. Do we reconsider this at some time or do we abandon the energy bill? I am wondering if the majority leader has some advice for us.

Mr. MITCHELL. Mr. President, I am disappointed that we were not able to obtain cloture on the motion to proceed to this bill. I think it is a very important measure. It contains a large number of provisions that are desirable and in the national interest.

To answer the specific question raised, it is not my intention to abandon the bill, but, rather I think it now best if the distinguished chairman of the committee, myself and other interested Senators meet to consult and attempt to determine the best course of action with respect to the bill.

Mr. JOHNSTON. I wonder, Mr. President, if I may ask whether there is any hope that those who are working on the so-called Rockefeller amendment might be able to resolve that tonight and we might bring the bill back tomorrow and perhaps finish it up at that time.

Mr. WALLOP. Mr. President, will the majority leader yield?

Let me just say that we worked in Senator BYRD's office. We were not able to get to that conference until 5:30. We worked right up until the moment that the vote was called. And in that process we were very close.

There are not many things that need to be resolved. There is a scoring problem on one of the resolutions that we thought we had. It seems to me that with a good-faith effort we can get finished so we can proceed to the bill.

I regret, more than the majority leader because I think there is more in this bill that I like than he likes, that we were unable to do that. But I think it is important that we resolve this tax issue, that is, tax applied to people to satsify an obligation which was incurred by people other than themselves. We are trying to solve the problem in a way that is equitable.

The problem is rather simple. There are some families and miners in this country who were, or thought they were beneficiaries of contracts. Their companies now no longer exist or their companies have abandoned or pulled out of union contracts, one thing and another, and those are people whose concern is shared by Senator ROCKEFELLER, Senator FORD, and myself. The other concern is whose obligation it is to satisfy it.

We think we are very close, we are trying hard, and I believe we will get it done.

Mr. JOHNSTON. I know the Senators are working hard, as this has been pending for 4 or 5 weeks, if I recall. I just wonder if they are going to meet again tonight and whether we might expect to be able to move tomorrow or is it some undetermined time next week when the next meeting is?

In other words, a lot of Senators are going to be heading out tomorrow unless we are going to be considering this bill, I guess.

Mr. DOLE. Will the Senator from Louisiana yield?

Mr. JOHNSTON. Certainly.

Mr. DOLE. I want to underscore what the Senator from Wyoming has said. I was sort of an observer in the meeting in Senator BYRD's office. There was a lot of progress made. If we resolve it, there need not be any motion to proceed; we could proceed to the bill. It should not take long to pass it. We passed it once in the Senate 94 to 4. It has already been through this body one time. Hopefully, there would not be any amendments.

So I think with a little more patience and the good faith negotiations they were having in Senator BYRD's office with Senator ROCKEFELLER, Senator FORD, Senator WALLOP, and Senator BYRD, this could maybe be resolved by Monday.

Mr. JOHNSTON. I thank the Senators.

INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE ACT OF 1992

The Senate continued consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the yeas and nays have been ordered on final passage of the bill S. 2877, as amended. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from North Dakota [Mr. BURDICK]

and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN], the Senator from Utah [Mr. HATCH], the Senator from Oregon [Mr. PACKWOOD], the Senator from Alaska [Mr. STEVENS], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

I further announce that the Senator from North Carolina [Mr. HELMS] and the Senator from Delaware [Mr. ROTH] are absent due to illness.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote "yea."

On this vote, the Senator from Utah [Mr. HATCH] is paired with the Senator from Idaho [Mr. SYMMS]. If present and voting, the Senator from Utah would vote "yea" and the Senator from Idaho would vote "nay."

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

The result was announced—yeas 89, nays 2, as follows:

[Rollcall Vote No. 151 Leg.]

YEAS—89

Adams	Durenberger	Metzenbaum
Akaka	Exon	Mikulski
Baucus	Ford	Mitchell
Bentsen	Fowler	Moynihan
Biden	Glenn	Murkowski
Bingaman	Gorton	Nickles
Bond	Graham	Nunn
Boren	Gramm	Pell
Bradley	Grassley	Pressler
Breaux	Harkin	Pryor
Brown	Hatfield	Reid
Bryan	Heflin	Riegle
Bumpers	Hollings	Robb
Burns	Inouye	Rockefeller
Byrd	Jeffords	Rudman
Chafee	Johnston	Sanford
Coats	Kassebaum	Sarbanes
Cochran	Kasten	Sasser
Cohen	Kennedy	Seymour
Conrad	Kerrey	Shelby
Craig	Kerry	Simpson
Cranston	Kohl	Smith
D'Amato	Lautenberg	Specter
Danforth	Leahy	Thurmond
Daschle	Levin	Wallop
DeConcini	Lieberman	Warner
Dixon	Lott	Wellstone
Dodd	Lugar	Wirth
Dole	McCain	Wofford
Domenici	McConnell	

NAYS—2

Mack	Simon

NOT VOTING—9

Burdick	Hatch	Roth
Garn	Helms	Stevens
Gore	Packwood	Symms

So the bill (S. 2877), as amended, was passed, as follows:

S. 2877

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interstate Transportation of Municipal Waste Act of 1992".

SEC. 2. INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE.

Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end thereof the following new section:

"INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE

"SEC. 4011. (a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL WASTE.—

"(1)(A) Except as provided in subparagraph (C) of this paragraph and in subsection (b), if requested in writing by both an affected local government, and an affected local solid waste planning unit, if such local solid waste planning unit exists under State law, a Governor may—

"(i) prohibit the disposal of out-of-State municipal waste in any landfill or incinerator that is subject to the jurisdiction of the Governor or the affected local government; or

"(ii) with respect to landfills covered by the exception provided in subsection (b)(1), limit the amount of out-of-State municipal waste received for disposal at each such landfill in the State to an amount equal to the amount of out-of-State municipal waste received for disposal at the landfill during the calendar year 1991 or twice the volume of the first six months of 1992, whichever is less, as determined by the Administrator in accordance with paragraph (4) of this subsection.

"(B) Prior to submitting a request under this section to prohibit or limit the disposal of out-of-State municipal waste, the affected local government and the affected local solid waste planning unit, if any, shall—

"(i) provide notice and opportunity for public comment concerning any such proposed request; and

"(ii) following notice and comment, take formal action upon any such proposed request at a public meeting.

"(C) A Governor may not exercise the authority granted under this section if such action would result in the violation of or failure to perform any provision of—

"(i) a written, legally binding contract that was lawfully entered into by the affected local government and which authorizes a landfill or incinerator to receive municipal waste generated outside the jurisdiction of the affected local government;

"(ii) a written, legally binding contract for disposal of municipal waste generated outside the jurisdiction of the affected local government that was in effect on (date of introduction) except to the extent that the actual amounts of municipal waste generated outside the jurisdiction of the affected local government received for disposal at the landfill or incinerator under such contracts exceed the amount imported under such contracts in 1991 or twice the volume of the first six months of 1992, whichever is less (this clause shall not apply after June 18, 1999, to the extent that such contract prevents a Governor from exercising the authority granted by paragraphs (2)(A)(ii) and (3)); or

"(iii) a written, legally binding contract for disposal of municipal waste generated outside the jurisdiction of the affected local government that is consistent with, and was lawfully entered into after June 18, 1992, as the result of—

"(I) a host agreement; or

"(II) a written, legally binding, contract that was lawfully entered into by the affected local government and authorizes a landfill or incinerator to receive municipal waste generated outside the jurisdiction of the affected local government.

"(D) A Governor may require that contracts covered by (i), (ii), or (iii) of subparagraph (C) of this paragraph be filed with the State.

"(2) Except as provided in paragraph (1)(C), a Governor, of a State identified by the Administrator in accordance with paragraph (4) of this subsection, as having received for disposal more than one million tons of out-of-State municipal waste during calendar year 1991 may, with respect to landfills covered by the exceptions provided in subsection (b), beginning with calendar year 1993—

"(A) notwithstanding the absence of a request in writing by the affected local government and the affected local solid waste planning unit, if any—

"(i) limit the amount of out-of-State municipal waste received for disposal at each such landfill in the State to an annual amount equal to the amount of out-of-State municipal waste received for disposal at the landfill during the calendar year 1991 or twice the volume of the first six months of 1992, whichever is less; and

"(ii) limit the disposal of out-of-State municipal waste at landfills that received, during calendar year 1991, documented shipments of more than one hundred thousand tons of out-of-State municipal waste representing more than 30 per centum of all municipal waste received at the landfill during the calendar year, by prohibiting at each such landfill the disposal of out-of-State municipal waste in annual volumes greater than 30 per centum of all municipal waste received at the landfill during calendar year 1991, and

"(B) if requested in writing by the affected local government and the affected local solid waste planning unit, if any, prohibit the disposal of out-of-State municipal waste in landfill cells that do not meet the design and locational standards and leachate collection and ground water monitoring requirements of State law and regulations in effect on January 1, 1992, for new landfills.

"(3) Except as provided in paragraph (1)(C) and in addition to the authorities provided in paragraph (1)(A) beginning with calendar year 1999, a Governor of any State which receives more than 1 million tons of out-of-State municipal waste, if requested in writing by the affected local government and the affected local solid waste planning unit, if any, may further limit the disposal of out-of-State municipal waste as provided in paragraph (2)(A)(ii) by reducing the 30 per centum annual volume limitation to 20 per centum in each of calendar years 1998 and 1999, and to 10 per centum in each succeeding calendar year.

"(4)(A) Any limitation imposed by the Governor under subparagraph (A), of paragraph (2), shall be applicable throughout the State, shall not discriminate against any particular landfill within such State, and shall not discriminate against any shipments of out-of-State municipal waste on the basis of State of origin.

"(B) In responding to requests by affected local governments under subparagraph (1)(A) of this subsection, and subparagraph (B) of paragraph (2), the Governor shall respond in a consistent manner that does not discriminate against any particular landfill within the State and does not discriminate against any shipments of out-of-State municipal waste on the basis of State of origin.

"(5)(A) Any Governor who intends to exercise the authority provided in this paragraph shall, within sixty days after the date of enactment of this section, submit to the Administrator information documenting the amount of out-of-State municipal waste received for disposal in the Governor's State during calendar year 1991, and the first six months of calendar year 1992.

"(B) Upon receipt of such information, the Administrator shall notify the Governor of

each State and the public and shall provide a comment period of not less than thirty days.

"(C) Not later than sixty days after receipt of information from a Governor who intends to exercise the authority provided in this paragraph, the Administrator shall determine—

"(i) the amount of out-of-State municipal waste that was received at each landfill covered by the exceptions provided in subsection (b) for disposal in the State during calendar year 1991 and the first six months of calendar year 1992, and

"(ii) whether the State received for disposal more than one million tons of out-of-State municipal waste during calendar year 1991.

The Governor of each State and the public shall receive notice of the determinations of the Administrator.

"(D) Not later than one hundred and twenty days after the date of enactment of this section, the Administrator shall publish a list of—

"(i) the amount of out-of-State municipal waste that was received at each landfill covered by exceptions provided in subsection (b) for disposal in the State during calendar year 1991 and the first six months of calendar year 1992 as determined in accordance with subparagraph (C), and

"(ii) the States identified by the Administrator under subparagraph (C) as having received for disposal more than one million tons of out-of-State municipal waste during calendar year 1991.

"(b) EXCEPTIONS TO AUTHORITY TO PROHIBIT OUT-OF-STATE MUNICIPAL WASTE.—Except as provided in subsection (a)(2), the authority to prohibit the disposal of out-of-State municipal waste provided under subsection (a) shall not apply to—

"(1) landfills in operation on the date of enactment of this section that—

"(A) received, during calendar year 1991, documented shipments of out-of-State municipal waste; and

"(B) on the date of enactment of this section, are in compliance with all applicable State laws (including any State rule or regulation) relating to design and locational standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure and corrective action;

"(2) proposed landfills that, prior to April 29, 1992, received—

"(A) an approval from the affected local government to receive at such landfill municipal waste generated outside the county or the State in which the landfill is located; and

"(B) a notice of decision from the State to grant a construction permit; or

"(3) incinerators in operation on the date of enactment of this section that—

"(A) received, during calendar year 1991, documented shipments of out-of-State municipal waste;

"(B) are in compliance with applicable performance standards under section 129(a) of the Clean Air Act (42 U.S.C. 7429(a)) and applicable monitoring requirements under such section, and otherwise meet applicable requirements of section 129 of such Act; and

"(C) are in compliance with all applicable State laws (including any State rule or regulation) relating to facility design and operations.

"(c) LOSS OF AUTHORITY.—Notwithstanding the authority provided in subsection (a), after January 1, 1997, a Governor may not prohibit or limit the disposal of out-of-State municipal waste unless all operating municipal waste landfill cells in the State—

"(1) meet the design and locational standards that are applicable to landfill cells constructed on and after October 1993; or

"(2) are on enforceable schedules—

"(A) to stop receiving waste by January 1, 2000; and

"(B) to implement a closure plan.

"(d) DEFINITIONS.—As used in this section:

"(1) The term 'affected local government' means the elected officials of either the city, town, borough, county, or parish in which the facility is located. Within 90 days of enactment of this Act, the Governor shall designate which entity listed above shall serve as the 'affected local government' for actions taken under this Act after July 23, 1992. No such designation shall affect host agreements concluded prior to July 23, 1992. If the Governor fails to make such designation, the affected local government shall be the city, town, borough, county, parish, of other public body created by or pursuant to State law with primary jurisdiction over the land or the use of the land on which the facility is located.

"(2) The term 'affected local solid waste planning unit' means a political subdivision of a State with authority relating to solid waste management planning in accordance with state law.

"(3) With respect to a State, the term 'out-of-State municipal waste' means municipal waste generated outside of the State. To the extent that it is consistent with the United States-Canada Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal waste generated outside of the United States.

"(4) The term 'municipal waste means refuse (and refuse derived fuel) generated by the general public and from residential, commercial, institutional, and industrial sources, consisting of paper, wood, yard wastes, plastics, leather, rubber, and other combustible materials and noncombustible materials such as metal and glass. Such term does not include—

"(A) any solid waste identified or listed as a hazardous waste under section 3001 of this Act;

"(B) any solid waste, including contaminated soil and debris, resulting from a response action taken under sections 104 or 106 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

"(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or otherwise diverted from municipal waste and has been transported into the State for the purpose of recycling or reclamation;

"(D) any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator or a company with which the generator is affiliated;

"(E) any solid waste generated incident to the proviso of service in interstate, intrastate, foreign, or overseas air transportation;

"(F) any industrial waste that is not identical to municipal waste as to physical and chemical state, and composition, including construction and demolition debris;

"(G) any medical waste that is segregated from or not mixed with municipal waste;

"(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.

"(5) The term 'host agreement' means a written, legally binding agreement, lawfully entered into between an owner or operator of a landfill or incinerator and an affected local government that (A) authorizes the landfill or incinerator to receive municipal waste generated outside the jurisdiction of the affected local government and (B) if executed after June 18, 1992, was available for public review and comment prior to execution.".

SEC. 3. BORDER STUDY.

(a) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) MAQUILADORA.—The term "maquiladora" means an industry located in Mexico along the border between the United States and Mexico.

(3) SOLID WASTE.—The term "solid waste" has the meaning provided the term under section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(b) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Administrator shall conduct a study of solid waste management issues associated with anticipated increased border use at such time as the North American Free Trade Agreement may become effective. The Administrator shall also conduct a similar study, as soon as practicable after enactment of this Act, in terms of the scope, procedures, and objectives, outlined in subsections (c), (d), (e), (f), and (h), focused on border traffic of solid waste resulting from the United States-Canada Free Trade Agreement and the border region between the United States and Canada.

(c) CONTENTS OF STUDY.—The study under this section shall provide for the following:

(1) Planning for solid waste treatment, storage, and disposal capacity (including additional landfill capacity) that would be necessary to accommodate the generation of additional household, commercial, and industrial wastes by an increased population along the border.

(2) A study of the relative impact on border communities of a regional siting of solid waste storage and disposal facilities.

(3) Research concerning methods of tracking of the transportation of—

(A) materials from the United States to maquiladoras; and

(B) waste from maquiladoras to a final destination.

(4) A determination of the need for solid waste materials safety training for workers in Mexico and the United States within the 100-mile zone specified in the First Stage Implementation Plan Report for 1992–1994 of the Integrated Environmental Plan for the Mexico-United States Border, issued by the Administrator in February 1992.

(5) A review of the adequacy of existing emergency response networks in the border region, including the adequacy of training, equipment, and personnel.

(6) An analysis of solid waste management practices in the border region, including an examination of methods for promoting source reduction, recycling, and other alternatives to landfills.

(d) SOURCES OF INFORMATION.—In carrying out the study under this section, the Administrator shall, to the extent allowable by law, solicit, collect, and use the following information:

(1) A demographic profile of border lands based on census data prepared by the Bureau of the Census of the Department of Commerce and census data prepared by the Government of Mexico.

(2) Information from the United States Customs Service of the Department of the Treasury concerning solid waste that crosses the border between the United States and Mexico, and the method of transportation of the waste.

(3) Information concerning the type and volume of materials used in maquiladoras.

(4) Immigration data prepared by—

(A) the Immigration and Naturalization Service of the Department of Justice; and

(B) the Government of Mexico.

(5) Information relating to the infrastructure of border land, including an accounting of the number of landfills, wastewater treatment systems, and solid waste treatment, storage, and disposal facilities.

(6) A listing of each site in the border region where solid waste is treated, stored, or disposed of.

(7) A profile of the industries in the region of the border between the United States and Mexico.

(e) CONSULTATION AND COOPERATION.—In carrying out this section, the Administrator shall consult with the following entities in reviewing study activities:

(1) States and political subdivisions of States in the region of the border between the United States and Mexico (including municipalities and counties).

(2) The heads of other Federal agencies (including the Secretary of the Interior, the Secretary of Housing, the Secretary of Health and Human Services, the Secretary of Transportation, and the Secretary of Commerce) and equivalent officials of the Government of Mexico.

(f) REPORT TO CONGRESS.—Upon completion of the study under this section, the Administrator shall, no later than two years from the date of enactment of this Act, submit a report that summarizes the findings of the study to the appropriate committees of Congress and proposes a method by which solid waste border traffic may be tracked, from source to destination, on an annual basis.

(g) BORDER STUDY DELAY.—Preparation of the study related to the United States-Canada border region shall not delay or otherwise affect completion of the study related to the United States-Mexico border region.

(h) AUTHORIZATION.—There are authorized to be appropriated to the Environmental Protection Agency such sums as may be necessary to carry out this section.

SEC. 4. STUDY OF INTERSTATE TRANSPORTATION OF NON-HAZARDOUS INDUSTRIAL WASTES.

(a) Not later than January 1, 1993, the United States General Accounting Office shall conduct a study of the interstate transportation of non-hazardous industrial manufacturing wastes, including waste generated from construction and demolition operations. Such study shall identify the volumes and general types of non-hazardous industrial manufacturing wastes generated in each State, the place of ultimate disposal of such wastes, and the hazards posed by the transportation of such wastes. The General Accounting Office shall also identify, to the extent possible, opportunities available to States to reduce the interstate transport of industrial non-hazardous manufacturing waste.

(b) For purposes of this subsection, the term "industrial non-hazardous manufacturing waste" shall not include the following waste categories:

(1) fly ash waste, bottom ash waste, slag waste, and flue gas emissions control waste generated primarily from the combustion of coal or other fossil fuels;

(2) solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from the mining or uranium ore;

(3) cement kiln dust waste;

(4) drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy; and

(5) solid waste regulated under subtitle C of the Resource Conservation and Recovery Act.

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

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

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

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

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

CHANGING OUR WAYS

Mr. CRANSTON. Mr. President, the Carnegie Endowment National Commission on America and the New World—an outstanding panel of academics, former senior government officials, and heads of international organizations—has just issued a remarkable report called, "Changing Our Ways."

I urge my colleagues to obtain a copy of this report and study it. It's available at the Brookings Institution here in Washington. It is a challenging document for us all.

The 90-page report, the product of 6 months solid work, concludes that as currently constituted, we are not prepared for the future.

In grappling with issues foreign and domestic, with the uncertainties of the moment and the dilemmas of the future, this Commission has concluded that simply altering our policies will not suffice.

Citing Albert Einstein's trenchant observation that, "The release of atom power changed everything except our way of thinking", the Commission declared that, "what troubled Einstein troubles us."

We have to change our "way of thinking." About what is important. About making the most of our third chance. About our engagement abroad and renewal at home. About the promise for a richer, cleaner, safer, and freer planet. Changing our ways, America can lead such a world into the 21st century.

The Commission declared that three fundamental principles should guide America:

First, our foreign policy must be founded on a renewal of our domestic strength; rebuilding our economic base is now our highest priority.

Second, our national interests require continued American leadership in the world; we must not retreat into neo-isolationism or protectionism.

Third, our leadership must be of a new kind—one that mobilizes collective action; few great goals can be reached without America, but America can no longer reach many of them alone.

The Commission advocates four broad objectives for the United States.

For a more prosperous America and a more prosperous world we must:

Adopt an aggressive strategy for economic revival at home that favors investment in the future over consumption for the moment;

Overall the international system of trade and finance, moving toward effective collective leadership by the major industrialized countries;

Renew our commitment to help poor nations; and

Invest in the future of former Communist countries.

For a more livable planet we must:

Increase our energy efficiency by significantly raising energy prices, lifting our performance toward that of other industrialized countries;

Give high priority to improving the environment through sustainable economic growth and ecological agreements;

Resume decisive American leadership in world population policy;

Develop a stronger multilateral approach toward humanitarian crises and migration; and

Combat our drug problem where it counts—at home.

For a safer world we must:

Remain the leading military power even as we significantly reduce our defense spending and overseas deployments;

Realign NATO and CSCE to deal with the new security problems and overseas deployments;

Strengthen the peacekeeping capacities of the United Nations and regional organizations;

Promote collective leadership by adding Japan and Germany as permanent members of the U.N. Security Council; and

Strive for a less militarized world by cutting in this decade global defense expenditures to half of their 1988 peak, reducing weapons of mass destruction and halting their proliferation.

For a freer world we must:

Practice at home what we preach abroad about liberty and justice; and

Build democracies through multilateral pressures and incentives;

The commission notes that—

These goals frequently overlap and tend to reinforce one another. The advance of democracy enhances prospects for peace. The promotion of cost-effective energy efficiency helps national security, economic growth and the environment. But our goals can clash as well. Rapid democratization can produce instability. Rapid adjustment to "greener" policies can disrupt industries.

The goals we have proposed will not be easily achieved. They will require sustained, unified national effort. We will have to make hard choices. As we go forward, the United States must be unsentimental in separating the essential from the desirable.

What is required is a fusion of our values and our needs. Now that the Cold War is over, America must not revert to a cycle of expansive idealism alternating with narrow self-interest—both, at heart, forms of unilateralism. It is time to build a consensus on new priorities.

I wholeheartedly endorse that sentiment:

It is time to build a consensus on new priorities.

The members of the commission brought widely varied backgrounds and experiences to their task. Each of them are renowned and respected. I ask unanimous consent that a list of the individuals who participated in the commission's deliberations, together with brief biographical summaries, be printed in the RECORD after my remarks.

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

THE CARNEGIE ENDOWMENT NATIONAL COMMISSION ON AMERICA AND THE NEW WORLD

Winston Lord, Chairman, former U.S. Ambassador to the People's Republic of China; former President of the Council on Foreign Relations, Inc.; former Director of U.S. State Department Policy Planning State.

Morton I. Abramowitz, President, Carnegie Endowment for International Peace; former U.S. Ambassador to Turkey and Thailand; former Assistant Secretary of State for Intelligence and Research.

C. Fred Bergsten, Director of the Institute for International Economics. Chairman of the Competitiveness Policy Council; former Assistant Secretary of the Treasury for International Affairs.

Stephen W. Bosworth, President, U.S.-Japan Foundation; former U.S. Ambassador to the Philippines and Tunisia; former Director of U.S. State Department Policy Planning Staff.

John Brademas, former President of New York University; former U.S. Congressman (D-Indiana).

Frank C. Carlucci, Vice Chairman of the Carlyle Group; former U.S. Secretary of Defense; former Assistant to the President for National Security Affairs.

Henry G. Cisneros, Chairman, Cisneros Asset Management Company and Cisneros Benefit Group; Deputy Chairman of the Federal Reserve Bank of Dallas; former Mayor of San Antonio, Texas; former President of the National League of Cities.

Barber B. Conable, Jr., former President of the World Bank and Distinguished Professor, University of Rochester; former U.S. Congressman (R-New York).

Admiral William J. Crowe, Jr., former Chairman of the Joint Chiefs of Staff and former Commander-in-Chief, U.S. Pacific Command.

John Deutch, Institute Professor, Massachusetts Institute of Technology; former Provost, MIT; former Undersecretary of the U.S. Department of Energy.

Thomas R. Donahue, Secretary-Treasurer, AFL-CIO; former Assistant Secretary for Labor-Management Relations, U.S. Department of Labor.

Daniel J. Evans, Chairman, Daniel J. Evans Associates; former United States Senator; former Governor, state of Washington.

Craig J. Fields, President and CEO of the Microelectronics and Computer Technology Corporation; former Director of the Defense Advanced Research Projects Agency (DARPA).

Richard N. Gardner, Henry L. Moses Professor of Law and International Organization at Columbia University; of Counsel, Coudert Brothers; former United States Ambassador to Italy; former Deputy Assistant Secretary of State for International Organization Affairs.

David R. Gergen, Editor-at-Large for *U.S. News and World Report;* political commentator for "The MacNeil/Lehrer Newshour." former Communications Director in the White House.

William Gray, President, United Negro College Fund; former U.S. Congressman (D-Pennsylvania).

Richard Holbrooke, Managing Director, Lehman Brothers; former Assistant Secretary of State for East Asian and Pacific Affairs.

James T. Laney, President of Emory University; former Dean, Candler School of Theology, Emory University.

Jessica T. Mathews, Vice President of the World Resources Institute and columnist for *The Washington Post*; former Director of the Office of the Global Issues on the staff of the National Security Council.

Alice M. Rivlin, Senior Fellow of the Brookings Institution; former Director of the Congressional Budget Office (CBO) and Assistant Secretary for Planning and Evaluation in the U.S. Department of Health, Education, and Welfare.

Paula Stern, President of the Stern Group; former Chairwoman and Commissioner of the International Trade Commission (ITC); former Senior Associate, Carnegie Endowment for International Peace.

Richard N. Perle, Resident Scholar, the American Enterprise Institute for Public Policy Research; former Assistant Secretary of Defense for International Security Policy.

James R. Schlesinger, Counsellor for the Center for Strategic and International Studies; Chairman of the Mitre Corporation and Senior Advisor, Lehman Brothers; former U.S. Secretary of Energy; former U.S. Secretary of Defense; former Director, Central Intelligence Agency.

Richard N. Perle and James R. Schlesinger participated in the deliberations of the Commission but chose not to associate themselves with the report.

Bill Moyers and Condoleezza Rice were original members of the Commission. Their schedules precluded their participation.

Mr. CRANSTON. I yield the floor.

SIGNING OF THE HIGHER EDUCATION ACT

Mr. BINGAMAN. Mr. President, I am very pleased that today the President signed into law the Higher Education Amendments of 1992. To reauthorize this bill took an enormous amount of work, and I wish to thank all those in both the House and the Senate who have made this signing possible today. I would especially like to thank Senators PELL, KENNEDY, KASSEBAUM, and HATCH for their leadership in guiding this process to its successful conclusion.

After more than a year and a half of gathering information and negotiating provisions, we have made a major statement with regard to our commitment to and investment in postsecondary education in this country. There are many aspects of this bill that are noteworthy, but I would like to highlight only a few.

Clearly, one of the most historic provisions of this bill is the Direct Student Loan Pilot Program with 35 percent of the pilot institutions offering an income contingent repayment option to their student borrower. This provision, more than any other aspect of the amendments, focuses on the growing needs of middle-income families to pay for the college education of their children. The students of the middle class and nontraditional students were the primary focus of Senator BRADLEY's proposed legislation, The Self-Reliance Loan Program. As an original cosponsor of that legislation I believe, as Senator BRADLEY did, that there had to be an alternative way for families from the middle class and families of nontraditional students to finance a college education. I commend Senators BRADLEY, SIMON, and DURENBERGER for their efforts to legislate an innovative alternative to financing postsecondary education. Access to a college education is vitally important to our country's future. This provision will allow hundreds of thousands of students who were ineligible for guaranteed student loans to obtain financing to pursue a college education or postsecondary training.

Other aspects of major importance are the simplification provisions for applying for student aid such as a single needs analysis for all Federal student aid programs, elimination of several elements from needs analysis, necessary notification to the student when his or her loan is sold, and a reduction in the number of loan deferment categories as well as a free Federal form. Having reviewed previous student aid forms, I can sympathize with any family that has had to go through this process, and I will be very thankful to the committee for these provisions when my own son applies to college in a few years.

An issue of serious concern was the fraud and abuse in the current student loan program. This year alone there will be $3.2 billion in unpaid student loans. This act has many excellent provisions for increasing the availability and integrity of Federal student aid programs. However, the one area of the bill which I believe should be stronger is institutional integrity. While many strides were taken to ensure that only quality institutions participate in the Federal student aid programs, we did not go far enough to tighten State licensing standards.

Over the past several years, the Guaranteed Student Loan [GSL] Programs have been spotlighted in Federal and State investigations and reports, lawsuits, and newspaper and television exposés because of fraud and abuse. Most the horror stories have arisen from unscrupulous schools that exploit students to gain access to Federal student loan dollars. During the many hearings held over the past 4 years by Congressional Education and Investigative Committees and the Department of Education, witnesses came forth to ask for stringent guidelines for State

licensing. Even organizations representing State education officials asked for Federal government leadership in this area.

The Senate bill contained provisions requiring States to implement licensing standards and requirements which should be the first step in the process. They should ensure consumer protection. They should guarantee that the citizens of the State who become students of its institutions will not be exploited and that the institutions meet all State laws.

Unfortunately, the State licensing standards were not included in the final version of the bill. However, many of the sensible requirement for schools that were in the Senate provisions were included as requirements for schools to participate in Federal student aid programs. States must now create State boards to review institutions. The Secretary of Education has the right to direct these boards to review schools that appear to have problems or are failing to serve students appropriately.

I am concerned, however, that these boards do not have the authority to act on their own to initiate reviews. In the past the Department of Education has been the last to recognize problems with schools. State agencies and officials working on the front lines are the first to know when there are problems and they should be allowed to act whenever a school fails to meet minimum standards. They should not have to wait many weeks, months, or even longer until the Department of Education recognizes the problem before they can act. While the boards are waiting for information from Washington, students will be exploited and precious Federal student aid dollars will be squandered.

I was very pleased that in title V—educator recruitment, retention and development—of the act we were able to incorporate several new programs to encourage talented individuals to pursue teaching careers. I have been actively involved in legislation to recruit teachers, particularly minority and women teachers, in high needs areas as well as legislation with respect to education standards. The provisions in the act focus on improving the quality of the Nation's teachers by increasing the number of available fellowships for teachers, increasing the number of minorities and nontraditional students entering the teaching profession and improving teaching standards.

It is my belief that, in the future, we will need to work more closely with our Latin American neighbors in cooperative educational arrangements that benefit both us and our Latin American counterparts. I was pleased to see that another of my provisions was included allowing for Department of Education grants for the purpose of expanding cooperative education programs between State education agencies and offices, schools, and school systems, institutions of higher education, appropriate educational entities and private sector establishments involved in education between the United States and the Republic of Mexico.

I am especially pleased that an amendment I proposed to part (a) of title III of the act, creating a $45 million grant program for Hispanic serving institutions was incorporated into the act. These institutions under this provision are high need colleges and universities enrolling significant numbers of low income Hispanic students. This provision provides funds to strengthen these institutions' capacities, facilities, faculty, and curriculum development, acquisition of scientific or laboratory equipment, purchase of library, periodical and other educational materials, academic tutoring, counseling programs, and student support services to better serve their students.

I firmly believe that education reform should be a major priority of everyone in this country. This act goes a long way to address some of the major issues confronting our educational system. This act expands access to education, creates new opportunities to finance a college education for many students, simplifies access to student aid, attempts to address the fraud and abuse in the current Student Loan Program, and enhances efforts to recruit teachers and to retain them. We will need to monitor what we have legislated and evaluate whether or not our legislation addresses the concerns they were meant to address adequately. As we monitor and evaluate the postsecondary Federal programs we will also have to address in pending legislation the many concerns in the elementary and secondary schools which educate and prepare the students for college and for work. This is only the very beginning of the overall systemic changes that will be needed to address the concerns of our education system and the impact that our education system has with respect to our overall competitiveness in the international arena.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER TO PROCEED TO CONSIDERATION OF S. 3026

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate begin consideration of S. 3026, the Commerce, State, Justice appropriations bill on Monday July 27, at 2 p.m.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, pursuant to Public Law 101-549, appoints Mr. John Doull, of Kansas, to the Risk Assessment and Management Commission.

THE PACIFIC YEW ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3836, the Pacific Yew Act, just received from the House; that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table; further that any statements relating to this measure be placed in the RECORD at an appropriate place; further, I ask unanimous consent that Calendar No. 528, S. 2851, the Senate companion measure, be indefinitely postponed.

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

So, the bill (H.R. 3836) was deemed read three times and passed.

PACIFIC YEW ACT

Mr. JOHNSTON. Mr. President, on July 1, the Committee on Energy and Natural Resources unanimously reported S. 2851, the Pacific Yew Act, as amended. The amended legislation incorporates a number of primarily minor and technical suggestions made by the administration during a hearing the committee held on June 24 as well as other suggestions the committee received. These changes include amendments the House incorporated in House companion legislation, H.R. 3836, which was approved by that body on July 7. The House-passed bill and the Committee-reported bill are essentially the same.

This important legislation will improve the management of the Pacific yew—taxus brevifola—a bush-like tree which grows wild in some of the forests of the Western United States from central north California to the southeastern tip of Alaska. It is most abundant in the moist areas of Oregon, and has also been found in some areas of Idaho and Montana. The bark of this tree is the source of taxol, one of the most promising drugs used to treat ovarian cancer.

Ovarian cancer is the fourth most frequent cause of cancer mortality in women. About 1 in every 70 women will

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develop cancer of the ovary and 1 in 100 will die from this disease. An estimated 20,700 cases of ovarian cancer were diagnosed in 1991, and approximately 12,500 deaths were attributed to it last year.

Right now, there is no diagnostic method accurate enough to be used for routine screening in women who experience no symptoms. Because most women have no symptoms in the early stages of this form of cancer, most women have widespread disease by the time it is diagnosed. Only 39 percent of women diagnosed with ovarian cancer survive 5 years.

Taxol was first subject to clinical trials in 1983, and the results are very encouraging. Previously treated ovarian cancer patients have experienced a remission rate of about 30 to 35 percent. Indeed, many believe taxol may be effective in treating a number of other cancers including breast, lung, and colon cancer as well as childhood leukemias. Initial studies in women with advanced breast cancer, for example, have shown a response rate of about 50 percent. No one has been cured, but it is fair to say that many experts believe taxol may be one of the most important anticancer agents discovered in the last decade.

One of the major problems in taxol development is the difficulty faced in obtaining sufficient quantities of the drug. The sole current source of taxol for human use is the bark of the Pacific yew. Collecting the bark is a labor-intensive, time-consuming process. The slow-growing yew reaches a height of about 30 feet and a diameter of 8 to 10 inches and most commonly is found in old growth forests, scattered among the Douglas fir and other giants, in shady moist areas. Although not considered rare, except in a few locations the yew is also not a dominant species and can be difficult to locate. It is believed that there are approximately 23 million yew dispersed across some 11.5 million acres of National Forest System lands and some 6.5 million yew scattered across 2.1 million acres of Bureau of Land Management lands. Once found, current harvesting technique requires that the tree be cut and the bark stripped from the tree. There is no clearcutting of the yew, given the scattered nature of its distribution, and the remaining stump often resprouts and produces another tree.

Progress is being made in increasing the number of yew available for use in the production and development of taxol. Significant efforts are now underway to propagate Pacific yew from branch-tip cuttings in nursery-like settings at the Coeur d'Alene, ID, Carson, WA, and Chico, CA Forest Service facilities as well as BLM's Horning Tree and Seed Orchard at Colton, OR. The long-term success of these efforts however has yet to be demonstrated. In addition, Bristol-Myers Squibb, under contract with Weyerhauser, has planted over 4 million yew trees with plans to plant an additional 10 million trees this year on various privately owned lands under nursery-like conditions. It is expected that these seedlings will grow into a 2 or 3 foot tree within 2 to 3 years, and will be available for processing into taxol at that time. Important research efforts are also being undertaken to try to extract taxol from other parts of the yew—such as yew needles and from other varieties of yew found outside the Pacific Northwest—and to produce taxol through cell cultures. I would also note that great strides have been made in trying to develop a synthetic version of taxol, a process which is very difficult because of the complexity of the molecule.

We all hope that the efforts underway to find alternate and renewable sources of taxol will have positive results very soon, but for the next 2 to 3 years, according to the National Cancer Institute, the only source we are likely to have is the bark of the Pacific yew. Moreover, because a product produced from needles or synthetically must meet good manufacturing practices to be approved for human use and an infrastructure for production and distribution put into place in the case of a synthetic, it is expected that we will continue to need bark from the Pacific yew for the next 4 or 5 years.

I would also point out that the demand for taxol is expected to increase significantly when the new drug application [NDA] is approved, perhaps as soon as early next year. Therefore it is necessary that we make every effort to improve forestry management and assure that we do not waste this lifesaving resource.

This legislation will make sure that Pacific yew trees are fully harvested before commercial loggers enter Federal lands. Steps have been taken administratively to improve harvesting practices but more remains to be done. Since about 50 percent of the bark used to extract taxol comes from trees on Federal lands, this legislation is particularly important.

In addition, once the NDA is approved and taxol becomes available commercially, the bark must be sold. Currently, the bark is provided to the manufacturer—which was selected by a competitive process—through a Cooperative Research and Development Agreement [CRADA] as authorized by the Federal Technology Transfer Act. This bill will allow it to be sold, consistent with current requirements for commercial applications.

This bill also contains important provisions to help conserve the yew. It takes the bark of approximately three mature trees to supply enough taxol for one patient for one year, and we must make sure that we conserve this resource for future patients until alternative sources are available. Therefore, section 4 requires an inventory of the Pacific yew on Federal lands, and section 5 requires research to be undertaken on the ecology of the yew, utilizing other parts of the tree to extract taxol, research on other yew species, and also provides for a propagation program in both agricultural and commercial settings.

I believe this bill will help us use this resource wisely by maximizing the availability of the yew bark while making sure that sufficient numbers of yew remain available for the future. It is critical that we do so if we are to meet the demands for taxol from many cancer patients who have no other hope right now.

I strongly support this legislation and believe it will ensure that yew bark is not wasted, and that the availability of taxol for cancer patients, whose very life may depend on access to this drug, is expedited.

I urge my colleagues to support this measure, and the Senate to adopt it.

RELIEF OF MARY P. CARLTON AND LEE ALAN TAN—S. 295

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 295.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 295) entitled "An Act for the relief of Mary P. Carlton and Lee Alan Tan", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. IMMEDIATE RELATIVE STATUS FOR MARY P. CARLTON AND LEE ALAN TAN.

(a) IN GENERAL.—Subject to subject (b), for the purposes of the Immigration and Nationality Act, Mary P. Carlton, the window of a citizen of the United States, and Lee Alan Tan, the stepchild of a citizen of the United States, shall be considered to be immediate relatives within the meaning of section 201(b) of such Act, and the provisions of section 204 of such Act shall not be applicable in these cases.

(b) DEADLINE FOR APPLICATION.—Subsection (a) shall apply only if Mary P. Carlton applies to the Attorney General, on behalf of herself and Lee Alan Tan, for adjustment of status pursuant to such subsection within 2 years after the date of the enactment of this Act.

(c) ADJUSTMENT OF STATUS.—Mary P. Carlton and Lee Alan Tan shall be considered to have been lawfully admitted to the United States, and be eligible for processing, for purposes of adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

(d) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of Mary P. Carlton and Lee Alan Tan shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. MITCHELL. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. MITCHELL. I move to reconsider the vote by which the Senate concurred in the amendment of the House.

Mr. DOLE. I move to lay that on the table.

The motion to lay on the table was agreed to.

RELIEF OF THE PARINI FAMILY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3289, a bill for the relief of members of the Parini family, received earlier today from the House, that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table.

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

So, the bill (H.R. 3289) was deemed read three times and passed.

ORDER FOR STAR PRINT—REPORT NO. 102–320, TO ACCOMPANY S. 2864

Mr. MITCHELL. Mr. President, I ask unanimous consent that Report No. 102–320 to accompany S. 2864, the Export Enhancement Act, be star printed to reflect the changes I now send to the desk.

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

MESSAGES FROM THE HOUSE

At 11:08 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 479. An act to amend the National Trails System Act to designate the California National Historic Trail and Pony Express National Historic Trail as components of the National Trails System.

At 5:00 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that it has passed the following bills and joint resolution:

H.R. 2735. An act to make miscellaneous changes in the tax laws;

H.R. 3289. An act for the relief of Carmen Victoria Parini, Felix Juan Parini, and Sergion Manuel Parini;

H.R. 5318. An act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes; and

H.J. Res 502. An act disapproving the extension of non-discriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China.

The message also announced that the House has passed the following bill, with amendments; in which it requests the concurrence of the Senate:

H.R. 2607. An act to authorize the activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 and 1993, and for other purposes.

MEASURES REFERRED

The following bills and joint resolution were read the first and second times, and referred as follows:

H.R. 2735. An act to make miscellaneous changes in the tax laws; to the Committee on Finance;

H.R. 5318. An act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes; to the Committee on Finance; and

H.J. Res. 502. An act disapproving the extension of non-discriminatory treatment (most-favored-nation treatment) to the products of the People's Republic of China; to the Committee on Finance.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times, and placed on the Calendar:

H.R. 1435. A bill to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, Colorado, to the Secretary of the Interior; and

S. 3008. A bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a White House Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–3644. A communication from the Chairman of the Farm Credit System Insurance Corporation, transmitting, pursuant to law, the annual report for calendar year 1991; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3645. A communication from the Acting Comptroller of the Department of Defense, transmitting, pursuant to law, reports of violation of section 1517 of title 31, United States Code; to the Committee on Appropriations.

EC–3646. A communication from the Acting General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend section 404 of title 37, United States Code, to make a technical correction to ensure the continued intent of travel and transportation allowance entitlements with the dissolution of the Military Airlift Command and inception of the Air Mobility Command; to the Committee on Armed Services.

EC–3647. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on United States costs in the Persian Gulf conflict and foreign contributions to offset such costs; to the Committee on Armed Services.

EC–3648. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report on transportation security; to the Committee on Commerce, Science, and Transportation.

EC–3649. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–3650. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the development of a uniform needs assessment instrument; to the Committee on Finance.

EC–3651. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the establishment of an International Criminal Court; to the Committee on Foreign Relations.

EC–3652. A communication from the Archivist of the United States, transmitting, pursuant to law, a report on the offer to buy original documents that may have once been in the congressional files; to the Committee on Governmental Affairs.

EC–3653. A communication from the Secretary of the United States Postal Rate Commission, transmitting, pursuant to law, a report on a petition to the United States Postal Rate Commission requesting the Commission to initiate a rulemaking proceeding; to the Committee on Governmental Affairs.

EC–3654. A communication from the Chairman of the United States Railroad Retirement Board, transmitting, pursuant to law, the annual report on the financial status of the railroad unemployment insurance system; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment and an amendment to the title:

H.R. 1514. A bill to disclaim or relinquish all right, title, and interest of the United States in and to certain lands conditionally relinquished to the United States under the Act of June 4, 1897 (30 Stat. 11, 36), and for other purposes (Rept. No. 102–329).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2896. A bill to authorize the Secretary of the Interior to revise the boundaries of the Minute Man National Historical Park in the State of Massachusetts, and for other purposes (Rept. No. 102–330).

By Mr. HOLLINGS, from the Committee on Appropriations, without amendment:

S. 3026. An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102–331).

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 3031. An original bill to reauthorize housing and community development programs, and for other purposes (Rept. No. 102–332).

By Mr. ADAMS, from the Committee on Appropriations, with amendments:

H.R. 5517. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102–333).

By Mr. BUMPERS (for Mr. BURDICK), from the Committee on Appropriations, with amendments:

H.R. 5487. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102–334).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment:

S. 225. A bill to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia (Rept. No. 102–335).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 684. A bill to amend the National Historic Preservation Act and the National Historic Preservation Act Amendments of 1980 to strengthen the preservation of our historic heritage and resources, and for other purposes (Rept. No. 102–336).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1704. A bill to improve the administration and management of public lands, National Forests, units of the national Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands (Rept. No. 102–337).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 2563. A bill to provide for the rehabilitation of historic structures within the Sandy Hook Unit of Gateway National Recreation Area in the State of New Jersey, and for other purposes (Rept. No. 102–338).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, without amendment:

S. 3051. An original bill to grant a right of use and occupancy of a certain tract of land in Glacier National Park to Gerald R. Robinson, and for other purposes (Rept. No. 102–339).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 1216. A bill to modify the boundaries of the Indiana Dunes National Lakeshore, and for other purposes (Rept. No. 102–340).

H.R. 2790. A bill to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the United States, and for other purposes (Rept. No. 102–341).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURENBERGER (for himself, Mr. DASCHLE, Mr. KASTEN, Mr. KOHL, Mr. WELLSTONE, Mr. BURDICK, and Mr. PRESSLER):

S. 3011. A bill to equalize the minimum adjustments to prices for fluid milk under milk marketing orders, to require the Secretary of Agriculture to study the solids content of beverage milk, and to provide for a manufacturing allowance for milk under the milk price support program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PRYOR:

S. 3012. A bill to amend title 10, United States Code, to limit the amount expended by the Department of Defense for the recruitment of persons for accession into the Armed Forces of the United States; to the Committee on Armed Services.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 3013. A bill to suspend temporarily the duty on Pentostatin; to the Committee on Finance.

S. 3014. A bill to suspend until January 1, 1995, the duty on certain thermosetting polyimide resins; to the Committee on Finance.

S. 3015. A bill to suspend temporarily the duty on 5-(N,N-dibenzylglycyl)-salicylamide, 2-(N-benzyl-N-tert-butylamino)-4'-hydroxy-3'-hydromethylacetophenone hydrochloride, flutamide, and loratadine; to the Committee on Finance.

S. 3016. A bill to provide for additional extension periods, not exceeding 2 years in the aggregate, in the time allowed for reexportation of certain articles admitted temporarily free of duty under bond; to the Committee on Finance.

By Mr. JOHNSTON:

S. 3017. A bill to extend the temporary reduction of duty on caffeine; to the Committee on Finance.

By Mr. DECONCINI:

S. 3018. A bill to extend the temporary suspension of import duties on cantalopes; to the Committee on Finance.

By Mr. SPECTER:

S. 3019. A bill to strengthen the international trade position of the United States; to the Committee on Finance.

By Mr. MCCONNELL:

S. 3020. A bill to repeal the prohibition in the District of Columbia on individuals carrying self defense items such as MACE; to the Committee on Governmental Affairs.

By Mr. SPECTER:

S. 3021. A bill to suspend until January 1, 1995, the duty on n-butylisocyanate; to the Committee on Finance.

S. 3022. A bill to suspend until January 1, 1995, the duty on 3,5,-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide and on mixtures of 3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide with application adjuvants; to the Committee on Finance.

S. 3023. A bill to suspend until January 1, 1995, the duty on p-nitrobenzyl alcohol; to the Committee on Finance.

S. 3024. A bill to suspend temporarily the duty on certain mounted television lenses; to the Committee on Finance.

By Mr. BROWN:

S. 3025. A bill to amend the Harmonized Schedule of the United States to extend the temporary suspension of the duties on certain infant nursery intercoms and monitors; to the Committee on Finance.

By Mr. HOLLINGS:

S. 3026. An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 3027. A bill to amend the Internal Revenue Code of 1986 to adjust for inflation the dollar limitations on the dependent care credit; to the Committee on Finance.

By Mr. D'AMATO:

S. 3028. A bill to suspend until January 1, 1995, the duty on certain glass articles; to the Committee on Finance.

S. 3029. A bill to provide for a temporary suspension of duty for certain glass articles; to the Committee on Finance.

S. 3030. A bill to extend until January 1, 1997, the existing suspension of duty on certain infant nursery intercoms and monitors; to the Committee on Finance.

By Mr. RIEGLE:

S. 3031. An original bill to reauthorize housing and community development programs, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. BRYAN (for himself and Mr. REID):

S. 3032. A bill to extend the temporary suspension of duty on three-dimensional cameras; to the Committee on Finance.

By Mr. DANFORTH (for himself and Mr. BOND):

S. 3033. A bill to suspend temporarily the duty on Pyrantel Tartrate with Zeolex; to the Committee on Finance.

S. 3034. A bill to suspend temporarily the duty on Procaine Penicillin G (Sterile and Nonsterile); to the Committee on Finance.

S. 3035. A bill to suspend until January 1, 1995, the duty on certain chemicals; to the Committee on Finance.

By Mr. DANFORTH (for himself and Mr. KOHL):

S. 3036. A bill to extend until January 1, 1995, the existing suspension of duty on 6-Hydroxy-2-naphthalenesulfonic acid, and its sodium, potassium, and ammonium salts; to the Committee on Finance.

By Mr. DANFORTH (for himself and Mr. BREAUX):

S. 3037. A bill to reliquidate certain entries on which excessive countervailing duties were paid, and for other purposes; to the Committee on Finance.

By Mr. KOHL:

S. 3038. A bill to extend the temporary suspension of duty for certain timing apparatus; to the Committee on Finance.

By Mr. DANFORTH:

S. 3039. A bill to extend until January 1, 1996, the existing suspension of duty on triallate; to the Committee on Finance.

By Mr. SPECTER:

S. 3040. A bill to suspend until January 1, 1995, the duty on cyclohexylisocyanate; to the Committee on Finance.

By Mr. BENTSEN:

S. 3041. A bill to amend the Internal Revenue Code of 1986 to establish a national commission on private pension plans; to the Committee on Finance.

By Mr. KOHL (for himself and Mr. DANFORTH):

S. 3042. A bill to suspend until January 1, 1995, the duty on DMAS; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. BRADLEY, and Mr. LAUTENBERG):

S. 3043. A bill to extend the existing suspension of duty on corned beef in airtight containers; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 3044. A bill to suspend until January 1, 1995, the duty on Pyrrolo (3,4-C) Pyrrole-1, 4-Dione, 2,5-Dihydro 3,6-Diphenyl; to the Committee on Finance.

S. 3045. A bill to extend until January 1, 1995, the existing suspensions of duty on tartaric acid, potassium antimony tartrate, and potassium sodium tartrate; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. WOFFORD, Mr. DODD, Mr. SANFORD, and Mr. LEVIN):

S. 3046. A bill to amend the Tariff Act of 1930 to improve the antidumping and countervailing duty provisions, and for other purposes; to the Committee on Finance.

By Mr. BREAUX (for himself and Mr. LOTT) (by request):

S. 3047. A bill to amend the Merchant Marine Act, 1936, as amended, to establish a contingency retainer program and improve the United States-flag merchant marine; to the Committee on Finance.

By Mr. BOND:

S. 3048. A bill to suspend temporarily the duties on Pentotreotide; to the Committee on Finance.

By Mr. DURENBERGER:

S. 3049. A bill to suspend temporarily the duty on Bisphenol AF; to the Committee on Finance.

S. 3050. A bill to suspend temporarily the duty on capillary membrane material; to the Committee on Finance.

By Mr. JOHNSTON:

S. 3051. An original bill to grant a right of use and occupancy of a certain tract of land in Glacier National Park to Gerald R. Robinson, and for other purposes; from the Committee on Energy and Natural Resources; placed on the calendar.

By Mr. BOREN:

S. 3052. A bill to extend for 3 years the existing suspension of duty on stuffed dolls and the skins thereof; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 3053. A bill to increase the number of weeks for which emergency unemployment compensation is payable, and for other purposes; to the Committee on Finance.

By Mr. BRYAN:

S.J. Res. 327. A joint resolution to designate October 8, 1992, as "National Firefighters Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SANFORD (for himself and Mr. SIMON):

S. Res. 326. A resolution to express the sense of the Senate that a National Institutes for the Environment should be established; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURENBERGER (for himself, Mr. DASCHLE, Mr. KASTEN, Mr. KOHL, Mr. WELLSTONE, Mr. BURDICK, and Mr. PRESSLER):

S. 3011. A bill to equalize the minimum adjustments to prices for fluid milk under milk marketing orders, to require the Secretary of Agriculture to study the solids content of beverage milk, and to provide for a manufacturing allowance for milk under the milk price support program, and for other purposes; to the Committee on Agriculture, Nutrition and Forestry.

MIDWEST DAIRY EQUITY ACT

Mr. DURENBERGER. Mr. President, I rise today to introduce a bill very important to the dairy farmers of the Upper Midwest and, as a matter of fact, I would not be doing this if I did not think it was also extremely important to dairy farmers and consumers of dairy products, particularly milk, throughout the United States of America. S. 3011, the Midwest Dairy Equity Act put forth what I believe is a fair deal for all dairy farmers in every area of the United States.

But, more importantly, this bill sends a signal to the Department of Agriculture that their time to act is up. The Congress gave the USDA until January 1, 1992, to make recommendations for milk marketing order reform. Despite thousands of pages of testimony from the dairy industry, at hearings around the Nation, USDA refused to offer any proposals for change. It is now time for Congress to bring fairness to our dairy farmers.

Federal milk marketing orders were authorized by Congress in the late 1930's as a way to establish pricing and other conditions to ensure that an adequate supply of fresh fluid milk was available in all parts of this country and to establish fair prices for producers. In the 1930's those were good objectives and the orders were good tools. However, 60 years of improvement in transportation, refrigeration and other things in this country has made the milk marketing orders of 1930's obsolete.

The General Accounting Office and the U.S. Department of Agriculture have also criticized the Federal milk marketing order as being outdated, yet no one has been able to act. The 1990 farm bill gave hope that the Midwest dairy producers would finally be able to compete with farmers in other areas of the country, the promise that the dysfunction in the Nation's milk market would be removed.

The Congress and the Department of Agriculture know what farmers need. They need fair milk prices, and so do the consumers of this Nation. This bill S. 3011 will accomplish that.

The Midwest Dairy Equity Act would level the playing field for all dairy producers and assure farmers a fair policy for milk that is sold for fluid beverage use.

What the bill does is first take the class I price differential paid to farmers for fluid milk and set it at a flat $1.80 per hundredweight in all milk orders. This would eliminate the unfair advantage the farmers in Southern region have over Midwest producers. This is what makes the whole market dysfunction. Dairy farmers in southern Florida today receive $4.18 per hundredweight differential to Minnesota's $1.20 per hundredweight.

The second thing we do, a minimum price of $13.20 per hundredweight is set for fluid beverage milk. The price difference between $13.20 and the market price for milk used for manufacturing would be deposited into a national pool. The national pool of funds would then be equally distributed to dairy farmers in all regions of the country. This would protect farmers from the huge swings in dairy prices that have forced so many farmers off the farm in the past 10 years.

Lastly, the Midwest Dairy Equity Act provides for a study of increasing the protein levels of milk through fortification with nonfat dry milk. There are many in the dairy industry who believe that fortified milk would be better tasting for consumers and more profitable for dairy producers.

The bill also increases the USDA manufacturing allowance for cheese to $1.52 per hundredweight, and $1.37 per hundredweight for nonfat dry milk. This provision will help put the midwest dairy processors on an equal ground with competitors in California and other areas of the country.

The Midwest Dairy Equity Act is supported by Land O'Lakes, Minnesota Milk Producers, Associated Milk Producers Incorporated-North Central Region, and the Farmers Union Milk Marketing Cooperative.

Mr. President, this bill sends a clear message to the USDA that they have failed to address the number one concern of dairy farmers—Federal milk marketing order reform. Just as important, the USDA has failed to carry out the direction Congress gave it in the 1990 farm bill.

This bill, the Midwest Dairy Equity Act, provides a fair price and a level playing field for farmers across the United States. I encourage my colleagues to join with me in support of this bill.

Mr. President, I ask unanimous consent to print the bill in the RECORD.

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

S. 3011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act shall be known as the "Midwest Dairy Equity Act".

SEC. 2. EQUALIZATION OF MINIMUM PRICE ADJUSTMENT FOR CLASS I MILK FOR ALL MARKETING AREAS.

(a) USE OF SAME PRICE.—Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in paragraph (A)—

(A) in the third sentence—

(i) by striking "Throughout" and all that follows through "order involved), the" and inserting "The"; and

(ii) by striking "on the date" and all that follows through the end of the table in that sentence and inserting "shall be the same for each marketing area subject to an order and shall be $1.80 per hundredweight of milk having 3.5 percent milkfat, with a transportation surcharge determined by the Secretary to compensate handlers for the actual cost of moving milk within and between orders."; and

(B) by striking the fourth sentence; and

(2) by adding at the end the following new paragraph:

"(M)(i) Providing that the basic formula price used for the purpose of computing the price of Class I milk under milk marketing orders issued pursuant to this section may not be less than $13.20 per hundredweight."

"(ii) Notwithstanding any other provision of law, the Secretary—

"(I) shall provide for the uniform national pooling among producers of milk in all milk marketing orders of all funds that represent the difference between the price of Class I milk as determined under this paragraph and the price of Class I milk as determined without regard to this paragraph;

"(II) shall distribute the funds to all persons who are producers under any milk marketing order at a uniform rate per hundredweight; and

"(III) is authorized to make such temporary modifications in the operation of milk marketing orders as are necessary to carry out this paragraph.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month beginning more than 120 days after the date of enactment of this Act.

SEC. 3. STUDY OF SOLIDS CONTENT OF BEVERAGE MILK.

(a) FINDINGS.—Congress finds that current standards for milk solids not fat contained in class I milk for fluid use produced in geographic areas covered by milk marketing orders issued pursuant to section 8c of the Agricultureal Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, are below the average levels of milk solids not fat contained in unprocessed fluid milk that is produced on farms of producers.

(b) STUDY.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall—

(1) study the desirability and effects of fortifying class I fluid milk described in subsection (a) with additional nonfat solids, including consumer acceptance of fortifying the milk; and

(2) report the results of the study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 4. MANUFACTURING ALLOWANCE.

Section 204(c) of the Agricultural Act of 1949 (7 U.S.C. 1446e(c)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

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

"(3) MANUFACTURING ALLOWANCE.—

"(A) MINIMUM ALLOWANCE ESTABLISHED.—For purposes of supporting the price of milk through purchases of the products of milk under this section, the Secretary shall establish—

"(i) the manufacturing allowance for milk manufactured into butter and nonfat dry milk at not less than $1.37 per hundredweight of milk; and

"(ii) the manufacturing allowance for milk manufactured into cheese at not less than $1.52 per hundredweight of milk.

"(B) MANUFACTURING ALLOWANCE DEFINED.—For purposes of this paragraph, the term 'manufacturing allowance' means an amount (determined for purposes of the price support program for milk) applied separately to milk manufactured into butter and nonfat dry milk and to milk manufactured into cheese that, when added to the support price for milk, will enable a manufacturing plant of average efficiency in manufacturing these products to pay producers, on average, a price not less than the rate of price support for milk in effect during a 12-month period under this section when selling these products to the Commodity Credit Corporation.

"(C) COSTS AND RETURNS REFLECTED IN ALLOWANCE.—A manufacturing allowance shall reflect both the costs of manufacturing and selling products to the Corporation and the returns the plant receives from byproducts (other than whey solids pursuant to section 106 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 1446e note)) not purchased by the Corporation.

"(D) FACTORS ESTABLISHING THE VALUE OF MILK PRODUCTS PER HUNDREDWEIGHT.—For purposes of supporting the price of milk through purchases of the products of milk, the Secretary may not take into consideration any factors establishing the value per hundredweight of milk of—

"(i) butter in excess of 4.48 pounds;

"(ii) nonfat dry milk in excess of 8.13 pounds;

"(iii) cheese in excess of 10.1 pounds;

"(iv) whey fat in excess of .25 pound; and

"(v) buttermilk solids in any amount.

"(E) BENEFIT OF INCREASE FOR PRODUCERS.—To the extent practicable, additional receipts that a manufacturing plant receives as a result of an increase in the manufacturing allowance under subparagraph (A) shall be passed through to producers supplying milk to the plant.".

Mr. KOHL. Mr. President, I am proud to join my colleagues today in introducing the Midwest Dairy Equity Act. This bill makes needed changes to the Federal milk marketing order system and other aspects of the Federal dairy program.

To many, these issues may seem obscure. But to the dairy farmers in the upper Midwest, the promise of the future is clouded by the unfairness of the current milk marketing order system. These marketing orders are built on the assumption that the upper Midwest is the Nation's only source of extra fluid milk on a year-round basis. At one time, that was true. At this time, it is not.

When the marketing orders were designed, we needed to encourage two things: The movement of fluid milk from the upper Midwest to areas that didn't have enough supply, and increased production in those other areas. Now we don't need to encourage either. New technology and increased production in all geographic areas has created a new reality. And in this new reality there is no justification for a system that continues to reward milk production in some areas of the country by punishing production in our area. There is no justification for a Federal policy that gives producers in areas outside the upper Midwest higher prices for fluid milk. There is no justification for our failure to make policy reflect reality.

This bill simply provides consistency that is lacking in Federal dairy policy. For dairy products purchased by the Government, there is one uniform support price. However, for fluid milk the Federal Government establishes wide variations in price throughout the country. These regional variations are no longer justified. We are attempting to level the playing field on the fluid milk side just as we have had on the dairy product side for many years.

In 1988, the General Accounting Office and USDA's Economic Research Service released separate reports on Federal milk marketing orders. Both reports concluded that the original justification for distance differentials for fluid milk pricing is no longer warranted. The GAO concludes that "the premises for milk pricing under Federal orders are outdated. A need no longer exists to encourage and maintain a locally produced supply of milk."

A number of us urged the Secretary of Agriculture to hold nationwide hearings on this issue. And in the fall of 1990, he did hear about the need for changes in market orders—especially the need to reform the use of distance differentials to determine the price of fluid milk. He heard about it—but he didn't do anything about it.

Then, last month, the Secretary held another set of hearings, this time on alternatives to the current Minnesota-Wisconsin pricing system. And there are some indications that he might decide to tinker with the current pricing system—but, once again, without addressing the marketing order system. If that is what he does, it will be a mistake. It makes no sense to make changes in the Minnesota-Wisconsin price series without also modifying the class I distance differentials. The two are inextricably linked, and have to be addressed simultaneously. To act on one without the other makes no sense. It would be like rearranging the deck chairs on a sinking ship and then asking the passengers to stop and enjoy the aesthetic improvements instead of running for the lifeboats.

This bill addresses the flaws in the current system, and other issues related to dairy policy, as well. First and most fundamentally, the bill would level the playing field for fluid milk by establishing uniform differentials across the country. Second, it would prevent disastrous price fluctuations in the fluid milk market by setting a minimum formula price for fluid milk. Third, the bill would require USDA to study issues regarding fortification of fluid milk with additional nonfat solids. And finally, it would assure that "make allowances" adequately reflect the cost of manufacturing dairy products.

Mr. President, we all hope that this legislation will force policymakers to rethink the role of the Federal milk marketing order system. It is a system which is based on out of date assumptions and it is putting too many of our farmers out of work. The bill suggests some of the changes that need to be

made. We are willing to work with other people who have other ideas. But the central idea that we all ought to agree on is simply this: the current system does not work, will not work, cannot work and must be changed. We cannot afford continued inaction and we cannot afford to continue to pit region against region. It is time to make some changes. And this legislation identifies many of the changes that need to be made.

Mr. DASCHLE. Mr. President, regional inequities in the Federal milk marketing order system are a particularly frustrating phenomenon for producers in South Dakota and other States in the Midwest. Under the order system, dairy farmers in our region receive nearly $3 per hundredweight less for milk used for fluid consumption than producers in some parts of the country. This price disparity has contributed to a steady decline in the dairy industry in an area that has traditionally led the country in dairy production.

The 1990 farm bill directed USDA to conduct a series of hearings to review the Federal milk marketing order system. After a lengthy process, USDA essentially decided to follow the status quo. This was not a welcome outcome for producers in the upper Midwest. When USDA announced its package of limited reforms, Secretary Madigan expressed a desire to explore the question of whether more fundamental reform of the orders was needed, but it does not seem likely that USDA will take significant action in the near future. That is why my colleagues from upper Midwest, Republican and Democrat, have joined to introduce legislation that would address the primary complaints of the dairy industry in our region of the country.

Marketing orders play an important role in providing a stable milk supply in the country; however, the proposed changes in the orders that were recently announced by the Department have not adequately addressed the regional biases that currently exist in the marketing orders. While the Department's proposed rule on marketing orders does address some of the regional concerns of the upper Midwest, it completely ignores the question of class I price differentials. Current differentials are the result of a legislative mandate in the 1985 farm bill, not economics. The Department failed to react to, or comment on, evidence submitted by dairy interests from the Midwest that substantiated the contention that current differentials are having an adverse impact on the dairy industry in that region.

Unresponsiveness to regional concerns is not the only argument for a legislative response to the Department's decision on milk marketing orders. A proposal submitted by a coalition of upper Midwest industry groups would have lowered class I differentials nationwide, resulting in tens of millions of dollars in savings to consumers. Last year, the administration proclaimed itself the champion of consumers by opposing dairy price support reforms on the grounds that consumer costs would increase. Ironically, consumer costs seem to have had little bearing on the Department's deliberation on milk marketing order reform.

This legislation would address Midwestern concerns regarding marketing orders in several ways. First, the class I price differential that is paid to producers for fluid milk consumption would be established at a uniform, nationwide level of $1.80/ctw. This provision would ensure equitable treatment for producers in all regions of the country. Second, a minimum price of $13/ctw would be established for milk used for bottling purposes. When milk prices for nonbottled milk fall below $13/ctw, the price for bottled milk would remain at $13/ctw. The price difference between $13 and the market price for other types of milk would be deposited in a national pool from which uniform payments would be distributed to milk producers in all regions of the country. This provision would benefit producers in every part of the country by providing protection against seasonal price declines. The bill would also increase the manufacturing allowance allowed by USDA to cover the cost of manufacturing cheese, butter, and nonfat dry milk and direct USDA to report to Congress on the feasibility of fortifying fluid milk with nonfat powder.

These reforms are needed to return equity to the Federal milk marketing order system. I encourage my colleagues, whether they are from the Midwest or other parts of the country, to recognize the disparities that exist in the current system and join us in the effort to rectify them.

By Mr. PRYOR:

S. 3012. A bill to amend title 10, United States Code, to limit the amount expended by the Department of Defense for the recruitment of persons for accession into the Armed Forces of the United States; to the Committee on Armed Services.

LIMITATION OF DEPARTMENT OF DEFENSE RECRUITING EXPENDITURES

Mr. PRYOR. Mr. President, I am today introducing legislation which will attempt to correct a disturbing trend from within the Pentagon that simply does not make sense. The $2 billion Military Recruitment Program is out of touch with the realities of today, the realities of Pentagon cutbacks, and our bill will try to restore budgetary order in this area of military spending with regard to recruitment.

The cold war is over and our military is getting smaller; it is decreasing before our very eyes. Our total defense employment; military, civil service, and contractor jobs are vanishing by an estimated rate of 1,000 jobs every day between now and 1997. The military alone is reducing its manpower by 25 percent. Some 500,000 military positions will be eliminated. As a result, we are literally begging people to leave the armed services. In addition, over 30 bases will be closed nationwide by 1995 with more to come.

Mr. President, 5 months ago, just days after the President submitted his fiscal year 1993 budget request, I asked a very simple question here in this chamber: How can we justify increasing the Pentagon's $2 billion budget for recruiting young men and women to join the Armed Forces when, at the same time, we are paying large sums to people who promise to quit the military? My question was soon answered by none other than the distinguished chairman of the Senate Appropriations Committee, Senator ROBERT C. BYRD, who said, "This is an anomaly. It is juxtaposition of incongruous concepts. It does not make sense." I heartily agree with the distinguished President pro tempore of the Senate.

Mr. President, since 1989 our military has cut back the number of recruits who can join the military by 34 percent. What is amazing, however, is that while the military continued to seek fewer and fewer good men and women over the past 3 years, the recruiting budget hovered around $2 billion. In fiscal year 1993, to recruit a projected 370,000 inductees, the Pentagon wants to spend just over $2 billion. By my calculations, that comes to about $5,700 per recruit. This includes active duty, reserve, enlisted, officer, prior-service and non-prior-service recruits. In 1989, the services brought in over 550,000 new recruits for about the same price tag of $2 billion, or $3,900 per recruit.

What is going on here? In 1989, we spent $3,900 per recruit, and in 1993 we want to spend $5,700 per recruit. Certainly we can do better. We must do better. The legislation I am introducing today would attempt to do so by allowing DOD to spend a maximum of $4,700 per recruit in fiscal year 1993, and would adjust this figure by the Consumer Price Index for each year thereafter. It is my belief that the Department of Defense can run a more efficient recruiting operation without jeopardizing the quality of recruits who will serve in our Armed Forces. These budgets can be reduced without reducing the effectiveness of our military or its capacity to provide for our national security.

Mr. President, efficiency is the key. It is the buzz-word of the 1990's. All too often, our Government compromises the taxpayer's trust by assuming that bigger is better. How can our military recruiting program become more efficient? Mr. President, the possibilities are endless.

To start with, the taxpayer's $2 billion supports a massive fleet of 31,000 recruiters who are spread out over 6,000 recruiting offices. These offices are on street corners and in shopping malls all across America. If you walked through the streets of many towns across the country, you would see a Navy recruiting office on one side of the street and a Marine Corps office on the other. Why not simply combine these offices, share the office space and supplies, and reduce the number of recruiters who operate and support these recruiting offices?

In addition, a large number of these 6,000 offices are operated on a part-time basis. Many are open for only 1 or 2 days a week. However, we still pay full rent for these leases, we still pay incredible amounts for the support of these recruiting offices across our country. These are very wasteful practices.

Mr. President, perhaps the most well-known aspect of the $2 billion recruiting program are those elaborate TV ads that usually end up in the NFL playoffs or on other expensive media slots. Whether you see knights on horseback or men jumping from airplanes, you can bet that these commercials are very expensive to produce and no less expensive to air.

Mr. President, earlier this month the House of Representatives passed their Department of Defense authorization bill which included a $75 million cut in the President's total recruitment budget request for fiscal year 1993. The legislation I am introducing today would expand on this initiative. This bill would give the Department of Defense the flexibility in determining how to rightsize its recruiting. The services claim that their advertising campaigns provide vital support to their recruiting efforts. This bill would not prohibit advertising. However, if the services feel that it is crucial to spend millions of dollars on advertising each year, then they must find other areas to cut.

Again, let me stress that this bill will not keep the Pentagon from recruiting quality individuals. Just 3 years ago, in 1989, we attracted the best and brightest young men and women in America for less than $4,000 per individual. These new recruits were brilliant in the Persian Gulf war with our cutting edge technology and military hardware. Mr. President, this legislation is about efficiency. The entire Pentagon is working I hope to give the taxpayer "more bang for the buck" and the Recruitment Program is no exception to that rule.

Mr. President, I now send the legislation that I am introducing to the desk and ask unanimous consent that it be printed in the RECORD.

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

S. 3012

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. LIMITATION ON DEPARTMENT OF DEFENSE RECRUITING EXPENDITURES.

(a) IN GENERAL.—Chapter 134 of title 10, United States Code, is amended by adding at the end of subchapter I the following new section:

"§ 2246. Limitation on recruiting expenditures

"(a) IN GENERAL.—Funds appropriated or otherwise made available to the Department of Defense for a fiscal year may not be expended for the recruitment of persons for accession into the armed forces in excess of the maximum amount determined under subsection (b).

"(b) MAXIMUM AMOUNT.—(1) The maximum amount which may be expended by the Department of Defense for any fiscal year for the recruitment of personnel for accession into the armed forces (other than as cadets or midshipmen referred to in subsection (d)) is the amount determined by multiplying the number of persons accessed into the armed forces in that fiscal year by the amount determined under paragraph (2).

"(2)(A) For fiscal year 1993 the amount of the multiplier under paragraph (1) shall be $4,700.

"(B) The Secretary of Defense may adjust the amount of the multiplier annually for each fiscal year after fiscal year 1993 by the percentage by which the Consumer Price Index for June of the fiscal year preceding that fiscal year exceeds the Consumer Price Index for the preceding June. If the amount of a multiplier determined under the preceding sentence for any fiscal year is not a multiple of $100, the amount shall be rounded to the next lower multiple of $100.

"(C) In this paragraph, the term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(3) Paragraph (1) may not be construed to limit the amount that may be expended for any fiscal year for the recruitment of personnel for accession into any one armed force or any component of an armed force to the amount determined by multiplying the number of persons accessed into that armed force or that component, as the case may be, in that fiscal year by the amount determined under paragraph (2).

"(c) COVERED RECRUITMENT EXPENSES.—This section applies to the following expenses for the recruitment of persons for accession into the armed forces:

"(1) Pay of Department of Defense personnel whose duties include—

"(A) recruitment;

"(B) the management of such Department of Defense personnel in the performance of the recruitment duty; or

"(C) supporting the personnel in the performance of duties referred to in subparagraph (A) or (B).

"(2) Allowances and expenses of such personnel in performing those duties.

"(3) The cost of providing support for such personnel for the performance of those duties.

"(4) The cost of providing facilities, utilities, services, and supplies for the use of such personnel in the performance of those duties.

"(5) Advertising expenses related to recruitment.

"(6) The costs carrying out and supporting military entrance processing.

"(7) Amounts paid under sections 302d, 308a, 308c, 308f, 308g, 308h (for a first enlistment), and 308i of title 37, relating to bonuses and other incentives.

"(8) Amounts deposited in the Department of Defense Education Benefits Fund pursuant to section 2006(g) of this title.

"(9) Payments under the provisions of chapters 105, 107, and 109 of this title.

"(10) Any other expenses that the Secretary of Defense determines to be recruitment expenses.

"(d) EXPENSES NOT COVERED.—This section does not apply to the recruitment of persons for appointment as cadets at the United States Military Academy, as midshipmen at the United States Naval Academy, or as cadets at the United States Air Force Academy.

"(e) REQUIREMENT TO SPECIFY BUDGET REQUESTS FOR RECRUITING.—The documents submitted to the Congress by the Secretary of Defense in connection with the submission of the budget for each fiscal year pursuant to section 1105 of title 31 shall include the following:

"(1) An itemized list of the programs, projects, and activities provided for in the budget that are programs, projects, and activities conducted for the recruitment of persons for accession into the armed forces.

"(2) A specification of the amount provided in the budget for each such item.

"(3) The estimated cost of recruiting each person for accession into the armed forces.

"(f) APPLICABILITY.—This section applies with respect to recruiting activities for accessions of officer and enlisted personnel (including prior service personnel) into the regular components and the reserve components of the armed forces.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end the following new item:

"2246. Limitation on recruiting expenditures.".

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 3013. A bill to temporarily suspend the duty on pentostatin; to the Committee on Finance.

S. 3014. A bill to suspend until January 1, 1995, the duty on certain thermosetting polyimide resins; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTY

Mr. BRADLEY. Mr. President, I rise to introduce two bills on behalf of the New Jersey based Warner-Lambert and Rhone-Poulenc. Both pieces of legislation will temporarily suspend the duties on a compilation of imported chemicals. Joining me is my friend and colleague Senator LAUTENBERG. Identical legislation has been introduced on the House side as H.R. 1964 and H.R. 3382 by Representatives ZIMMER and GUARINI.

"Nipent" or pentostatin, the orphan drug which Warner-Lambert imports, is used to treat hairy cell leukemia patients. Currently, hairy cell leukemia affects about 2,500 patients in the United States. According to Warner-Lambert, clinical tests indicate positive results from the drug's usage. Warner-Lambert also maintains that due to its small patient population, the tariff suspension would cause no appreciable revenue loss to the Treasury.

Rhone-Poulenc imports certain chemical compounds which are generically known as polyimide resins. Polyimide resins are incorporated in several strategic missile systems and are used for high-speed computing. Rhone-Poulenc claims they will use the savings of a duty suspension to fund additional research and development.

According to the International Trade Commission, no domestic producers have registered objections to the proposed suspension. The legislation enables Warner-Lambert and Rhone-Poulenc to import the chemicals at reasonable prices making its products more competitive in the international market and ultimately more affordable for consumers in the domestic market.

Mr. President, I ask unanimous consent that these bills be printed in the RECORD.

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

S. 3013

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PENTOSTATIN.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	Pentostatin (provided for in subheading 2934.90.47)	Free	No change	No change	On or before 12/31/94".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 3015. A bill to suspend temporarily the duty on 5-(N,N-dibenzylglycyl)-salicylamide, 2-[N-benzyl-N-tert-butylamino]-4'-hydroxy-3'-hydroethylacetophenone hydrochloride, flutamide, and loratadine; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTY

Mr. BRADLEY. Mr. President, I rise to introduce legislation that will temporarily suspend the duties on a compilation of imported chemicals on behalf of Schering Corp. of Madison, NJ. Joining me is my friend and colleague Senator LAUTENBERG. Identical legislation has been introduced on the House side as H.R. 4879 by Representative ARCHER.

This legislation would suspend the import duties applicable to four chemicals. These chemicals are used in the production of finished pharmaceutical products. In turn, the pharmaceutical products have a wide range of usage; from serving as a relief for patients of bronchospasms and allergies to treating prostatic cancer.

According to the International Trade Commission, no domestic producers have registered objections to the proposed suspension. The legislation enables Schering Corp. to import the chemicals at reasonable prices making its products more competitive in the international market and ultimately more affordable for consumers in the domestic market.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

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

S. 3014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. THERMOSETTING POLYIMIDE RESINS.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.39.12	1H - Pyrrole-2,5-dione, 1,1-(methylenedi-4, 1-phenylene) bis-polymer with 4,4-methylenebis [benzenamine] (provided for in subheading 3911.90.30)	Free	No change	No change	On or before 12/31/94".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 3015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUSPENSIONS OF DUTY ON 5-(N,N-DIBENZYLGLYCYL)-SALICYLAMIDE, 2-[N-BENZYL-N-TERT-BUTYLAMINO]-4'-HYDROXY-3'-HYDROMETHYLACETOPHENONE HYDROCHLORIDE, FLUTAMIDE, AND LORATADINE.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new headings:

"9902.31.12	5-(N,N - dibenzylglycyl)-salicylamide (LBH-B/C, CAS No. 30566-92-8) (provided for in subheading 2922.30.3000)	Free	No change	No change	On or before 12/31/94
9902.31.13	2-(N - benzyl-N-tertbutylamino)-4'-hydroxy-3'-hydromethylaceto-phenone hydrochloride (Glycyl Hydrochloride, CAS No. 24085-08-3) (provided for in subheading 2922.30.3000)	Free	No change	No change	On or before 12/31/94
9902.31.14	Flutamide (CAS No. 13311-84-7) (provided for in subheading 2924.29.3950)	Free	No change	No change	On or before 12/31/94
9902.31.15	Loratadine (CAS No. 79794-75-5) (provided for in subheading 2933.90.2600)	Free	No change	No change	On or before 12/31/94".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 of this Act applies with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 3016. A bill to provide for additional extension periods, not exceeding 2 years in the aggregate, in the time allowed for reexportation of certain articles admitted temporarily free of duty under bond; to the Committee on Finance.

EXTENSION OF TIME FOR REEXPORTATION OF CERTAIN ARTICLES

Mr. BRADLEY. Mr. President, I rise on behalf of General Electric Astro-Space Division to introduce legislation that would extend the duty suspension on communications satellite components entered under temporary importation under bond. Joining me is my friend and colleague, Senator LAUTENBERG. Identical legislation has been introduced on the House side as H.R. 1835 by Representative SMITH.

The components that GE Astro imports would remedy numerous problems engendered by the *Challenger* disaster and subsequent failures of launch vehicles for communications and other satellites. GE Astro claims that failures of unmanned launch vehicles, such as the *Challenger* disaster, have added a delay to the exportation of communications satellites. This delay can cause a failure to export an imported component within the maximum 3-year period. As a result of the time lag, GE Astro has not been able to benefit from the initial suspension and would like an extension.

According to the International Trade Commission, no domestic producers have registered objections to the proposed suspension. This legislation enables GE Astro to import these components at reasonable prices making its products more competitive in the international market and more affordable for manufacturers in the domestic market.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

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

S. 3016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REEXPORTATIONS OF COMMUNICATIONS SATELLITE ARTICLES.

(a) IN GENERAL.—

(1) EXTENSION.—The first sentence of U.S. Note 1(a) to subchapter XIII of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking "and (2)" and inserting "(2)"; and

(B) by striking the period at the end and inserting the following: ", and (3) for articles imported under heading 9813.00.05, the time for exportation may be extended for 1 or more further periods which, when added to the initial 1 year, shall not exceed a total of 5 years, but any application for an extension beyond the 3rd year must be accompanied by the importer's certification that the articles are dedicated for incorporation into a communications satellite.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) apply with respect to goods entered on or after the date that is 3 years before the date of the enactment of this Act.

(b) EXPEDITED MITIGATION OF PENALTY ASSESSMENTS ON REEXPORTATIONS DELAYED BY LAUNCH SYSTEM FAILURES.—Goods imported under heading 9813.00.05 of the Harmonized Tariff Schedule of the United States after January 1, 1983, and before the effective date established under subsection (a)(2) that are certified by the importer—

(1) as having been dedicated for incorporation into a communications satellite; and

(2) as not having been exported within the time required for exportation under the applicable bond directly or indirectly as a result of launch schedule delays resulting from any launch failure, launch system failure, or technical delay;

are subject to liquidated damages not exceeding 1 percent of the liquidated damages established in the applicable bond.

By Mr. DECONCINI:

S. 3018. A bill to extend the temporary suspension of import duties on cantaloupes; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. DECONCINI. Mr. President, today I am introducing legislation to extend the temporary suspension of import duties on cantaloupes during the winter months when they are available only from non-domestic sources. My bill is identical to H.R. 4814, introduced earlier this year in the House of Representatives by the chairman of the Committee on Agriculture, Mr. DE LA GARZA. That language has been incorporated in H.R. 4318, the miscellaneous tariff and duty suspension bill which has been reported favorably by the House Ways and Means Committee.

Cantaloupes are grown widely in the United States but only during the warmer months. In May, commercial production of cantaloupes starts in Texas and, to a limited extent in California, Florida, and Georgia. By June cantaloupes are available from Arizona, California, Florida, Georgia, South Carolina, and Texas. In July, August and September, many States including Colorado, Illinois, Indiana, Maryland, Michigan, New Jersey, and New York are major producers of cantaloupes. In October and November, small shipment of cantaloupes are available only from Arizona, California, Georgia, and Texas.

In the winter months of December, January, February, March, and April, there is no commercial production of cantaloupes in the United States. The only source for the American consumer is non-domestic. The major cantaloupe producers in the winter include Costa Rica, Dominican Republic, El Salvador, Guatemala, Haiti, Honduras, Mexico, and Panama. Much of the cantaloupes from Mexico are shipped into the United States through Arizona and Texas.

Duty suspension on cantaloupes has been in effect for a decade and there have been no adverse effects on domestic agriculture. The reason is simply a matter of geography. Even my home State of Arizona cannot compete with Mexico in the winter for weather warm enough to grow cantaloupes. We are simply too far north to grow cantaloupes so non-domestic sources are needed to meet the demands of today's consumer who wants a wide range of fresh fruits and vegetables throughout the year.

A temporary duty suspension does not harm our farmers; on the contrary, it helps them. When fruits and vegetables are seasonal, consumers tend to forget about them until the season is back in full swing. In the meantime, sales have been lost. But, when non-domestic supplies make fruits and vegetables available throughout the year, there is a smooth transition to the domestic supply when warm weather returns.

Arizona, California, and Texas are the major producers of cantaloupes in summer. Mexico is a major supplier in winter.

The duty suspension I am introducing today is not a new idea. My bill, like the de la Garza bill, would extend the current duty suspension for 2 years after its scheduled expiration at the end of this year. Everyone benefits from this bill: American consumers who will be assured a supply of reasonably priced cantaloupes through the winter months, and American food store workers and operators, shippers, distributors and truck drivers. They all benefit from having a plentiful supply of lower priced foods to sell.

I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

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

S. 3018

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CANTALOUPES.

Subheading 9902.08.07 of the Harmonized Tariff Schedule of the United States is amended by striking out "12/31/92" and inserting "12/31/94".

The amendment made by the first of this Act applies with respect to goods entered, released, or withdrawn for consumption after December 31, 1992.

By Mr. SPECTER:

S. 3019. A bill to strengthen the international trade position of the United States; to the Committee on Finance.

TRADE EXPANSION AND ENFORCEMENT ACT

Mr. SPECTER. Mr. President, today I am introducing the Trade Expansion and Enforcement Act of 1992 which will allow the United States to expand trade opportunities for U.S. producers by greatly improving access to overseas markets and to improve enforcement mechanisms under U.S. law to deter unfair trade practices by our trading partners which have the deleterious effect of taking U.S. jobs.

Mr. President, I believe in free trade, but free trade means the cost of production plus a reasonable profit. It does not mean subsidizing goods—goods where there are subsidies by foreign governments. It does not mean dumping, where goods are sold in the United States at prices lower than those charged in their home market.

The essential ingredient of free trade is reciprocity. The United States ought to have equal access to foreign markets just as importers to the United States have access to our markets. But regretably, that is not the case. In 1988, we enacted a Super 301 provision which gave authority to the executive branch to enforce our trade laws. Regretably, it has now lapsed, and this bill will reauthorize the Super 301 provisions.

Beyond the Super 301 provision, Mr. President, this legislation will provide for a private right of action so that injured parties may sue in the Federal courts to enjoin goods from coming into the United States which are subsidized or dumped or to get damages for goods which come into this country which are subsidized or dumped.

The remedies at the present time in the International Trade Commission are totally inadequate—no teeth, no deterrence, really very ineffectual.

Recently, the steel producers brought a series of actions with the U.S. Trade Commission and also the Department of Commerce because that is their only available remedy. But it would be enormous—I was about to say enormously more effective, which is not correct. It would be effective. You could go to court and stop dumped, subsidized goods from coming into this country. But there really is no effective enforcement mechanism under the International trade Commission and the Department of Commerce.

I think back, Mr. President, to 1984 when the International Trade Commission rendered a decision in favor of the American steel industry. The matter then went to the White House for decision by the President. Our late colleague, Senator Heinz, and I visited the Cabinet officers and we received support from Secretary Bill Brock, the U.S. Trade Representative, and from Secretary Malcolm Baldridge of Commerce. But when we got to the Defense Department and to the State Department, we had a flat statement that those Secretaries would urge the President to overrule the International

Trade Commission in the interest of foreign policy and in the interest of State Department policy.

It is inappropriate, Mr. President, to have decisions on trade made in terms of foreign policy or defense policy. If U.S. policy requires certain action along those lines, it ought to come out of the general revenues of the United States as opposed to any one specific industry.

The steel industry in Pennsylvania has been victimized by an attitude which has permitted so much steel to come into the United States for the collateral considerations of State Department policy or foreign policy, and in 1984, regrettably, the President overruled the International Trade Commission, giving further damage to the American steel industry.

This legislation which I have pushed for many years would rectify that problem by making it an issue for the courts where justice would be interpreted so that we stop dumped and subsidized goods from coming into this country.

This legislation, Mr. President, would further reinstate the voluntary restraint program, a program which lapsed on March 31 of this year, and with its lapse especially in the specialty steel industry we are having an influx of subsidized and dumped goods.

Mr. President, I believe the United States should promote the policies of free trade providing there is reciprocity, which is not the fact in the world today. In any event, subsidized and dumped goods do not fit into the pattern of free trade under any interpretation. Experience has been that steel, for example, has been subsidized as much as $250 a ton. We find the American aircraft industry is forced to compete against foreign airplane manufacturers, which subsidies are given by the governments of Germany and France and other foreign governments, and that is a line of conduct which simply ought not to be tolerated.

This bill contains some provisions recently adopted by the House of Representatives such as reauthorization of the "Super 301" provision under our 1988 Trade Act, and investigation of trade practices and policies of our partners in their markets with the principle mission of increasing U.S. access to such markets. It also contains several provisions which I believe are integral to the enforcement of our trade laws, namely the private right of action to enforce customs fraud, dumping and illegal subsidies.

Mr. President, I believe reciprocity is the cornerstone of free trade policy. United States companies should have unfettered access to foreign markets, like for instance, Japan's, just as we permit such access to our markets. If they are not able to obtain such access because of official policy or other nonmarket barriers, then the U.S. Government should impose appropriate sanctions until such reciprocity is assured. In this way the "market" will run its course. And, more importantly, American jobs will not be lost because of lack of access to foreign markets or unfair trade practices here.

Some of my colleagues will question whether we should be enacting a trade bill while negotiations are under way relative to the Uruguay round and the North America Free Trade Agreement. I would respond, however, by saying that a successful GATT—Uruguay round does not seem imminent and the NAFTA would address only part of the world. Moreover, we have witnessed the expiration of the voluntary restraint agreements for the steel industry in the face of an apparent collapse of negotiation of a multilateral steel agreement. Meanwhile, American jobs—Pennsylvania jobs—are being lost or put at risk because companies cannot access certain markets or they must compete against dumped or subsidized goods. Hence, our constituents can ill afford for us to wait for the negotiators to reach agreement.

I want to impress upon my colleagues this point, Mr. President, the direct consequence of unfair trade practices is loss of U.S. jobs. This was brought in clear view for me early this year when I conducted a series of Judiciary Committee field hearings in my State in January. Those hearings were held in Philadelphia, Pittsburgh, Harrisburg, and Allentown on the general subject of unfair foreign trade practices and their effect on jobs. The participants included business and labor leaders representing every major industry group in the State. They were asked to prepare testimony on how their businesses have been affected by unfair trade practices. Virtually every witness was able to reference specific foreign trade practices which adversely impacted their business activities.

The bill I am introducing will redress many of the concerns expressed in those hearings. In particular, the bill would reauthorize the "Super 301" provision of the Omnibus Trade and Competitiveness Act of 1988. This provision will require the U.S. Trade Representative to identify annually foreign countries and practices that are trade liberalization priorities and, barring an agreement to end such practices, retaliate against those countries. This provision has proven to be an effective tool against unfair trade practices and should be reauthorized.

We have a serious problem, Mr. President, with market access in the Far East relative to automobiles, auto parts, rice, and rice products. This bill addresses these problems by obligating the administration to initiate section 301 investigations against Japan for autos and auto parts, and Japan, Korea, and Taiwan for rice and rice products, and to negotiate trade agreements to overcome the market access problem.

The bill also contains provisions that would modernize procedures to handle customs related matters, including improvements in customs enforcement. In this regard, the bill contains an important provision that would truly facilitate the enforcement of our customs laws, deterring customs fraud in particular. That is, this bill would provide a private right of action for individuals injured by customs fraud to sue in Federal court. A similar enforcement provision would be available for American businesses that have been injured by dumped or subsidized imports.

Consistent with my efforts since 1982 to enact such legislation, on April 1, 1992, I introduced S. 2508 which would provide a private right of action for dumping, illegal subsidies, and customs fraud. For purposes of consolidating trade enforcement mechanisms, however, I have included the substance of S. 2508 in this trade bill.

Mr. President, we have found that our trade has been crippled by subsidies, by dumping, and by customs fraud. The Federal Government is simply unable to handle these issues alone. If private parties had access to the courts to stop subsidies, dumping, or customs fraud, I suggest it would be enormously helpful to trade in our Nation.

We need some teeth to have an effective remedy to subsidized, dumped, or fraudulent goods from coming into this country. Immediate injunctive or monetary relief rather than prospective duties as currently authorized under our trade laws is the sort of teeth that is needed.

I am well aware that whenever there is a request to expand the jurisdiction of the Federal courts, there are complaints from many quarters that the Federal courts are overburdened at the present time. I agree that there are too many cases in litigation in this country. But the issues at stake are too great and I believe the Federal Government is itself too burdened to effectively redress the pernicious effects of subsidized and dumped imports and customs fraud. Accordingly, as I have said over the past decade in trying to enact such legislation, there is a real need to allow private plaintiffs the opportunity to enforce our trade laws.

Industry suffers the dual dilemma of competing against foreign protectionism and having no forum to pursue their grievance other than the executive branch. Mr. Hank Barnette, senior vice president and general counsel of Bethlehem Steel, who testified at the Judiciary Committee hearing in Pittsburgh provides a level of support for the private right of action concept. Mr. Barnette is very familiar with the broad range of our trade policy and was appointed by President Bush to serve on his Advisory Committee on Trade

Policy and Negotiations. He appeared before the Judiciary Committee to echo the support he voiced for private right of action legislation back in 1985:

I said then, and am equally convinced today, the current prospective antidumping remedies provide an inadequate deterrent to dumping. We know that to be a fact. In our industry the practice of dumping has continued unabated for nearly 20 years and it is rampant today. The establishment of an effective private right of action against dumping in the United States Federal Courts would provide a much needed remedy.

The particular provisions in this trade bill would provide a private right of action for injunctive and monetary relief in Federal court to individuals or corporations who have been injured by dumping, subsidies, or customs fraud violations. The provisions would allow the affected industries to seek immediate relief through the Federal courts to halt the illegal importation of products.

Another important provision contained in the legislation I am introducing deals with the March 31 lapse of the voluntary restraint agreements for the steel industry and the subsequent lapse of negotiations for a multilateral steel agreement. Simply put, this bill would extend the voluntary restraint agreements for specialty steel products until March 31, 1995. This date anticipates that a multilateral steel agreement would be successfully negotiated by that time. The extension of VRA's is necessary as a method for stopping dumped and subsidized steel products from coming into this country. The American steel industry has long been victimized by subsidized and dumped steel imports. This clearly violates principles of free trade. This bill would correct that.

Mr. President, I am hopeful that the Senate can move quickly on this legislation. I recognize there are several pressing issues before this body such as the economy and our cities. But, I submit that limited access of U.S. exporters to certain foreign markets coupled with illegal imports into this country, both having a severe adverse effect on American jobs, make this trade legislation no less important. I urge, therefore, my colleagues to join me in supporting this bill.

By Mr. McCONNELL:

S. 3020. A bill to repeal the prohibition in the District of Columbia on individuals carrying self-defense items such as Mace; to the Committee on Governmental Affairs.

REPEAL OF PROHIBITION ON CERTAIN SELF-DEFENSE ITEMS

Mr. McCONNELL. Mr. President, I rise today to introduce a bill to give residents and visitors in the Nation's capital—particularly women—a means of defending themselves against violent crime. My bill would restore to men and women in this city the right to carry Mace—an effective deterrent and means to defend themselves against assault.

It is no secret that people in this city are in the grips of a violent crime epidemic. Members of Congress have been victimized. Staff members have been terrorized, brutalized, and even murdered. Residents in every quadrant of this city are at risk. Scared. And virtually, legally, defenseless.

Mr. President, as my staff has been making calls to other offices to garner cosponsorships for this bill, many more instances of violent crime—around the Senate buildings and parking lots—have come to light.

Staffers feel besieged, and are apprehensive when they walk to their cars at night—in Capitol Police-patrolled lots.

It should come as no surprise that female staffers are particularly concerned about random violence. For women who are approached by an assailant, losing their purse is the least of their concerns. Women have the additional, and incomprehensible, fear of being raped and otherwise brutally assaulted.

Mr. President, for Capitol Hill staff, walking to their cars, the Metro, or home—in the dark—goes with the job. We can make that walk a little less perilous by enacting this legislation. At the least, we will give staff a means of protecting themselves with something other than their car keys or I.D. cards. Passage of this legislation would give some staffers a sense of security when they leave the confines of these buildings. It would give everyone in this city an added measure of security.

I would like to bring to the Senate's attention a letter I received from a constituent who had recently made her first trip to this city. While touring, her purse was searched at a security checkpoint and the Mace she was carrying was seized. This young woman was told she was committing a crime and had the option of giving the Mace up to be destroyed or being arrested.

As you might imagine, the experience was frightening and enraging. The worst result, in her view, was that: "The law left me vulnerable in a city that by its own admission is perilous and crime-ridden."

Another dramatic, and tragic, illustration of the need for this bill: A year and half ago, a man attacked a woman who was walking home from church in the District. He grabbed her from behind. She took Mace from her purse, sprayed it at the assailant, and escaped. As she was running to a phone to call the police, her sister who was also walking home after church, saw a man rubbing his eyes—not knowing her sister had Maced him a few minutes earlier, she inquired as to whether he was OK. He grabbed her, dragged her into an alley, and raped her.

He was caught, convicted, and will soon be sentenced. But his victims have already been sentenced. Sentenced to a lifetime of coping with the physical and psychological trauma of rape.

Granted, this bill is no panacea. It will not stop rape or the random violence that terrorizes people in this city. It would, however, reverse a ridiculous situation whereby women, in particular, have been forced to give up one of the only means available to defend themselves, short of carrying a gun which also is not legal in this city, getting a black belt in a martial art, or walking everywhere with a large, protective, dog.

Mr. President, I have been informed that some women have resorted to carrying small cans of Easy-Off oven cleaner in lieu of Mace as a means of defense. This is an absurd and unacceptable situation.

Will there now be calls to ban the sale of Easy-Off in the District?

The bill I am introducing today gives District of Columbia officials until January 1, 1993 to rescind the Mace-ban. If they do not take the initiative, this bill will kick in and do it for them.

By Mr. SPECTER:

S. 3021. A bill to suspend until January 1, 1995, the duty on n-butylisocyanate; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTY

Mr. SPECTER. Mr. President, today I am introducing legislation that will temporarily suspend duties on two chemicals imported and used by my constituent, Miles, Inc., of Pittsburgh, PA, to supply makers of end-use products of importance to the agricultural market in the United States.

Miles Inc. (formerly Mobay) is a Fortune 100, research-based company with businesses in chemicals, health care, and imaging technologies. Headquartered in Pittsburgh, the company has major operations throughout the United States, with 1991 sales of $6.2 billion.

Because neither chemical is produced in the United States, Miles imports both n-butylisocyanate [NBI] and cyclohexylisocyanate [CHI] to supply the North American market. NBI and CHI both serve as key ingredients in the manufacture of herbicides and fungicides that are used in the highly competitive agricultural market. Miles supplies NBI and CHI to the manufacturers of these end-use products.

My constituent has represented to me that these requests for duty suspensions will help them maintain price stability over time. This will assist those they supply, and ultimately the end-product users in the U.S. agriculture industry, to contain costs and remain competitive.

As you are aware, Mr. President, duty suspension legislation is routinely adopted by Congress where no unfair competitive advantage, vis-a-vis other U.S. companies or industries, is gained by the beneficiary of such legislation.

In this regard, consultations have taken place with the Ways and Means Subcommittee on Trade of the House of Representatives, which has jurisdiction over the companion bills, H.R. 5371 and H.R. 5372, and the office of Representative RICK SANTORUM, the sponsor of H.R. 5371 and H.R. 5372. Both offices have stated that they are aware of no domestic opposition or other opposition to Miles' duty suspension requests. Inquiry has also been made of the Commerce Department, which advises that they will not be able to respond until companion legislation is introduced in the Senate.

In sum, Mr. President, my constituent has represented to me that this legislation will benefit the domestic agriculture industry. Failure to suspend these duties also will adversely affect the international competitiveness of domestic manufacturers who require these chemicals to supply their products to the agriculture industry. For these reasons, I urge my colleagues to join me in supporting this legislation.

By Mr. SPECTER:

S. 3022. A bill to suspend until January 1, 1995, the duty on 3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide and on mixtures of 3,5-Dichloro-N-(1,1-dimethyl-2-propynyl)benzamide with application adjuvants; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTY

Mr. SPECTER. Mr. President, today I am introducing legislation that will suspend temporarily the existing import duties on 3,5-Dichloro-N-(1,1-dimethyl-2-propynyl) benzamide [KERB] and on mixtures of 3,5-Dichloro-N-(1,1-dimethyl-2-propynyl) benzamide with application adjuvants used by my constituent, Rohm and Haas Co., in the production of amide-type herbicides. Rohm and Haas expects to import KERB both as a technical grade, active ingredient and as formulated material [KERB 50W]. In the United States, KERB is used primarily as a lettuce herbicide. It is also used, however, as a herbicide for seedling alfalfa and clover, and turf and ornamental plantings.

Rohm and Haas is seeking a temporary suspension of the duty on these products since this will allow the most efficient production of pronamide, and therefore, result in the continued, stable supply of a cost-effective herbicide for U.S. lettuce growers.

Rohm and Haas, a multinational company with main offices in Philadelphia, PA, is principally involved in the manufacture of chemicals and plastics. I am informed that Rohm and Haas is the only manufacturer of pronamide worldwide, it being manufactured at the company's Philadelphia plant and its Mozzanica, Italy plant. The company represents that it intends very shortly to consolidate its operations in its Mozzanica, Italy plant. Accordingly, there will no longer be a need for the U.S. to impose a tariff on these products to protect an American industry.

In the company's judgment, there are no herbicides that are directly competitive with pronamide and its major uses. KERB is a standard treatment in California where 70 percent of the Nation's lettuce is grown.

Duty suspension legislation, Mr. President, is routinely adopted by Congress where no unfair competitive advantage, vis-a-vis other U.S. companies or industries, is gained by the beneficiary of such legislation. In this regard, I am informed that Rohm and Haas will not gain any such advantage by this legislation.

My staff has consulted with the Department of Commerce's Office of Industrial Trade, the office of Congressman MIKE ANDREWS, the sponsor of the companion bill, H.R. 4777, and the House Ways and Means Subcommittee on Trade, which has jurisdiction over H.R. 4777. Each of these consultations have confirmed that there is no domestic opposition and no other opposition to Rohm and Haas' duty suspension requests.

In sum, Mr. President, this legislation will allow the most efficient production of KERB. For these reasons I urge my colleagues to join me in supporting this legislation.

By Mr. SPECTER:

S. 3023. A bill to suspend until January 1, 1995, the duty on p-nitrobenzyl; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTIES

Mr. SPECTER. Mr. President, today, I am introducing legislation that will suspend temporarily the duty on p-nitrobenzyl alcohol. Merck & Co., Inc., is seeking this duty suspension legislation in order to remain competitive in the world marketplace with the manufacture of Primaxin/Tienam at its Danville, PA, plant. I am informed that this product is one of the world's leading antibiotics having a broad spectrum of activity against gram-positive and gram-negative aerobic and anaerobic bacteria, including strains resistant to penicillin, cephalosporins, and aminoglycosides.

As you are aware Mr. President, duty suspension legislation is routinely adopted by Congress where no unfair competitive advantage, vis-a-vis other U.S. companies or industries, is gained by the beneficiary of such legislation. In this regard, I am informed that Merck & Co., will not gain any such advantage by this legislation. My staff has consulted with the Commerce Department's Office of Industrial Trade, the House of Representatives Committee on Ways and Means, Subcommittee on Trade, which has jurisdiction over the companion legislation, H.R. 4701, and with the office of Representative PAUL KANJORSKI, the sponsor of H.R. 4701. The Trade Subcommittee and the office of Representative KANJORSKI have stated that they are aware of no domestic opposition or other opposition to Miles' duty suspension requests. The Commerce Department advises that they will not be able to respond until companion legislation is introduced in the Senate.

Merck & Co. represents that without such duty suspension, it is faced with operating at an economic disadvantage vis-a-vis its foreign competitors insofar as Merck & Co. must pay a duty on p-nitrobenzyl alcohol it imports from England. According to Merck & Co., p-nitrobenzyl alcohol is not manufactured in the United States.

In sum Mr. President, without this duty suspension, the ability of Merck & Co., Inc., to preserve its integrity and continue to compete in the world marketplace while maintaining its manufacturing facilities in Danville, PA, is made more difficult. For the foregoing reasons, Mr. President, I, therefore, urge my colleagues to join me in supporting this legislation.

By Mr. SPECTER:

S. 3024. A bill to suspend temporarily the duty on certain mounted television lenses; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTIES

Mr. SPECTER. Mr. President, today I am introducing legislation that will suspend temporarily the duty on closed circuit television [CCTV] lenses used by my constituent, Burle Industries, Inc. of Lancaster, PA in the production of closed circuit television camera equipment. Burle is seeking this suspension to remain competitive in the world marketplace with its product.

Burle Industries, a Pennsylvania corporation, is principally involved in the manufacture of CCTV cameras and other security equipment and electron tubes. I am informed that Burle is one of a very few remaining domestic companies still engaged in manufacturing closed circuit television cameras in the United States. I am further informed that because CCTV lenses meeting Burle's specifications are generally not available from any other U.S. manufacturer, Burle must purchase from foreign sources the CCTV lenses identified in this legislation. The only other domestic manufacturer, JML Direct Optics, does not, I am advised, produce lenses in sufficient quantities to meet Burle's requirements.

As you are aware, Mr. President, duty suspension legislation is routinely adopted by Congress where no unfair competitive advantage, vis-a-vis other U.S. companies or industries, is gained by the beneficiary of such legislation. In this regard, I am informed that Burle Industries will not gain any such advantage by this legislation. I am informed that the language in the companion House bill, H.R. 2769, introduced by Representative ROBERT WALKER, was revised to comply with a change

requested by the Department of Commerce in order to satisfy other domestic importers of CCTV lenses that there would be no exclusive benefit to one single manufacturer. The legislation I am introducing reflects the Department of Commerce's requested change in language.

My staff has consulted with the Department of Commerce's Office of Industrial Trade, the office of Congressman WALKER, the House Ways and Means Subcommittee on Trade, which has jurisdiction over the companion bill, and the office of Congressman SAM GIBBONS, chairman of the Subcommittee on Trade. Each of these consultations have confirmed that there is no domestic opposition and no other operations to Burle Industries' duty suspension request.

In sum, Mr. President, my constituent has represented to me that this legislation is vital to its operations, and without it, its ability to remain competitive internationally is jeopardized. For these reasons I urge my colleagues to join me in supporting this legislation.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 3027. A bill to amend the Internal Revenue Code of 1986 to adjust for inflation the dollar limitations on the dependent care credit; to the Committee on Finance.

WORKING FAMILIES TAX RELIEF ACT

Mr. AKAKA. Mr. President, today I am joined by the senior Senator from Hawaii [Mr. INOUYE] in introducing legislation to provide tax relief to working families throughout America. Our bill would restore value to the child and dependent care credit by requiring that the credit be adjusted for inflation.

Mr. President, the evidence in support of improving the child and dependent care credit is clear. Over 56 percent of all mothers with children under 6 years old work outside the home, and over 70 percent of women with children over age 6 are in the labor market. Furthermore, the number of single mothers working outside the home has dramatically increased in recent years.

The percentage of Hawaii households in which both parents work outside the home is even higher than the national average. According to projections developed by the Bank of Hawaii based on the 1990 census, 61.8 percent of all Hawaii families have both parents employed, and 71.3 percent of all households have at least two individuals in the work force.

The increased participation of single mothers in the labor market and the large number of two-parent families in which both parents work outside the home has made the dependent care credit one of the most popular and productive tax incentives ever enacted by Congress. Unfortunately, the value of the credit has declined significantly over the years as inflation has slowly eaten away at the value of this benefit. Measured in constant dollars, the maximum credit of $2,400 has decreased by 45 percent since it was enacted in 1981.

The maximum amount of employment-related child care expenses allowed under current law—$2,400 for a single child and $4,800 for two or more children—has simply failed to keep pace with escalating care costs. Unlike the earned income tax credit [EITC], the standard deduction, the low-income housing credit, and a number of other sections of our Tax Code, the dependent care credit is not adjusted for inflation.

The purpose of this credit is to partially offset the expense of dependent and child care services incurred by parents working outside the home. Yet, while the cost of quality child care has increased as demand exceeds supply, the dependent care credit has failed to keep up with the spiraling costs. The bill we introduce today corrects this problem by automatically adjusting the dependent and child care credit for inflation. Under this legislation, both the dollar limit on the amount creditable and the limitation on earned income would be adjusted annually.

Mr. President, in the past 12 years, the average middle-class family with children has seen its income fall 5 percent, almost $1,600 after inflation. A family of four earning $35,000 a year has seen its tax burden increase since 1981. In part, this is due to the diminished value of the child and dependent care credit.

In 1981, the flat credit for dependent care was replaced with a scale to give the greatest benefit of the credit to lower income working families. Since that time, neither the adjusted gross income figures employed in the scale, or the limit on the amount of employment-related expenses used to calculate the credit, have been adjusted for inflation.

Our bill provides a measure of needed relief to working American families. It would index the child and dependent care credit and restore the full benefit of the credit.

The average cost for out-of-home child care exceeds $3,500 per year per child. Child care or dependent care expenses can seriously strain a family's budget. This burden can become unbearable for single parents, almost invariably single mothers, who must balance the need to work with their parental responsibilities.

Numerous economic studies have shown that the economic policies of the 1980's had a disastrous impact upon the incomes of middle-income families. Inflation-adjusted wages for the median worker fell 7.3 percent from 1979 to 1991. Working Americans have been losing ground in their struggle to preserve their standard of living.

To compensate, American families have been forced to work longer hours, deplete their life savings, and go deeper into debt. There is an urgent need to enact changes in our Tax Code that are profamily and prochildren. The Working Families Tax Relief Act meets both of these goals.

Mr. President, I urge my colleagues to support this important legislation. I ask unanimous consent that the text of the bill be included in the RECORD.

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

S. 3027

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Working Families Tax Relief Act.".

SEC. 2. INFLATION ADJUSTMENT OF DEPENDENT CARE CREDIT.

(a) IN GENERAL.—Subsection (e) of section 21 of the Internal Revenue Code of 1986 (relating to expenses for household and dependent care services necessary for gainful employment) is amended by adding at the end thereof the following new paragraph:

"(10) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1992, each dollar amount contained in subsections (c) and (d)(2) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1991' for 'calendar year 1989' in subparagraph (B) thereof."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

By Mr. D'AMATO:

S. 3028. A bill to suspend until January 1, 1995, the duty on certain glass articles; to the Committee on Finance.

S. 3029. A bill to provide for a temporary suspension for duty for certain glass articles; to the Committee on Finance.

S. 3030. A bill to extent until January 1, 1997, the existing suspension of duty on certain infant nursery intercoms and monitors; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. D'AMATO. Mr. President, I rise today to introduce three pieces of legislation to amend the Harmonized Tariff Schedule of the United States in order that these will be considered part of the Senate miscellaneous tariff bills of 1992.

The first bill suspends the duty on certain glass particles until January 1, 1995. My colleague, Congresswoman KENNELLY, has introduced companion legislation in the House.

The second bill provides for a temporary suspension for duty for certain glass particles. Congressman MCGRATH has introduced companion legislation in the House.

The third bill extends until January 1, 1997, the existing suspension of duty

on certain infant nursery intercoms and monitors,

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

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

S. 3028

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN GLASS PRODUCTS.

Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.85.01	Planar optical glass waveguide couplers produced by thallium doping utilizing ion exchange (provided for in chapter 85 or 90)	Free	No change	No change	On or before 12/31/94".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 3029

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GLASS ENVELOPES AND FUNNELS FOR ENVELOPES.

Subchapter II of Chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.70.10	Tinted monochrome glass envelopes, complete with sealed faceplate; and funnels for envelopes, having a straight skirt of over 2.54 centimeters which is designed to meet the faceplate at a 76° angle on all four (4) sides, having a display diagonal of 38.11 centimeters or 43.19 centimeters (provided for in subheading 7011.20.00)	Free	No Change	No Change	On or before 12/31/94".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 apply to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 3030

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN INFANT NURSERY INTERCOMS AND MONITORS.

Headings 9902.85.25 and 9902.85.26 of the Harmonized Tariff Schedule of the United States (relating to certain infant nursery intercommunication systems and monitor systems, respectively) are each amended by striking "12/31/92" and inserting "12/31/96".

By Mr. BRYAN (for himself and Mr. REID):

S. 3032. A bill to extend the temporary suspension of duty on three-dimensional cameras; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTIES

• Mr. BRYAN. Mr. President, today I am introducing legislation with the senior Senator from Nevada to extend the temporary duty suspension for 3–D cameras. This suspension was enacted in 1990 through legislation we sponsored but is due to expire at the end of this year.

The Nishika Corp., which has located in Henderson, NV is the sole owner of the worldwide patent rights for 3–D cameras. Since the initial duty suspension legislation, the company's work force has more than quadrupled and the company has invested over $4 million into its facilities, becoming a significant employer in the Henderson community.

The camera is unique and uses standard 35mm film on which it produces a three-dimensional photograph that can be viewed without special glasses. The permanent tariff schedules do not adequately reflect the unique nature of this camera. New classifications need to be created for new products such as the 3–D camera.

I urge my distinguished colleagues to support our bill to extend the 3–D camera duty suspension from December 31, 1992, to December 31, 1994.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 3032

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF SUSPENSION OF DUTY ON THREE-DIMENSIONAL CAMERAS.

(a) IN GENERAL.—Heading 9902.90.06 of the Harmonized Tariff Schedule of the United States is amended by striking out "12/31/92" and inserting in lieu thereof "12/31/94".

(b) EFFECTIVE DATE.—

The amendment made by this section applies with respect to articles entered, or withdrawn from warehouse for consumption, after December 31, 1992.•

• Mr. REID. Mr. President, today I am joining Senator BRYAN in introducing legislation to extend the temporary duty suspension for 3–D cameras. This suspension was enacted in 1990 through legislation we sponsored on behalf of Nishika Corp. in Henderson, NV. Since the initial duty suspension legislation, the company's work force has more than quadrupled, and the company has invested over $4 million into its facilities, becoming a significant employer in the Henderson community.

The Henderson company currently employs more than 135 persons in research and development, photo finishing, marketing, and administration for 3–D cameras. This camera is unique and uses standard 35mm film on which it produces a three-dimensional photograph that can be viewed without special glasses. The camera itself and its photofinishing process have been improved by the Nevada employees.

The permanent tariff schedules do not adequately reflect the unique nature of this camera because, in general, they cannot respond automatically to new developments and technology. New classifications need to be created for new products such as the 3–D camera.

However, the duty suspension for 3–D cameras will expire at the end of this year, as will almost all such suspensions enacted in 1990. Unless this suspension is renewed, many of the Henderson company's employees may see their jobs disappear. I urge my colleagues to support our bill to extend 3–D camera duty suspension from December 31, 1992 to December 31, 1994.•

By Mr. DANFORTH (for himself and Mr. BOND):

S. 3033. A bill to suspend temporarily the duty on Pyrantel Tartrate with Zeolox; to the Committee on Finance.

S. 3034. A bill to suspend temporarily the duty on Procaine Penicillin G (sterile and nonsterile); to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. DANFORTH. Mr. President, on behalf of myself and Senator BOND, I am introducing today two miscellaneous tariff bills. These bills are virtually identical to two previous bills introduced last year, S. 1485 and S. 1486, except for certain technical corrections. The bills we are introducing today are intended to supersede those previously introduced bills. I ask unanimous consent that the texts of the two new bills be printed in the RECORD.

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

S. 3033

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PYRANTEL TARTRATE WITH ZEOLEX.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	Pyrantal Tartrate with Zeolex (provided for in subheading 3003.90.00)	Free	No change	No change	On or before 12/3/94".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

S. 3034

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROCAINE PENICILLIN G (STERILE AND NONSTERILE).

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"9902.31.12	Procaine Penicillin G (Sterile and Non-sterile) (provided for in subheading 2941.10.20)	Free	No change	No change	On or before 12/31/94".

(b) EFFECTIVE DATE.—The amendment made by this section applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. DANFORTH (for himself and Mr. BOND):

S. 3035. A bill to suspend until January 1, 1995, the duty on certain chemicals; to the Committee on Finance.

"9902.31.12	D-dihydrophenyl glycine (provided for in subheading 2921.30.20)	Free	No change	No change	On or before 12/31/94
9902.31.13	D(-)-4-hydroxyphenyl glycine (provided for in subheading 2922.29.23)	Free	No change	No change	On or before 12/31/94
9902.31.14	D(-)-alphaphenyl glycine (provided for in subheading 2922.49.35)	Free	No change	No change	On or before 12/31/94
9902.31.15	Bis-Trimethylsilurea (provided for in subheading 2931.00.50)	Free	No change	No change	On or before 12/31/94
9902.31.16	7-amino-desscetoxy cephalsophoranic acid (provided for in subheading 2934.90.50)	Free	No change	No change	On or before 12/31/94
9902.31.17	6-amino penicillenic acid (provided for in subheading 2934.90.50)	Free	No change	No change	On or before 12/31/94
9902.31.18	Penicillin V potassium (provided for in subheading 2941.10.10)	Free	No change	No change	On or before 12/31/94
9902.31.19	Penicillin G potassium (provided for in subheading 2941.10.10)	Free	No change	No change	On or before 12/31/94".

(b) CHAPTER 35 CHEMICALS.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is further amended by inserting in numerical sequence the following new headings:

"9902.35.07	Penicillin G amidase (provided for in subheading 3507.90.00	Free	No change	No change	On or before 12/31/94".

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

By Mr. DANFORTH (for himself and Mr. KOHL):

S. 3036. A bill to suspend until January 1, 1995, the existing suspension of duty on 6-Hydroxy-2-naphthalenesulfonic acid, and its sodium, potassium, and ammonium salts; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. DANFORTH. Mr. President, on behalf of myself and Senator KOHL, today I am introducing legislation to extend temporarily the existing suspension of duty for Schaeffer Salt (6-Hydroxy-2-naphthalenesulfonic acid). Schaeffer Salt is used in the production of certain food coloring and is not currently available from a domestic supplier. I ask unanimous consent that the text of the bill be printed in full in the RECORD.

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

S. 3036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF EXISTING SUSPENSION OF DUTY ON 6-HYDROXY-2-NAPHTHALENESULFONIC ACID, AND ITS SODIUM, POTASSIUM, AND AMMONIUM SALTS.

(a) IN GENERAL.—Heading 9902.29.10 of the Harmonized Tariff Schedule of the United States is amended by striking "12/31/92" and inserting "12/31/94".

(b) EFFECTIVE DATE.—The amendment made by this section applies to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 1993.

By Mr. DANFORTH (for himself and Mr. BREAUX):

S. 3037. A bill to liquidate certain entries on which excessive countervailing duties were paid, and for other purposes; to the Committee on Finance.

RELIQUIDATION OF CERTAIN ENTRIES ON CERTAIN EXCESSIVE DUTIES

Mr. DANFORTH. Mr. President, on behalf of myself and Senator BREAUX, I am introducing today legislation to correct certain clerical errors by the Customs Service that have prevented the Bunge Corporation of St. Louis, MO from receiving refunds on excess countervailing duty deposits previously paid by Bunge.

Under our trade laws, where an import is subject to a countervailing duty order, the importer of the product is required to pay countervailing duty deposits based on the estimated countervailing duty rate established by the Department of Commerce. Later, if the actual countervailing duty rate is found to be lower than that previously estimated, the importer is entitled to a refund on the excess deposited, plus interest.

During the 1980's, one division of Bunge imported cotton yarns from a related company in Peru. Those imports were subject to an outstanding countervailing duty order, and Bunge therefore paid deposits on each of these imports based on the estimated countervailing duty rate. Unfortunately, due to some clerical errors, Customs liquidated—that is, closed-out certain entries prior to the determination of the actual countervailing duty rate that was to apply. By the time Bunge became aware of this problem, it was too late for the Customs Service to correct the error and refund Bunge its excess deposits. It is therefore necessary to introduce this legislation to authorize the reliquidation of these entries so that the excess deposits can be refunded to Bunge with appropriate interest.

Mr. President, I ask unanimous consent that the text of the bill be printed in full in the RECORD.

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

S. 3037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY FOR RELIQUIDATION AND PAYMENT OF INTEREST.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to section 2, upon proper request filed with the appropriate customs officer within 1980 days after the date of the enactment of this Act—

(1) any entry listed in section 3 that was not reliquidated as of such date of enactment shall be reliquidated so as to reduce the amount of countervailing duty imposed on such entry to the amount found by the Secretary of Commerce to be owed as a result of final review under title VII of the Tariff Act of 1930 and a refund of any excess countervailing duty so found shall be made to the importer of record; and

(2) interest on the amount of any excess countervailing duty found as a result of—

(A) any reliquidation under paragraph (1); or

(B) a reliquidation of any entry listed under section 3 that occurred before such date of enactment;

shall be paid to the importer of record.

SEC. 2. ADMINISTRATION.

(a) REQUEST INFORMATION.—A request filed under section 1 shall contain sufficient information to enable the United States Custom Service—

(1) to locate the entry in question; or

(2) to reconstruct the entry if it cannot be located.

(b) INTEREST.—Interest shall be paid under paragraph (2) of section 1 on the excess countervailing duty imposed on an entry from the date of the liquidation of the entry to the date of the reliquidation.

(c) TIME FOR MAKING REFUNDS AND PAYMENTS.—

consumers, especially the poor, elderly, and the very young. I ask unanimous consent that the text of the bill be printed in full in the RECORD.

(1) The refund of excess countervailing duties, and the payment of interest thereon, resulting from a reliquidation under section 1(1) shall be made within 90 days after the date of the reliquidation.

(2) The payment of interest or reliquidations described in section 1(2)(B) shall be made within 90 days after the date on which the request therefore is filed under section 1.

SEC. 3. ENTRIES.

The entries referred to in section 1 are as follows:

Entry No.:	*Date of Entry*
	Date of Entry
832779703	05/06/83
832779716	05/06/83
832782677	05/31/83
832782680	05/31/83
832785852	06/23/83
832793174	08/11/83
832796074	08/29/83
841387694	06/20/84
841390432	07/11/84
841616064	08/15/84
842683627	02/03/84
842691732	03/30/84
842691745	03/30/84
842716484	08/27/84
842720098	09/20/84
855108089	10/10/84
855118613	11/26/84
856113838	11/01/84

By Mr. DANFORTH

S. 3039. A bill to extend until January 1, 1996, the existing suspension of duty on triallate; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

Mr. DANFORTH. Mr. President, today I am introducing legislation to extend temporarily the existing suspension of duty for triallate (S-(2,3,3-trichlorallyl) diisopropyl thiocarbamate). Triallate is the active technical ingredient of a herbicide used to control wild oats in small grain crops such as wheat and barley. There has been no U.S. manufacturer of this product since 1986, and the duty on this product has been suspended since passage of the 1988 Trade Act. I ask unanimous consent that the text of the bill be printed in full in the RECORD.

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

S. 3039

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF EXISTING SUSPENSION OF DUTY ON TRIALLATE.

(a) IN GENERAL.—Heading 9902.29.60 of the Harmonized Tariff Schedule of the United States (relating to S-(2,3,3'-trichloroallyl)diisopropylthiocarbamate) is amended by striking "12/31/92" and inserting "12/31/95".

(b) EFFECTIVE DATE.—The amendment made by this section applies to articles entered, or withdrawn from warehouse for consumption, after December 31, 1992.

By Mr. BENTSEN:

S. 3041. A bill to amend the International Revenue Code of 1986 to establish a national commission on private pension plans; to the Committee on Finance.

NATIONAL COMMISSION ON PRIVATE PENSIONS ACT

Mr. BENTSEN. Mr. President, I am pleased to introduce legislation that would create a National Commission on Private Pension Plans.

ERISA, the Employee Retirement Income Security Act of 1974, passed the Senate by a unanimous vote in 1974. But as one of the authors of that legislation, let me assure you that it wasn't easy. There were a lot of hurdles to jump. Senator Javits had been trying to get pension legislation enacted for 7 long years. When I first joined the Finance Committee in 1973, enactment of ERISA became my highest priority. Working with Jake Javits and Senator Harrison Williams of New Jersey, who was then Chairman of the Labor Committee, we jumped all those hurdles. After long years of effort, President Ford signed the bill in the Rose Garden on Labor Day of 1974.

ERISA was enacted because enough members of Congress agreed on this basic point: the Federal Government has a role in creating a system where American workers earn private pension benefits to supplement Social Security benefits and a role in ensuring that promised pension benefits are paid. ERISA made sure that workers a day short of retirement wouldn't have to fear being fired and losing that pension they had worked for years to attain. ERISA created the Pension Benefit Guaranty Corporation to ensure that workers didn't lose their pensions just because their employer went bankrupt. ERISA required that employers fund their retirement promises and imposed fiduciary obligations on the individuals responsible for investing those pension assets. ERISA created private rights of action to ensure that workers could protect their retirement benefits.

But a great deal has happened since that day in the Rose Garden in 1974. The size and structure of retirement plans have changed and the rules governing retirement plans have changed—often on a piecemeal basis.

According to the Department of Labor, pension coverage increased from 26 million workers in 1970 to over 42 million in 1989. Over that same period, the number of retirees receiving a pension from a private plan jumped by almost 300 percent. Retirement benefit payments rose from $7.4 billion in 1970 to over $133 billion in 1989.

Assets held in pension plans have also risen dramatically. According to the Employee Benefits Research Institute the assets held in all pension plans in 1990 equaled almost $3 trillion, up from only $241 million in 1970. And pension plans now own almost 25 percent of the corporate equity in America.

This staggering growth in pension plans has occurred despite numerous changes in the laws governing the private pension system over the last decade. These changes have made the system more complex, and the administrative burden of maintaining retirement plans has risen substantially. Since 1980, legislation on retirement plans has been enacted in almost every year. IRS regulations have also multiplied, both in number and in length. Many of these changes were adopted without any analysis of the cumulative impact on our private pension system.

As we approach the 20th anniversary of ERISA, it is time to reevaluate where our private pension system stands and to look at ways to improve it. It's time to look anew at a great success story—the benefits that ERISA has provided to millions of Americans and see how we can make things even better.

According to a study by the National Federation of Independent Business, only 18 percent of small employers provide retirement coverage to all their employees. Medium-sized and large employers cover over 80 percent of their workers and government employers cover about 90 percent. In many cases, small employers simply do not have the financial resources to provide pension coverage. But more and more, they are being discouraged from establishing new plans because they are unable to deal with the complexity of the pension laws and regulations. We need to look for ways to get the employees of small employers into the private retirement system.

The Pension Benefit Guaranty Corporation [PBGC] fulfills the important function of protecting retirement benefits for over 30 million workers. But it seems that every few years the PBGC comes to Congress requesting premium increases of other legislative changes. We need to look for ways to make sure that any problems at the PBGC are dealt with once and for all.

The dramatic rise in retirement plan assets has led to increasing questions of how active these retirement plans should be in corporate governance. In addition, the investment decisions involving plans that hold trillions of dollars in assets are worthy of further analysis.

Our pension system works. It delivers trillions of dollars in retirement security to millions of Americans who have worked hard and earned the right to financial security in retirement. But we must not assume that it is working perfectly. That is what the Commission created by this bill would look at. Over a period of less than 2 years the National Commission on Private Retirement Plans would be charged with reviewing existing Federal incentives and programs that encourage and protect private retirement savings. This is an important step and urge my colleagues to join me in support of this legislation. I ask that a copy of the bill be printed in the RECORD following my remarks.

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

S. 3041

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 7524. NATIONAL COMMISSION ON PRIVATE PENSION PLANS.

"(a) ESTABLISHMENT.—There is hereby established a commission to be known as the National Commission on Private Pension Plans (in this section referred to as the 'Commission').

"(b) MEMBERSHIP.—

"(1) The Commission shall consist of—

"(A) 6 members to be appointed by the President;

"(B) 6 members to be appointed by the Speaker of the House of Representatives; and

"(C) 6 members to be appointed by the President pro tempore of the Senate.

"(2) The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairmen of the committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal pension programs.

"(c) DUTIES AND FUNCTIONS OF COMMISSION; PUBLIC HEARINGS IN DIFFERENT GEOGRAPHICAL AREAS; BROAD SPECTRUM OF WITNESSES AND TESTIMONY.—

"(1) It shall be the duty and function of the Commission to conduct the studies and issue the report required by subsection (d).

"(2) The Commission (and any committees that it may form) may conduct public hearings in order to receive the views of a broad spectrum of the public on the status of the Nation's private retirement system.

"(d) REPORT TO THE PRESIDENT AND CONGRESS; RECOMMENDATIONS.—The Commission shall submit to the President, to the Majority Leader and the Minority Leader of the Senate, and to the Majority Leader and the Minority Leader of the House of Representatives a report no later than September 1, 1994, reviewing existing Federal incentives and programs that encourage and protect private retirement savings. The final report shall also set forth recommendations where appropriate for increasing the level and security of private retirement savings.

"(e) TIME OF APPOINTMENT OF MEMBERS; VACANCIES; ELECTION OF CHAIRMAN; QUORUM; CALLING OF MEETINGS; NUMBER OF MEETINGS; VOTING; COMPENSATION AND EXPENSES.—

"(1)(A) Members of the Commission shall be appointed during the period beginning February 1, 1993, and ending March 1, 1993, for terms ending on September 1, 1994.

"(B) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the vacant position was first filled.

"(2) The Commission shall elect 1 of its members to serve as Chairman of the Commission.

"(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

"(4) The Commission shall meet at the call of the Chairman.

"(5) Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

"(6) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

"(f) EXECUTIVE DIRECTOR AND ADDITIONAL PERSONNEL; APPOINTMENT AND COMPENSATION; CONSULTANTS.—

"(1) The Commission shall appoint an Executive Director of the Commission. In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classification and the General Schedule pay rates.

"(2) The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United Stats Code, as the Commission determines to be necessary to carry out the duties of the Commission.

"(g) TIME AND PLACE OF HEARINGS AND NATURE OF TESTIMONY AUTHORIZED.—In carrying out its duties, the Commission or any duly organized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which it has a responsibility under this section, as the Commission or committee may deem advisable.

"(h) DATA AND INFORMATION FROM OTHER AGENCIES AND DEPARTMENTS.—

"(1) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities.

"(2) Upon request of the Commission, any such department or agency shall furnish any such data or information.

"(i) SUPPORT SERVICES BY GENERAL SERVICES ADMINISTRATION.—The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1993 and 1994, such sums as may be necessary to carry out this section.

"(k) DONATIONS ACCEPTED AND DEPOSITED IN TREASURY IN SEPARATE FUND; EXPENDITURES.—

"(1) The Commission is authorized to accept donations of money, property, or personal services. Funds received from donations shall be deposited in the Treasury in a separate fund created for this purpose. Funds appropriated for the Commission and donated funds may be expended for such purposes as official reception and representation expenses, public surveys, public service announcements, preparation of special papers, analyses, and documentaries, and for such other purposes as determined by the Commission to be in furtherance of its mission to review national issues affecting private pension plans.

"(2) Expenditures of appropriated and donated funds shall be subject to such rules and regulations as may be adopted by the Commission and shall not be subject to Federal procurement requirements.

"(l) PUBLIC SURVEYS.—The Commission is authorized to conduct such public surveys as it deems necessary in support of its review of national issues affecting private pension plans and, in conducting such surveys, the Commission shall not be deemed to be an "agency" for the purpose of section 3502 of title 41, United States Code."

(b) CONFORMING AMENDMENTS.—The table of sections for chapter 77 of such Code is amended by adding at the end the following new item:

"Sec. 7524. National Commission on Private Pension Plans."•

By Mr. ROCKEFELLER (for himself, Mr. WOFFORD, Mr. DODD, Mr. SANFORD,and Mr. LEVIN):

S. 3046. A bill to amend the Tariff Act of 1930 to improve the antidumping and countervailing duty provisions, and for other purposes; to the Committee on Finance.

1930 TARIFF ACT AMENDMENTS ACT

• Mr. ROCKEFELLER. Mr. President, I am today introducing legislation to address a number of problems that have emerged in our antidumping and countervailing duty laws over the past 13 years of experience with them. Mr. President, these laws are not new—they date back over 70 years—but they are virtually our only line of defense against unfair trade practices, and it is important that we keep them current.

Last updated in 1979 following the Tokyo round of trade negotiations, these laws represent a GATT-consistent means of addressing two kinds of unfair trade practices that have become increasing problems in the global marketplace. The countervailing duty law is designed to offset government subsidies, and the antidumping law is designed to deal with dumping, which is defined as selling below one's home market price, a third market price, or the cost of production.

In both cases, the theory is that these practices, the former by governments and the latter by individual producers, distort the market system and thereby confer an unfair advantage. Because of that, the General Agreement on Tariffs and Trade has erected multilaterally agreed-upon codes intended to provide some discipline over these practices. U.S. law embodies those codes.

I should emphasize, Mr. President, that these laws are not designed to be either punitive or arbitrary. If an unfair practice is found, the penalty is a duty on the import in an amount calculated to offset the dumping or subsidy. In order to obtain such a duty, a domestic complainant must demonstrate both that the unfair practice is occurring and that the domestic industry has been injured by it. Over the life of these statutes there have been numerous cases where the subsidy or dumping is clearly established, but the International Trade Commission has determined that, even so, there has not been material injury.

While the laws are not punitive, we do want them to be effective. The United States is somewhat unusual in the

world in its reliance on its legal system and relatively transparent procedures to deal with these problems. Most countries find other, less formal means—sometimes outright quotas or other import limits, sometimes informal arrangements that result in the voluntary limitation of imports after government pressure. This is why American manufacturers are so concerned with the Uruguay rounds Dunkel draft, which would require changes that would weaken U.S. law and would weaken discipline over these practices. Other countries can make these concessions because they don't rely on these laws. If we do the same, we have nothing else as a fallback.

Even without the Dunkel draft, however, the effectiveness of these laws is declining, largely because, over time, importers learn how to evade them or how to minimize the impact of the penalties. This is not a new problem. We have been plugging leaks in these dikes for years, passing amendments piecemeal as we encounter new types of violations. The proper approach at this point would be a complete overhaul, as we undertook in 1979, but realistically, that is most likely to occur after the conclusion of the Uruguay round, an event that will probably occur after Congress adjourns this year, if it happens at all.

In the short run, however, there are a number of problems that have been identified that can easily be addressed without a comprehensive revision of the laws. Some of them have already been identified by others. The anticircumvention language in this bill, for example, is the same as that proposed by Congressman ROSTENKOWSKI, the chairman of the Ways and Means Committee, in his omnibus trade bill, H.R. 5100, which passed the House on July 8. Other provisions can hardly be called major changes in the law, but each of them is intended to address a serious problem of current procedure or legal interpretation that has arisen in recent years. A number of them relate to the experiences of West Virginia firms with the trade laws, particularly those in the steel industry. I would also note, however, that since most of these provisions would apply to cases begun after the date of enactment, they will not have an effect on pending cases, including those filed by the steel industry.

It is my hope, now that the House has sent us a trade bill, that the Senate can address these issues this year and not let any more time pass before taking remedial action. I will be working to that end, Mr. President, and hope that other Senators will join me in that effort.

Since these provisions, not to mention current law, are complicated, they deserve some explanation in a way that I hope will be clear to both Senators and members of the public who read these remarks after they are printed. Accordingly, let me try to summarize each of the provisions in the bill and the problems they are trying to address.

First, standard for initiation: Current law mandates a fairly low standard for accepting antidumping or countervailing duty petitions. Over the years, however, the Commerce Department bureaucracy has effectively raised the standard to demand more information and evidence before accepting a petition. This has had the effect of increasing the expense of filing and deterring cases from being pursued.

Mr. President, congressional intent on this matter was expressed very clearly in 1979. We wanted a low standard for accepting petitions because we wanted every citizen to have access to this important administrative process. In some respects, the procedures we adopted in 1979 made winning a case somewhat more difficult—particularly in the case of a subsidy complaint, where we added an injury test—and Congress felt, therefore, it was very important that we give petitioners every opportunity to have their complaint fully and carefully considered.

The bill would address this problem by clarifying the statute to require that petitions contain "a short and plain statement of the elements necessary for the imposition of the duty . . . and adequate information to give notice of the factual basis for the petitioner's allegations." While current law is also an adequate expression of Congressional intent, its meaning has been distorted over time by the Department, and it is appropriate to state again in statutory form our determination that the standard for accepting a petition be a low one.

Second, determination of material injury—volume of imports: When the International Trade Commission votes on injury in a dumping or countervailing duty care, it considers whether the industry is injured at the time of the vote. That can lead to negative decisions in the numerous cases where the act of filing the petition had an impact on the quantity of imports. Importers often reduce their shipments during the period of investigation due to the market uncertainty the petition creates or in the hopes of securing a negative decision from the Commission by arguing that the domestic industry could not be injured because imports have declined.

The bill addresses this problem by simply making clear that no negative inference can be drawn from a record of declining imports after the filing of a petition.

Third, price competition: Normally, when considering a purchase, a consumer would compare the actual prices he would have to pay for competing goods. The Commission, however, sometimes compares an import's price at the port to the domestic product's factory price. This can lead to the conclusion that the import sells at a higher price than the domestic product, when from the actual consumer point of view the opposite might be true.

The bill would address these situations by directing the Commission to compare prices of goods as they are sold to the ultimate consumer. That should produce a more appropriate comparison.

Fourth, cumulation: As countries develop and the production/manufacturing process becomes increasingly decentralized, we have begun to encounter the phenomenon of similar imports from a wide variety of countries, many of them with only a small share of our market. Pursuing an unfair trade complaint against only the largest importers, however, is often helpful only in the short term, as those importers, once subject to dumping or countervailing duties, are quickly replaced by others who were not subject to the trade action.

American industry has responded to this problem first by filing cases against more than just the biggest importers and by encouraging the Commission to cumulate imports in its consideration of injury—that is, to determine whether all the imports collectively from the various countries subject to investigation were causing injury rather than whether the imports from each country were individually causing injury.

This provision of law, which first appeared in law in 1984 and was subsequently amended in 1988, has produced some unexpected problems in its administration, one of which relates to the circumstance of a complaint being filed against a new source of imports after a final affirmative determination has been made on the other sources of imports. At that point, the new imports cannot be cumulated with the old ones, because the latter are no longer subject to investigation. As a result, the law effectively encourages what might be called serial dumping—the repeated entry of new dumped imports from new sources after each old source is addressed through a trade complaint.

The bill addresses this problem through a look-back provision, which directs the Commission in the above circumstances to consider the injurious dumping over the previous three years as an important factor in determining the vulnerability of the industry to injury in the present case.

Fifth: A related problem in the administration of the cumulation provisions relates to the Commission's 1988 authority to exclude negligible imports from an investigation. Following an affirmative final determination on the remaining imports, those that were dropped on the grounds of negligibility can and probably will grow signifi-

cantly and become a new dumping problem. Just as in the previous provision, these imports are hard to reach because they cannot be cumulated with the earlier imports.

The bill addresses this problem in a manner similar to the direct cumulation problem above. If a subsequent petition is filed within 3 years of an earlier affirmative determination—the Commission's normal investigative period—on imports that had been found negligible, the imports covered by the later petition will be deemed to be causing material injury if the Commission would have reached an affirmative decision on them had the pattern of their volume, price, import penetration, and other factors been of similar dimensions during the earlier period of investigation when the imports were found to be negligible.

Sixth, suspension agreements: Current law gives the administering authority the option of suspending an investigation, along with any duties that might be imposed, in return for commitments by the importing parties, generally to cease the injurious activity. If the agreement is subsequently violated, the case would essentially pick up at the point it was suspended. Although the government has quite properly entered into very few of these agreements over the years, concern has arisen that the way the law is structured it could be to the advantage of a foreign party to enter into such an agreement temporarily and then violate it at a point when economic conditions made the likely outcome of the case when it was resumed more favorable to them. In other words, someone who was dumping might agree to suspend such activity because he anticipated losing the case, but he might at some later point deliberately violate the agreement and resume dumping in the expectation that the domestic industry could no longer establish injury or dumping of the same magnitude.

The Commission commented on this possibility in its decision last year on Sheet Piling from Canada:

> . . . Congress has directed the Commission not to consider the effect of the suspension agreement when determining which merchandise is subject to investigation. 19 U.S.C. 1673c(j). Subsection (j), however, does not direct the Commission to ignore the impact of a suspension agreement on relevant economic indicators, such as changes in the volume or price of imports brought about by an agreement to eliminate LTFV sales. Such an interpretation would provide a benefit to importers who violate suspension agreements. Moreover, it would create an incentive for all importers to violate suspension agreements as soon as prices rise, imports drop, and the condition of the domestic industry improves.

The bill provides that, in an investigation that has been resumed because of such a violation, the Commission may not consider a decline in the volume of imports or an improvement in the condition of the domestic industry—both of which may occur as a result of a suspension agreement—to be indicators that the domestic industry is not injured. Similar language precluding the Commerce Department from considering changes in the foreign market value or the U.S. price of the good after the date of the suspension agreement is also included. This language is consistent with congressional intent and an appropriate clarification of an unanticipated problem when the 1979 changes were made.

Seventh, concentration of imports: In an investigation involving a regional industry, the Commission may find injury only "if there is a concentration of subsidized or dumped imports into" the region. The legislative history of this provision makes it clear that such concentration exists when the ratio of the dumped or subsidized imports to the consumption of the imports and the domestic product is clearly higher in the regional market than the rest of the U.S. This is essentially a market share test, and the Commission initially applied it in a manner faithful to Congressional intent, as in certain steel wire nails from the Republic of Korea (1980), and cut-to-length carbon steel plate from the Federal Republic of Germany (1984).

More recently, however, the Commission has tended to ignore this standard and has begun to look simply at whether the region in question accounts for a large share of the imports. With an occasional exception, the Commission has generally found that standard satisfied when the region accounts for at least 80 percent of the imports, as in Gray Portland Cement and Cement Clinker from Mexico (1989). This standard is not what Congress intended, and it has in several cases resulted in finding no import concentration in situations where use of the proper standard would likely have resulted in the opposite conclusion. Examples are Gray Portland Cement and Cement Clinker from Japan (1991), and dry aluminum sulfate from Sweden (1989).

The amendment solves this problem simply by incorporating into the statute the language from the legislative history of the Trade Agreements Act of 1979, ensuring that the Commission in future investigations will apply the clearly higher standard Congress intended.

Eighth, definition of subsidy: Although the Tokyo round made some progress in defining what a subsidy is, our experience since then has made clear that both the round's Subsidies Code and United States practice do not adequately reach some government subsidies that have a clear impact on an industry's ability to export. In particular, the Commerce Department currently does not apply countervailing duties against international development bank—the World Bank or its counterpart regional institutions—loans or loan guarantees, even if they are at concessionary rates or even if the loan would not have been available from commercial sources—in other words, when the recipient is not creditworthy.

The bill's response to that gap is very straightforward. It simply includes such loans in the statutory definition of a subsidy.

Similarly, a problem has arisen with respect to loans or loan guarantees for the expansion of production or improvements in existing production when the effect of such loans is to increase production for export purposes. In such cases, the loan or loan guarantee is in reality an export subsidy, even though it may not be explained that way by the offending government.

In order to plug that gap, the bill defines as an export subsidy any loan by a government for expansion of production, or for improvements to existing production where one-third or more of the output can reasonably be expected to be exported.

Ninth, circumvention: One of the most difficult and complex problems this bill attempts to deal with is circumvention of dumping duties. This problem was not anticipated in 1979, but it should come as no surprise that over 13 years importers and foreign manufacturers have learned a great deal about our law, including its loopholes, and have discovered how to exploit those gaps to their advantage. The trend toward globalization of production has also contributed significantly toward the problem by making it easier for producers to move their production or assembly from place to place to stay ahead of dumping duty orders.

At the most obvious level, Mr. President, circumvention is fraud, which is already addressed in our law. If, for example, duties have been imposed on photo albums from Korea, and the same albums suddenly start appearing from another country, such Singapore, falsely labeled as originating in the new country, then we have adequate statutory authority to address the problem, although sufficient enforcement resources is always a problem in case of this kind. It is not hard for a determinated importer consistently to stay ahead of Customs enforcement authorities.

The more complicated situations, of course, are when the product in question is in some fashion transformed in the second country, thus permitting the argument that the import is no longer of the dumping country's origin. Often that also involves a Customs Service decision as to whether the product has been sufficiently altered or sufficient value has been added in the second country to transfer origin. Most complicated in this category is when assembly of a finished product is moved into the United States. In that

case, the dumped end product is no longer being imported, but most or all of its component parts are, for assembly here. Since both U.S. law and GATT rules limit attaching dumping duties to the "like" product, the duties cannot simply and easily be transferred from the finished product to its parts.

Another, related, problem, deals with what is known as diversionary dumping. It occurs when intermediate goods on which there is an outstanding dumping duty order are shipped to a third country and are there incorporated into a finished product which is subsequently imported into the United States. An example would be steel sheet or coil from Taiwan which has been found to be dumped in the U.S. and which is then shipped to Korea and made into pipe and tube, which is then imported into the United States. Current law does not address this problem, and the Administration has regularly opposed any serious effort to deal with it.

The solution to the first problem, the case where final assembly is in the United States and the components are imported from countries other than that covered by the initial duty order, the bill would apply the existing order in cases where the same company was involved in the assembly in the United States and the parts came from historic suppliers. This is the same approach as that proposed by Congressman ROSTENKOWSKI, the chairman of the Ways and Means Committee, in H.R. 5100, his recently passed omnibus trade bill.

The problem of diversionary dumping is addressed with language that is a somewhat revised version of a proposal first made by several members of the Finance Committee in 1986 and 1987. A version of this provision was initially incorporated into the Senate markup vehicle for the 1988 trade bill but was ultimately removed due to opposition from the Reagan administration. A much more modest version was incorporated into the bill, but it is so limited it has not successfully dealt with the problem.

Tenth, monitoring: Current law provides for Commerce Department monitoring of imports in the limited circumstance where more than one antidumping duty order on the same merchandise is already in effect. Despite numerous requests, there has never been a monitoring program initiated under this provision, which is unfortunate, since the act of monitoring can have a discouraging effect on dumped imports without forcing hard-pressed domestic industries to go to the expense of filing a formal complaint.

The bill would broaden somewhat Commerce's authority by permitting a monitoring request when there is only one other antidumping duty order outstanding. That would not reduce the Commerce Department's discretion but would at least expand the universe of situations where monitoring could occur.

Eleventh, upstream subsidies: One of the post-1979 problems Congress attempted to address in the 1980s was that of upstream subsidies—a manufacturer's use of an input or component part that benefits from a subsidy. Accepting this concept, as we have done, leaves the Commerce Department with the technical problem of determining the value of the benefit of the subsidy to the manufacturer.

In the first case where this issue was raised, Certain Agricultural Tillage Tools from Brazil, Commerce established a hierarchy of price comparisons for determining such a value.

In general, the methodology is to compare the price paid to the subsidized input supplier to:

First, prices charged by unsubsidized producers of the inputs in the same country;

Second, prices paid for unsubsidized imports of the input for use downstream producers;

Third, information on world market prices in cases of commodity products;

Fourth, the best information available to calculate a benchmark price.

This construct, in my judgment, is an adequate elaboration of congressional intent, and it appears to have been successful in practice. Now, however, the Department has announced its intention to abandon this methodology and instead compare the price paid by the producer to a subsidized supplier in the country under investigation to F.O.B. prices of subsidized and unsubsidized foreign suppliers. This is an unwarranted and uncalled-for change in an otherwise acceptable practice. The amendment in my bill would prevent this change simply by putting into the statute the previous Commerce practice.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

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

S. 3046

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STANDARD FOR INITIATING PETITION.

(a) COUNTERVAILING DUTIES.—

(1) PETITION REQUIREMENTS.—The first sentence of section 702(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1671a(b)(1)) is amended by striking "which alleges" and all that follows through "allegations" and inserting "which contains a short and plain statement of the elements necessary for the imposition of the duty imposed by section 701(a) and adequate information to give notice of the factual basis for the petitioner's allegations".

(2) PETITION DETERMINATION.—Paragraph (1) of section 702(c) of such Act (19 U.S.C. 1671a(c)(1)) is amended by striking "contains information" and all that follows through "allegations" and inserting "contains a short and plain statement of the elements necessary for the imposition of the duty imposed by section 701(a) and adequate information to give notice of the factual basis for the petitioner's allegations".

(b) ANTIDUMPING DUTIES.—

(1) PETITION REQUIREMENTS.—The first sentence of section 732(b)(1) of such Act (19 U.S.C. 1673a(b)(1)) is amended by striking "which alleges" and all that follows through "allegations" and inserting "which contains a short and plain statement of the elements necessary for the imposition of the duty imposed by section 731 and adequate information to give notice of the factual basis for the petitioner's allegations".

(2) PETITION DETERMINATION.—Paragraph (1) of section 732(c) of such Act (19 U.S.C. 1673a(c)(1)) is amended by striking "contains information" and all that follows through "allegations" and inserting "contains a short and plain statement of the elements necessary for the imposition of the duty imposed by section 731 and adequate information to give notice of the factual basis for the petitioner's allegations".

SEC. 2. DETERMINATION OF MATERIAL INJURY.

(a) VOLUME OF IMPORTS.—Section 771(7)(C)(i) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(C)(i)) is amended by adding at the end thereof the following new sentence: "An inference shall not be made that there is no material injury, if the volume of imports has decreased after the initiation of an investigation under section 702 or 732.".

(b) PRICE COMPETITION.—Section 771(7)(C)(ii) of such Act (19 U.S.C. 1677(7)(C)(ii)) is amended by inserting immediately after subclause (II) the following flush sentence:

"For purposes of this clause, the Commission shall compare the price at which imported merchandise is sold to the ultimate consumer with the price at which like products of the United States are sold to the ultimate consumer.".

(c) CUMULATION.—Section 771(7)(C)(iv) of such Act (19 U.S.C. 1677(7)(C)(iv)) is amended by adding at the end thereof the following new subclause:

"(III) LOOK-BACK.—For purposes of clauses (i) and (ii) and subparagraph (F), if a petition is filed under this title with respect to a product or like product which was the basis of a final affirmative determination during the 3 years preceding the filing of such petition, the Commission shall consider as part of its investigation of the new petition the previous injurious dumping or subsidization as an important factor in determining the industry's vulnerability to material injury.".

(d) NEGLIGIBILITY.—Section 771(7)(C) of such Act (19 U.S.C. 1677(7)(C)) is amended by adding at the end thereof the following new clause:

"(vi) TREATMENT OF NEGLIGIBLE IMPORTS IN SUBSEQUENT INVESTIGATIONS.—Notwithstanding clause (v), in the case of a petition filed under this title with respect to the importation of merchandise which was the subject of a final affirmative determination during the 3 years preceding the filing of such petition, importation of merchandise otherwise considered negligible shall not be considered negligible and shall be treated as having an adverse impact on the domestic industry, if the pattern, volume, price, import penetration, and other factors of such imports, when considered as part of the current investigation, would result in an affirmative determination.".

(e) CONCENTRATION OF IMPORTS.—Section 771(4)(C) of such Act (19 U.S.C. 1677(4)(C)) is amended by adding at the end thereof the

following new sentence: "Concentration of subsidized or dumped imports exists with respect to a market, if the percentage of subsidized or dumped imports to consumption of imports and domestically produced like products in such market is clearly higher than the percentage is in the rest of the United States.".

SEC. 3. EFFECT OF SUSPENSION AGREEMENTS ON FINAL DETERMINATION.

Section 734(j) of the Tariff Act of 1930 (19 U.S.C. 1673c(j)) is amended—

(1) by striking "In making a final determination" and inserting:

"(1) IN GENERAL.—In making a final determination", and

(2) by adding at the end thereof the following new paragraph:

"(2) OTHER FACTORS.—In a case in which a suspension of investigation has been terminated under subsection (i)(1) or an investigation has been continued under subsection (g), in making a final determination—

"(A) the Commission shall not consider as a factor supporting a negative determination any decrease in imports subject to such investigation or any improvement in the condition of the domestic industry which occurred after the suspension agreement became effective, and

"(B) the administering authority shall not consider as a factor supporting a negative determination any decrease in foreign market value of imports subject to such investigation or any increase in United States prices which occurred after the suspension agreement became effective.".

SEC. 4. DETERMINATION OF SUBSIDY.

(a) LOANS BY INTERNATIONAL DEVELOPMENT BANKS.—Section 771(5)(A)(ii)(I) of the Tariff Act of 1930 (19 U.S.C. 1677(5)(A)(ii)(I)) is amended by inserting "(including loans or loan guarantees by an international development bank)" after "loan guarantees".

(b) CAPITAL AND LOANS TO EXPAND PRODUCTION.—Section 771(5)(A) of such Act (19 U.S.C. 1677(5)(A)) is amended by adding at the end thereof the following new clause:

"(iii) The provision of capital, loans, or loan guarantees by a government for the expansion of production or improvements in existing production, if one-third or more of the output from such production can reasonably be expected to be exported.".

SEC. 5. PREVENTION OF CIRCUMVENTION OR DIVERSION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES.—Section 781(a) of the Tariff Act of 1930 (19 U.S.C. 1677j(a)) is amended to read as follows:

"(a) MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES.—

"(1) IN GENERAL.—In determining whether imported parts or components are circumventing an antidumping or countervailing duty order or finding and whether to include such parts or components in that order or finding, the administering authority shall consider—

"(A) the pattern of trade,

"(B) the value and sources of supply of parts or components historically used in completion or assembly of the merchandise subject to an antidumping or countervailing duty order,

"(C) whether the manufacturer or exporter of the parts or components is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order or finding described in paragraph (2) applies, and

"(D) whether imports into the United States of the parts or components produced in such foreign country have increased after the issuance of such order or finding.

"(2) MERCHANDISE THAT MAY BE INCLUDED IN ORDER OR FINDING.—If—

"(A) merchandise sold in the United States is of the same class or kind as any other merchandise that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Antidumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or 303,

"(B)(i) such merchandise sold in the United States is completed or assembled in the United States from parts or components supplied by the exporter or producer with respect to which such order or finding applies, from suppliers that have historically supplied the parts or components to that exporter or producer, or from any party in the exporting country supplying parts or components on behalf of such an exporter or producer, and

"(ii) the value of the imported parts and components referred to in clause (i), whether considered individually or collectively, is significant in relation to the total value of all parts and components used in the assembly or completion operation, excluding packing, of the imported merchandise covered by the order or finding, or

"(C) consideration of the factors set forth in paragraph (1) otherwise establishes a pattern of circumvention with the effect of evading an antidumping or countervailing duty order or finding,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include within the scope of such order or finding the imported parts or components referred to in subparagraph (B) that are used in the completion or assembly of the merchandise in the United States at any time such order or finding is in effect.".

(b) MERCHANDISE COMPLETED OR ASSEMBLED IN OTHER FOREIGN COUNTRIES.—Section 781(b) of the Tariff Act of 1930 (19 U.S.C. 1677j(b)) is amended to read as follows:

"(b) MERCHANDISE COMPLETED OR ASSEMBLED IN OTHER FOREIGN COUNTRIES.—

"(1) IN GENERAL.—In determining whether merchandise completed or assembled in a foreign country is circumventing an antidumping or countervailing duty order or finding and whether to include such merchandise in that order or finding, the administering authority shall consider—

"(A) the pattern of trade,

"(B) the value and sources of supply of parts or components historically used in completion or assembly of the merchandise subject to an antidumping or countervailing duty order,

"(C) whether the manufacturer or exporter of the merchandise described in paragraph (2)(B) is related to the person who uses the merchandise described in paragraph (2)(B) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

"(D) whether imports into the foreign country of the merchandise described in paragraph (2)(B) have increased after the issuance of such order or finding.

"(2) MERCHANDISE THAT MAY BE INCLUDED IN ORDER OR FINDING.—If—

"(A) merchandise imported into the United States is either of the same class or kind or incorporates an essential component that is of the same class or kind as merchandise produced in a foreign country that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Antidumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or section 303; and

"(B)(i) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to such order or finding, is produced in the foreign country with respect to which such order or finding applies, or is supplied by the exporter or producer with respect to which such order or finding applies or by suppliers that have historically supplied the parts or components to that exporter or producer, and

"(II) the merchandise referred to in subclause (I) which is used in the assembly or completion of the imported merchandise has a value that is significant in relation to the total value of all parts or components used in the assembly or completion operation, excluding packing, or

"(ii) consideration of the factors set forth in paragraph (1) otherwise establishes a pattern of circumvention with the effect of evading a countervailing or antidumping duty order or finding, and

"(C) the administering authority determines that action is appropriate under this paragraph to prevent evasion of such order or finding,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include such imported merchandise within the scope of such order or finding at any time such order or finding is in effect.".

(c) CONSTRUCTION PROVISION.—Section 781 of the Tariff Act of 1930 (19 U.S.C. 1677j) is amended by adding at the end the following new subsection:

"(f) CONSTRUCTION PROVISION.—Nothing in this title shall be deemed to limit the authority of the administering authority to include provisions in any final order issued pursuant to—

"(1) an antidumping duty order issued under section 736,

"(2) a finding issued under the Antidumping Act, 1921, or

"(3) a countervailing duty order issued under section 706 or section 303,

the purpose of which is to prevent the evasion of any remedy provided for in such finding or order or to otherwise safeguard the integrity of such finding or order.".

SEC. 6. DETERMINATION OF COMPETITIVE BENEFIT IN UPSTREAM SUBSIDIES.

Section 771A(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1677–1(b)(1)) is amended—

(1) by striking "Except" and inserting "(A) Except",

(2) by striking "another seller" and inserting "an unsubsidized seller" in subparagraph (A), as redesignated by paragraph (1), and

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

"(B) For purposes of subparagraph (A), determination of the price the manufacturer or producer would otherwise pay for the product in obtaining it from an unsubsidized seller shall be based on the following factors in the order in which such factors are listed:

"(i) the price paid by the manufacturer or producer to an unsubsidized seller located in the same country as the seller of the input product,

"(ii) the price paid by the manufacturer or producer to an unsubsidized seller located in

a country other than the country of the seller of the input product,

"(iii) information on prices (including all delivery fees) from an unsubsidized seller of the input product located in the same country as the subsidized seller of the input product, or

"(iv) information on prices (including all delivery fees) from an unsubsidized seller of the input product located in a country other than the country of the subsidized seller of the input product.".

SEC. 7. DIVERSIONARY INPUT DUMPING.

(a) IN GENERAL.—Subtitle D of title VII of the Tariff Act of 1930 (19 U.S.C. 1677 et seq.) is amended by inserting after section 771B the following new section:

"SEC. 771C. DIVERSIONARY INPUT DUMPING.

"For purposes of this title, diversionary input dumping occurs when—

"(1) a producer or manufacturer incorporates into merchandise under investigation a component or a material which is the product of another country (other than the United States), and which is the subject of—

"(A) an antidumping duty order issued under section 736, or

"(B) an international arrangement or agreement described in section 734, if such arrangement or agreement was entered into after an affirmative preliminary determination was made under section 733(b), and

"(2) the producer or manufacturer under investigation purchased the material or component at a price which is less than the foreign market value (determined under section 773(e)).".

(b) FOREIGN VALUE.—

(1) IN GENERAL.—Paragraph (2) of section 773(a) of such Act (19 U.S.C. 1677b(a)(2)) is amended by inserting "(or, if the administering authority finds there is a reasonable basis to believe that diversionary input dumping is occurring which has a significant effect on the cost of producing the merchandise under investigation)" after "paragraph (1)(A)".

(2) SPECIAL RULE FOR DIVERSIONARY INPUT DUMPING.—Section 773(e) of such Act (19 U.S.C. 1677b(e)) is amended by adding at the end thereof the following new paragraph:

"(5) DIVERSIONARY INPUT DUMPING.—If the administering authority determines that diversionary input dumping is occurring and has a significant effect on the cost of producing the merchandise under investigation, the administering authority shall, in calculating the cost of the material or component under paragraph (1)(A), include the amount of the diversionary input dumping determined to exist with respect to such material or component. For purposes of the preceding sentence, the amount of the diversionary input dumping is the difference, if any, by which—

"(A) the foreign market value of the input material or component involved, as calculated under this title, exceeds

"(B) the purchase price of the input material or component paid by the producer or manufacturer of the merchandise under investigation.".

(c) PROCEDURES FOR INITIATING AN ANTIDUMPING INVESTIGATION.—Section 732(a) of such Act (19 U.S.C. 1673a(a)) is amended by adding at the end thereof the following new paragraph:

"(3) CASES INVOLVING DIVERSIONARY INPUT DUMPING.—The administering authority shall investigate whether diversionary input dumping is occurring whenever the administering authority has reasonable grounds to believe or suspect that—

"(A) diversionary input dumping (as defined in section 771C) is occurring,

"(B) such diversionary input dumping has a significant effect on the cost of producing the merchandise under investigation, and

"(C) official Government or other reliable, generally accepted trade statistics indicate that subsequent to the imposition of an antidumping duty order or entry into force of an international agreement relating to imports into the United States of the material or component in question, shipments to the United States of the merchandise under investigation have increased (either in quantity or market share).".

(d) TIMETABLE FOR PRELIMINARY DETERMINATION BY ADMINISTERING AUTHORITY.—Section 733(b)(1) of such Act (19 U.S.C. 1673b(b)(1)) is amended by adding at the end thereof the following new subparagraph:

"(D) IF DIVERSIONARY INPUT DUMPING INVOLVED.—If, as part of a petition filed under section 732(b), or an investigation commenced under section 732(a), the administering authority has reasonable grounds to believe or suspect that diversionary input dumping is occurring, the administering authority may treat the investigation as an extraordinarily complicated case under subsection (c) and may extend the period of time for making a preliminary determination accordingly.".

(e) CLERICAL AMENDMENT.—The table of contents for subtitle VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 771B the following new item:

"Sec. 771C. Diversionary input dumping.".

SEC. 8. MONITORING.

(a) IN GENERAL.—Section 732(a)(2)(A)(i) of the Tariff Act of 1930 (19 U.S.C. 1673a(a)(2)(A)(i)) is amended by striking "more than one" and inserting "one or more".

(b) DOWNSTREAM PRODUCT MONITORING.—Section 780(a)(2)(B)(iii) of such Act (19 U.S.C. 1677i(a)(2)(B)(iii)) is amended by striking "at least 2" and inserting "1 or more".

SEC. 9. APPLICATION OF AMENDMENTS TO CANADA.

The amendments made by this Act apply with respect to goods imported into the United States from Canada.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) STANDARD FOR INITIATING PETITION; DETERMINATION OF INJURY.—The amendments made by section 1 (relating to the provisions of sections 702 and 732 of the Tariff Act of 1930) and section 2 (relating to the provisions of sections 771(7)(C) and 771(4)(C) of the Tariff Act of 1930) apply with respect to investigations initiated on or after the date of the enactment of this Act.

(c) PREVENTION OF CIRCUMVENTION.—The amendments made by section 5 (relating to section 781 of the Tariff Act of 1930) apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of the enactment of this Act.•

By Mr. BREAUX (for himself, and Mr. LOTT) by request:

S. 3047. A bill to amend the Merchant Marine Act, 1936, as amended, to establish a contingency retainer program and improve the United States-flag merchant marine; to the Committee on Finance.

MARITIME REFORM ACT

• Mr. BREAUX. Mr. President, I, along with my colleague, Senator LOTT, am introducing a bill today, the administration's Maritime Reform Act of 1992, by request. I hope this bill, or a comparable bill that I intend to introduce, will lead to a much needed overhaul of the U.S. maritime industry. For the first time in 20 years, we have a major maritime reform effort that has the potential to give the maritime industry in this country the boost it so desperately needs. I believe that it is imperative that my colleagues and I work together to reach an agreement on a viable maritime reform bill before the industry reaches the point of no return.

Over the last 20 years, the U.S. maritime industry has been in a continuous state of decline. Lykes Lines, a Louisiana shipping company and one of the oldest in the country, has been forced to begin replacing its U.S.-flag fleet with foreign-flag vessels. The two largest U.S.-flag carriers, American President Lines and Sealand, have vowed to follow Lykes's lead unless a bill that will revitalize the industry is passed in the near future. That is why it is so important that this bill be introduced today.

I wish to point out to my colleagues that I do not believe that this bill is the ultimate cure for all that ails the industry. Aside from containing what I believe to be a number of substantive flaws, I understand that it may also present some budgetary problems. That is why I intend to introduce a maritime reform bill of my own soon. In the meantime, however, I hope that the introduction of this bill, the administration's bill, will serve as a catalyst for the reform and revitalization of the U.S. maritime industry.

Mr. President, I request that the test of the bill and my statement be printed in the RECORD.

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

S. 3047

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—AMENDMENTS TO THE MERCHANT MARINE ACT, 1936

SEC. 101. SHORT TITLE.

This title may be cited as the "Maritime Reform Act of 1992".

SEC. 102. CONTINGENCY RETAINER PROGRAM.

(a) The Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1101 et seq.), is amended by inserting after title III the following new title:

"TITLE IV—CONTINGENCY RETAINER PROGRAM

"SEC. 401. The Secretary of Transportation shall encourage the establishment of a fleet of active, militarily useful, privately owned vessels to meet Department of Defense and other security requirements, while also maintaining an American presence in international commercial shipping. The fleet shall be known as the 'Contingency Retainer Fleet.'

"SEC. 402. (a) The Contingency Retainer Fleet shall consist of up to 74 privately

owned, United States-flag vessels for which there are in effect operating agreements under this title.

"(b) A vessel may not be included in the Contingency Retainer Fleet unless—

"(1) it is operated by an "ocean common carrier" as defined in section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702), or it is a roll-on/roll-off vessel; "(2) it is not more than fifteen years of age on the date an operating agreement is entered into under Section 403, unless it is included in an operating-differential subsidy contract and meets the requirements of Section 103;

"(3) it is operated in foreign trade;

"(4) the Secretary of Defense determines, within 30 days after receiving notification from the Secretary of Transportation of the intent of the Secretary of Transportation to include a vessel in the Contingency Retainer Fleet, that the vessel is militarily useful for meeting the sealift needs of the United States with respect to national emergencies;

"(5) the owner or operator of the vessel enters into an operating agreement with the Secretary of Transportation that includes that vessel; and

"(6) the owner or operator of the vessel is a citizen of the United States under Section 905(c) of this Act.

"(c) The Secretary of Transportation shall, after receiving an application for inclusion of a vessel in the Contingency Retainer Fleet and after consultation with the Secretary of Defense, determine whether the vessel is eligible for inclusion in the Contingency Retainer Fleet.

"(d)(1) A vessel shall not be considered to be ineligible for inclusion in the Contingency Retainer Fleet and shall not be excluded from coverage of an operating agreement, solely because it was not constructed in the United States.

"(2) A vessel not constructed in the United States that is included in the Contingency Retainer Fleet shall be deemed to have been United States-built for the purposes of sections 901(b) and 901b of this Act.

"SEC. 403. (a) The Secretary of Transportation shall require, as a condition of including any vessel in the Contingency Retainer Fleet, that the owner or operator of the vessel enter into an operating agreement with the Secretary of Transportation pursuant to this section.

"(b)(1) An operating agreement pursuant to this section shall require that, during the effective period of the agreement—

"(A) each vessel covered by the operating agreement—

"(i) shall be operated in the foreign trade, and

"(ii) shall not be operated in the coastwise trade of the United States or in mixed domestic and foreign trade; and

"(B) the owner or operator of a vessel covered by the operating agreement shall have the vessel documented under chapter 121 of subtitle II of title 46, United States Code, and maintain that documentation.

"(c)(1) An operating agreement under this section shall provide that the Secretary of Transportation pay to the owner or operator of a vessel that is included in the operating agreement, in accordance with this subsection, an amount per year per vessel which shall not exceed:

"(A) for fiscal year 1994, $2,500,000;

"(B) for fiscal year 1995, $2,500,000;

"(C) for fiscal year 1996, $2,330,000;

"(D) for fiscal year 1997, $2,160,000;

"(E) for fiscal year 1998, $1,990,000;

"(F) for fiscal year 1999, $1,820,000; and

"(G) for fiscal year 2000, $1,600,000.

"(2) The Secretary of Transportation may not enter into an operating agreement under this section unless appropriations sufficient to cover the entire term of the agreement are available. There are authorized to be appropriated such sums as may be necessary for each of fiscal years 1994 through 2000.

"(3) The amount per year paid to the operator of a vessel under an operating agreement pursuant to this section shall be paid at the beginning of each month in equal installments.

"(4) The amount of a payment under this subsection for a vessel shall not be reduced by reason of operation of the vessel to carry civilian or military preference cargoes pursuant to—

"(A) section 901(a), 901(b) or 901b of this Act;

"(B) section 2631 of title 10, United States Code; or

"(C) section 1241–1 of title 46, Appendix, United States Code.

"(5) The Secretary of Transportation shall not make any payment under this subsection for a vessel—

"(A) that is subject to an operating-differential subsidy contract under title VI of this Act;

"(B) with respect to any period in which the vessel is not operated or maintained in accordance with the operating agreement; or

"(C) that is not offered and accepted for enrollment in a sealift readiness program approved by the Secretary of Defense.

"(d)(1) In consultation with the Secretary of Defense, an operating agreement under this section shall require that, upon a request of the Secretary of Defense during time war, national emergency, or when deemed necessary by the Secretary of Defense in the interest of national security, the owner or operator of a vessel covered by the operating agreement shall either make the vessel available or provide vessel space on a guaranteed basis, as determined by the Secretary of Defense, to the Secretary of Defense as soon as practicable—

"(A) at the first port in the United States the vessel is scheduled to call after the date of submission of the request;

"(B) at the port in the United States to which the vessel is nearest after the date of submission of the request; or

"(C) in any other reasonable manner, as specified by the Secretary of Defense in the request.

"(2) The Secretary of Transportation shall not reduce the amount of equal monthly installment payments under subsection (c) to an owner or operator who makes a vessel available or provides vessel space to the Secretary of Defense pursuant to this subsection.

"(3) The Secretary of Defense shall, upon the termination of the need for which a vessel is delivered under this subsection, return the vessel to the owner or operator of the vessel—

"(A) at a place that is mutually agreed upon by the Secretary of Defense and the owner or operator of the vessel; and

"(B) in the condition in which it was delivered to the Secretary of Defense, excluding normal wear and tear.

"(e) An operating agreement executed pursuant to this section shall be effective for a period of not more than seven years, ending September 30, 2000.

"SEC. 404. DEFINITIONS.

"For the purposes of this title:

"(1) The term 'citizen of the United States' means a person that is a citizen of the United States under section 905(c) of this Act.

"(2) The term 'operating agreement' means an operating agreement that takes effect under section 403, covering one or more vessels included in the Contingency Retainer Fleet.".

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective beginning on the date which is 120 days after the date of enactment of the Maritime Reform Act of 1992.

SEC. 103. ELIGIBILITY OF VESSELS INCLUDED IN OPERATING-DIFFERENTIAL SUBSIDY CONTRACTS.

(a) VESSEL AGE LIMITS.—

(1) Any vessel fifteen years of age or less included in an operating-differential subsidy contract may be offered for inclusion in the Contingency Retainer Fleet.

(2) Any vessel more than fifteen years of age included in an operating-differential subsidy contract may be offered for inclusion in the Contingency Retainer Fleet within ninety days after the date of enactment of this Act.

(3) No vessel that is twenty-five or more years of age included in an operating-differential subsidy contract shall be included in the Contingency Retainer Fleet unless the owner or operator—

(A) has a contract in place with a shipyard for the delivery of a replacement of that vessel for the Contingency Retainer Fleet no later than thirty months from the date of enactment of this Act, or

(B) acquires a replacement of that vessel for the Contingency Retainer Fleet meeting the requirements of section 402 of title IV no later than twelve months from the date of enactment of this Act.

(b) The vessel ages specified in subsections (a)(2) and (3) shall apply as of the date a vessel is offered for inclusion in the Contingency Retainer Fleet.

SEC. 104. OPERATING-DIFFERENTIAL SUBSIDY CONTRACTS.

(a) After the date of enactment of this Act, the Secretary of Transportation shall not enter into any new contract for an operating-differential subsidy under title VI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1171 *et seq.*).

(b) Notwithstanding any other provision of this Act, any contract in effect under title VI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1171 *et seq.*) on the day before the date of enactment of this Act—

(1) shall continue in effect under its term and terminate as set forth in the contract; and

(2) may not be renewed.

(c) With respect to liquid or dry bulk cargo carrying vessels receiving operating-differential subsidy under contracts in force on the date of enactment of this Act, upon termination of those contracts on the termination dates set forth in those contracts as of the date of enactment of this Act, section 506 of title V of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1156), shall not apply to the vessels included in those contracts.

SEC. 105. CONSTRUCTION-DIFFERENTIAL SUBSIDY.

(a) Section 503 of title V of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1153), is amended by adding at the end thereof the following new sentence:

"Any vessel constructed with the aid of construction-differential subsidy and not included in the Contingency Retainer Fleet, whose owner entered into an operating agreement with the Secretary of Transportation under title IV of this Act for other

vessels, is not required to remain documented under the laws of the United States, so long as there remains no debt due the United States arising under title XI of the Act.".

(b) Section 511(c) of title V of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1161(c)), is amended by adding the following new sentence at the end of the subsection:

"This subsection shall not apply to deposits made to a construction reserve fund after the date of enactment of the Maritime Reform Act of 1992.".

SEC. 106. AMENDMENTS TO TITLE VI.

(a) Title VI of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1171, *et seq.*), is amended as follows:

(1) Section 605(b) (46 App. U.S.C. 1175(b)) is amended by adding the following new sentence at the end of the subsection:

"After September 30, 1992, the Secretary of Transportation shall enter no new formal order under this subsection.".

(2) Section 607 (46 App. U.S.C. 1177) is amended as follows:

(A) By substituting "subsection (c)(1)" for "subsection (k)(1)" in the first sentence of subsection (a).

(B) By striking out the second sentence in subsection (a) and inserting a new second sentence as follows:

"Any agreement entered into under this section shall be for the purpose of providing replacement vessels, additional vessels, or reconstructed vessels documented under the laws of the United States for operation in the foreign or domestic trade or in the fisheries of the United States and shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under section 136(c) of the Internal Revenue Code of 1986.".

(C) By striking out "subsection (b)(1)(A)" in the third sentence of subsection (a) and inserting in lieu thereof "section 136(a)(1)(A) of the Internal Revenue Code of 1986".

(D) By striking out subsection (k)(1)(A), and by redesignating subsections (k)(1)(B) and (k)(1)(C) as subsections (k)(1)(A) and (k)(1)(B).

(E) By striking out subsection (k)(2)(A), and by redesignating subsection (k)(2)(B) as subsection (k)(2)(A).

(F) by inserting a new subsection (k)(2)(B) as follows:

"(B) which the person maintaining the fund agrees with the Secretary will be operated in the foreign or domestic trade or in the fisheries of the United States.".

(G) By striking out subsection (k)(2)(C).

(H) By substituting "subsection (d)" for "subsection (1)" in subsection (k)(6).

(I) By striking out subsections (b) through (i),

and by redesignating subsections (j) through (m) as subsections (b) through (e).

(J) By inserting a new subsection (f) as follows:

"(f) Cross Reference. For rules applicable to the tax treatment of fund deposits, earnings, and withdrawals, see section 136 of the Internal Revenue Code of 1986."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective for taxable years beginning after the date of enactment of the Maritime Reform Act of 1992: *Provided*, That any withdrawal made within 120 days after such date of enactment shall be a nonqualified withdrawal, if used in connection with the acquisition, construction, or reconstruction of a vessel—

(1) that is not constructed or reconstructed in the United States, or

(2) that will not be operated in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States.

SEC. 107. AMENDMENTS TO TITLE IX.

(a) Title IX of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1241 et seq.), is amended as follows:

(1) Section 905 (46 App. U.S.C. 1244) is amended as follows:

(A) By striking subsection (a) and inserting a new subsection (a) as follows:

"(a) The words "foreign commerce" or "foreign trade" mean commerce or trade between the United States, its Territories or possessions, or the District of Columbia, and a foreign country, and shall also include trade between foreign ports."; and

(B) By striking subsection (c) and inserting a new subsection (c) as follows:

"(c) The words "citizen of the United States" include a corporation, partnership, association, trust, joint venture, or other entity if it owns a vessel eligible for documentation under chapter 121 of subtitle II of title 46, United States Code, and, in the case of a corporation, partnership, or association operating a vessel on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States the amount of interest required to be owned by a citizen of the United States shall be not less than 75 per centum, as defined in section 2 of the Shipping Act, 1916, as amended (46 App. U.S.C. 802).".

(2) A new section 910 is added as follows:

"SEC. 910. (a) Notwithstanding any other provision of the Maritime Reform Act of 1992, a vessel constructed, reconstructed, or repaired in a foreign shipyard with the aid of subsidies or equivalent measures determined by the United States Trade Representative to cause, or threaten to cause, significant adverse effects on shipyards in the United States, or significant distortion in trade in vessels shall not be permitted to participate in the following benefits—

"(1) consideration as a qualified vessel for purposes of inclusion under the Contingency Retainer Program;

"(2) eligibility for any qualified withdrawals from the capital, capital gain, and ordinary income accounts under section 136 of the Internal Revenue Code of 1986;

"(3) immediate eligibility for the carriage of cargo preference goods; and

"(4) reduction in ad valorem duty on repairs of vessels contained in Section 203 of Title II of the Maritime Reform Act of 1992.

"(b) In making the determination referred to in subsection (a), the United States Trade Representative shall consult with appropriate Executive agencies.

"(c) any denial of benefits pursuant to subsection (a) shall be prospective from the date of an affirmative determination by the United States Trade Representative and shall not affect a vessel on which a contract for construction, reconstruction, or repair in a foreign shipyard had been entered into prior to such date.

"(d) The United States Trade Representative shall publish rules implementing this section not later than 90 days after the date of enactment of this Act.

"(e) Nothing in this section shall create a cause of action or any other claim or defense that may be asserted by a private party in any Federal or State court of the United States.".

SEC. 108. FOREIGN-FLAG FEEDER VESSELS.

(a) The provisions of law set forth in 46 App. U.S.C. 1241(a), 1241(b)(1), 1241-1, and 1241f, and 10 U.S.C. 2631 requiring the use of United States-flag vessels shall be deemed fulfilled, as to the total of any shipment, if the actual ocean transportation of each shipment for which the United States-flag carrier has issued its own through bill-of-lading between the original port of lading and the port of final discharge, consists of transportation of the cargo by a combination of United States and foreign-flag vessels. The use of foreign-flag vessels shall be as authorized by the Secretary of Transportation under such terms and conditions as the Secretary shall prescribe by rule under section 204 of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1114).

SEC. 109. CARRIAGE OF CARGO PREFERENCE GOODS.

(a) After the date of enactment of this Act, bulk cargo vessels constructed after the date of enactment and liner vessels shall be deemed to have been United States-built for the purposes of sections 901(b) and 901b of the Merchant Marine Act, 1936, as amended.

(b) The amendments made by subsection (a) shall be effective beginning on the date which is 120 days after the enactment of the Maritime Reform Act of 1992.

SEC. 110. REEMPLOYMENT RIGHTS FOR MERCHANT MARINERS.

(a) Title III of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1131), is amended by inserting after section 301 the following new section:

"SEC. 302. (a) An individual who is certified by the Secretary of Transportation under subsection (c) shall be entitled to the same reemployment rights and other benefits as the rights and benefits provided for by chapter 43 of title 38, United States Code, for any member of a Reserve component of the Armed Forces of the United States who is ordered to active duty. The enforcement mechanism provided by chapter 43 of title 38, including the right to adjudication in the Federal courts, shall be applicable.

"(b) an individual shall be entitled to the benefits of subsection (a) of this section if such individual—

"(1) was employed in the activation or operation of a vessel used by or under contract to the United States for war, armed conflict, national emergency, or maritime mobilization need (including training purposes or testing for readiness and suitability for mission performance); and

"(2) during the period of such employment possessed a valid license, certificate of registry, or merchant mariner's document issued under chapter 71 or chapter 73 (as applicable), and did not commit an act prohibited by chapter 77 or chapter 115, of title 46, United States Code.

"(c) (1) Upon request, the Secretary of Transportation shall issue to an eligible individual a certification of entitlement, which, for purposes of reemployment rights and benefits provided by this section, shall be considered to be the equivalent of a certificate referred to in clause (1) of section 2021(a) of title 38, United States Code.

"(2) An individual may submit an application for certification of entitlement under this subsection to the Secretary of Transportation not later than 45 days after the date the individual completes a period of employment described in subsection (b) with respect to which the application is submitted.".

SEC. 111. AMENDMENT TO THE OIL POLLUTION ACT OF 1990.

Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended by striking "$50,000,000 in any fiscal year" and inserting in lieu thereof $44,000,000 in fiscal year 1993, $37,000,000 in fiscal year 1994, $43 million in fiscal year 1995, $50,000,000 in fiscal year 1996,

$42,000,000 in fiscal year 1997, and $50,000,000 in any fiscal year thereafter".

TITLE II—INTERNAL REVENUE CODE AND TARIFF ACT AMENDMENTS

SEC. 201. SHORT TITLE.

This title may be cited as the "Capital Construction Fund Amendments of 1992".

SEC. 202. INTERNAL REVENUE CODE AMENDMENTS.

(a) Section 7518 of the Internal Revenue Code of 1986 is amended as follows:

(1) Subsection (a)(1)(D) is revised to read "the receipts from the investment or reinvestment of amounts held in such fund, less the taxes described in subsection (h)(1)(B).".

(2) Subsection (a)(2) is amended by substituting "lessor" for "owner".

(3) Subsection (c)(1)(A) is amended by deleting "and section 607 of the Merchant Marine Act, 1936".

(4) Subsection (c)(1)(C) is deleted.

(5) Subsection (c)(1)(D) is amended by deleting "and section 607 of the Merchant Marine Act, 1936".

(6) Subsections (c)(1)(D) and (c)(1)(E) are redesignated as subsections (c)(1)(C) and (c)(1)(D), respectively.

(7) Subsection (c)(3) is added as follows:

"(3) EARNINGS TREATED AS DEPOSITS.—The earnings of any capital construction fund for any taxable year, less the amount described in subsection (h)(1)(B), shall be treated as an amount deposited for such taxable year.".

(8) Subsection (d)(2)(B) is revised to add at the end thereof 'and".

(9) Subsection (d)(2)(C) is revised to read "aftertax amounts referred to in subsection (a)(1)(D)."

(10) Subsection (d)(2)(D) is deleted.

(11) Subsection (d)(3)(A) is revised to read "amounts representing long-term capital gains (as defined in section 1222) and referred to in subsection (a)(1)(C), reduced by".

(12) Subsection (d)(3)(B) is revised to read "amounts representing long-term capital losses (as defined in section 1222) on assets held in the fund."

(13) Subsection (d)(4)(B)(i) is revised to read "amounts representing short-term capital gains (as defined in section 1222) and referred to in subsection (a)(1)(C), reduced by".

(14) Subsection (d)(4)(B)(ii) is revised to read "amounts representing short-term capital losses (as defined in section 1222) on assets held in the fund, and".

(15) Subsection (d)(4)(C) is revised to read "amounts received from a transaction described in subsection (a)(1)(C) that are not referred to in paragraphs (2)(B), (3)(A), or (4)(B)(i)."

(16) Subsections (d)(4) (D) and (E) are deleted.

(17) Subsection (e)(1)(B) is amended by deleting "or" at the end thereof.

(18) Subsection (e)(1)(C) is amended by substituting ", or" for "." at the end thereof.

(19) Subsection (e)(1)(D) is added to read:

"(D) the payment of amounts that reduce the principal amount of a qualified lease of a qualified vessel or a barge or a container which is part of the complement of a qualified vessel.".

(20) The last sentence of subsection (e)(1) is revised to read:

"A qualified lease is considered a debt instrument issued for property to which section 1274 applies and the date the lease is entered into by the parties is considered the 'date of the sale or exchange' referred to in section 1274(b)(2)(A).".

(21) The heading and first sentence of subsection (f)(4) are revised to read:

"(4) ADJUSTMENT TO BASIS OF VESSELS, ETC., WHERE WITHDRAWALS PAY PRINCIPAL ON DEBT OR LEASE OBLIGATION.—If any portion of a qualified withdrawal made to pay the principal on any indebtedness pursuant to subsection (e)(1)(C), or to reduce the principal amount of any qualified lease pursuant to subsection (e)(1)(D), is made out of the ordinary income account or the capital gain account, an amount equal to the aggregate reduction which would be required by paragraphs (2) and (3) if this were a qualified withdrawal for a purpose described in such paragraphs shall be applied, in the order provided in joint regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund.".

(22) Substitute "subsection (i)" for "subsection (h)" in subsection (g)(1).

(23) Subsection (g)(3)(B) is revised to read:

"(B) any amount referred to in paragraph (2)(B) shall be included in income for the taxable year in which the withdrawal is made as an item of long-term capital gain (as defined in section 1222), and".

(24) Subsection (g)(3)(C)(i) is amended by deleting "no interest shall be payable under section 6601 and".

(25) Subsection (g)(3)(C)(ii) is revised to read:

"(ii) interest on the amount of the additional tax attributable to any item referred to in subparagraph (A) or (B) shall be payable in accordance with section 6601 from the last date prescribed for payment of the tax for the taxable year for which such item was deposited in the fund, and".

(26) Subsection (g)(4) is deleted.

(27) Subsection (g)(5)(B) is deleted.

(28) Subsections (g)(5) (C) through (E) are redesignated as subsections (g)(5) (B) through (D).

(29) Subsection (g)(6)(A) is amended by substituting "paragraph (4)" for "paragraph (5)" and by revising the last sentence to read:

"With respect to the portion of any nonqualified withdrawal made out of the capital gain account during a taxable year and to which section 1(h) or 1201(a) applies, the rate of tax taken into account under the preceding sentence shall be the rate specified in section 1(h) or 1201(a), whichever applies."

(30) Subsections (g)(5) and (g)(6) are redesignated as subsections (g)(4) and (g)(5), respectively.

(31) Subsections (h) and (i) are redesignated as subsections (i) and (j), respectively, and a new subsection (h) is added to read:

"(h) TAXATION OF EARNINGS ON INVESTMENTS.—

"(1) IN GENERAL. The tax imposed by chapter 1 shall be determined—

"(A) by excluding from gross income the earnings from the investment and reinvestment of amounts held in a capital construction fund, and

"(B) by increasing the tax imposed by chapter 1 by the product of the amount of such earnings and the highest rate of tax specified in section 1 (section 11, in the case of a corporation).

"(2) MAXIMUM RATE ON NET CAPITAL GAINS.—With respect to fund earnings that are net capital gains (as defined in section 1222), the rate of tax taken into account in paragraph (1)(B) shall be the rate specified in section 1(h) or 1201(a), whichever applies.".

(32) Subsection 7518(j), as redesignated by paragraph (31) is revised to read:

"(j) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED LEASE.—A qualified lease is a lease of property, with a term at least equal to the applicable recovery period for such property under section 168, and with respect to which, for all purposes of the Internal Revenue Code, the parties agree in writing at the time the lease is entered into to treat the lessee as the owner of the qualified vessel (and barges and containers, if any, which are part of the complement of the qualified vessel).

"(2) MERCHANT MARINE ACT.—If not otherwise provided by this section, any term defined in section 607(c) of the Merchant Marine Act, 1936, as amended by the Maritime Reform Act of 1992, which is used in this section (including the definition of 'Secretary') has the meaning prescribed by section 607(c) as amended by the Maritime Reform Act of 1992.".

(b) Section 56(c)(2) of the Internal Revenue Code of 1986 is amended:

(A) By substituting "(A) and (B) of section 7518(c)(1)" for "(A), (B), and (C) of section 7518(c)(1) (and the corresponding provisions of such section 607)" in subparagraph (A).

(B) By amending subparagraph (A)(ii) to read as follows:

"(ii) any earnings (including gains and losses) after December 31, 1986 and before the first taxable year beginning after the date of enactment of the Maritime Reform Act of 1992, on amounts in such fund, and".

(C) By striking "(or the corresponding provisions of such section 607)" from subparagraph (B).

(c) Section 136(a) of the Internal Revenue Code of 1986 is amended:

(A) By striking paragraph (4).

(B) By redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(d) Section 543(a)(1)(B) of the Internal Revenue Code of 1986 is amended to read as follows:

"(B) interest on amounts set aside in a capital construction fund under section 136 or in a construction reserve fund under section 511 of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1161),".

(e) The Internal Revenue Code of 1986 is amended as follows:

(1) By redesignating section 136 as section 137.

(2) By redesignating section 7518 as section 136.

(3) By amending the table of sections for part III of subchapter B of chapter 1 by deleting the item referencing section 136, and adding the following items:

"136. Tax incentives relating to Merchant Marine capital construction fund.

"137. Cross references to other Acts.

(4) By deleting the item referencing section 7518 in the table of sections for chapter 77.

(f) The amendments made by Section 202 are effective for taxable years beginning after the date of enactment.

SEC. 203. AMENDMENTS TO THE TARIFF ACT OF 1930.

(a) Section 466 of the Tariff Act of 1930, as amended (19 U.S.C. 1466), is amended as follows:

(1) By striking the words "50 per centum" and inserting in lieu thereof "25 per centum" effective October 1, 1993, in section (a); and

(2) By repealing the section in its entirety effective October 1, 1994.●

By Mr. BOND:

S. 3048. A bill to suspend temporarily the duties on Pentetreotide; to the Committee on Finance.

TEMPORARY SUSPENSION OF CERTAIN DUTIES

● Mr. BOND. Mr. President, today, I am introducing a bill to suspend temporarily the duties on Pentetreotide.

Pentetreotide is a chemical intermediate used in the manufacture of a radiodiagnostic product that will provide for the early detection of a variety of cancers in children and adults.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3048

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1.—That subchapter II of chapter 99 of the Harmonized Tariff Schedules of the United States is amended by inserting in numerical sequence the following new subheadings:

9902.98.00	Pentetreotide (Cas. No. 138661-02-6) (provided for in subheading 3822.00.50).	Free	No change	On or before 12/31/94

SEC. 2. The amendment made by the first section of this Act applies with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.●

By Mr. BOREN:

S. 3052. A bill to extend for 3 years the existing suspension of duty on stuffed dolls and the skins thereof; to the Committee on Finance.

EXTENSION OF TEMPORARY SUSPENSION OF CERTAIN DUTIES

● Mr. BOREN. Mr. President, on behalf of the domestic jobs produced and consumers served as a result of the stuffed doll products sold in the United States, I ask unanimous consent that the following bill be introduced and referred to the appropriate committee and that the text of the bill be printed in the RECORD.

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

S. 3052

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subheading 9902.95.01 of the Harmonized Tariff Schedule of the United States are each amended by striking out "12/31/92" and inserting "12/31/95."

SEC. 2. The amendments made by the first section of this Act apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after December 31, 1992.●

By Mr. KENNEDY (for himself, and Mr. KERRY):

S. 3053. A bill to increase the number of weeks for which emergency unemployment compensation is payable, and for other purposes; to the Committee on Finance.

UNEMPLOYMENT COMPENSATION BENEFITS EXTENSION ACT

Mr. KENNEDY. Earlier this month, Congress passed legislation extending the Federal Emergency Unemployment Benefits Program. This law was a halfway measure that was widely misunderstood. It provided a desperately needed safety net to 1½ million unemployed workers across the country who will exhaust their State unemployment benefits in the coming months. The recession is clearly not over; the jobs are still not there. As a result, like the nearly 2 million workers who have already received Federal emergency benefits, these unemployed workers needed the protection that the Federal benefits provide.

Unfortunately, while the law passed earlier this month ensured that the more recently unemployed will receive Federal benefits, it did not provide additional Federal benefits for the long-term unemployed whose Federal benefits have ready been exhausted. Those whose benefits have run out are enduring real hardship. They face a national unemployment rate of 7.8 percent, and the future holds little hope that jobs will soon be available.

Workers want jobs, not more unemployment benefits. But in the current situation, Congress must do what it can to help them survive this long and painful recession.

For this reason, Senator KERRY and I are today introducing legislation to provide an additional 13 weeks of Federal emergency benefits to unemployed workers whose previous Federal benefits have run out. It will also provide 13 additional weeks to those who are still receiving Federal benefits or who qualify for these benefits in the future.

It will be an uphill battle to pass this legislation. It will cost approximately $5 billion, and a great deal will depend on the level of unemployment in the months between now and the time Congress adjourns this fall.

I plan to work with the Senate Finance Committee to identify appropriate revenue sources to offset the cost of this legislation. I hope the President will agree to work with us as well in order to turn this proposal into law. Unemployed workers in Massachusetts and across America deserve this help, and Congress must not abandon them.

Mr. KERRY. Mr. President, I am pleased to cosponsor this legislation, which will address a serious problem faced by many hard working Americans trying to house, feed, and provide for their families during a depressed economic climate.

This bill will offer a lifeline of 13 additional weeks of emergency unemployment benefits under the Emergency Unemployment Compensation Program. In Massachusetts, we have endured a protracted period of high unemployment and this bill will address the individuals there and in many other places that just want assistance while they continue to try to provide for themselves and their families. When we voted to extend emergency unemployment benefits earlier this month, individuals who are eligible to receive but had not received emergency benefits and those currently participating in the program were protected. However individuals who have exhausted their State benefits and were about to exhaust or had exhausted emergency benefits were not included in the July extension. These individuals, many of whom live in areas of high unemployment and negative economic growth, are facing mortgage payments, health care costs, utility bills, and other expenses necessary for themselves and their families with no income and without any resources they previously had dissipated during their months of unemployment. These individuals are not lazy nor did they choose to be unemployed for over 1 year because they do not want to provide for their families. People in this dilemma deserve relief.

This bill would provide 13 additional weeks of benefits for individuals who previously had been told that they had exhausted all State and emergency benefits. The eligibility criteria for benefits remains the same, so this bill will not expand the number of individuals participating in the Emergency Unemployment Compensation Program. It is important to also note that the extension will be available regardless of the length of the benefit period in a given State. Whether a person lives in a State offering 26 or 20 weeks of extended benefits, a year-long period of unemployment has a devastating impact.

Ultimately, the best relief for the long-term unemployed is the security of a full-time job. It is imperative that long-term measures be taken to resuscitate our economy. But while we grapple with that challenge, too many individuals are among the long-term unemployed or are employed in positions that are inadequate to support their families. This bill represents an interim step, in the form of continued assistance to those particularly hard hit by a stagnant economy.

ADDITIONAL COSPONSORS

S. 1002

At the request of Mr. SHELBY, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 1002, a bill to impose a criminal penalty for flight to avoid payment of arrearages in child support.

S. 1398

At the request of Mr. REID, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 1398, a bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from certain rules for determining contributions in aid of construction.

S. 1451

At the request of Mr. BIDEN, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S.

1451, a bill to provide for the minting of coins in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

S. 1658

At the request of Mr. NICKLES, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1658, a bill to require the Secretary of Labor, with respect to contracts covering federally financed and assisted construction, and labor standards provisions applicable to nonconstruction contracts subject to the Contract Work Hours and Safety Standards Act, to ensure that helpers are treated equitably, and for other purposes.

S. 1777

At the request of Mr. ADAMS, the names of the Senator from Hawaii [Mr. INOUYE], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 1777, a bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

S. 2104

At the request of Mr. GRASSLEY, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 2104, a bill to amend title XVIII of the Social Security Act to provide for increased Medicare reimbursement for physical assistance, to increase the delivery of health services in health professional shortage areas, and for other purposes.

S. 2106

At the request of Mr. CRANSTON, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 2106, a bill to grant a Federal charter to the Fleet Reserve Association.

S. 2254

At the request of Mr. MCCAIN, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 2254, A bill to provide tax incentives for businesses locating on Indian reservations, and for other purposes.

S. 2323

At the request of Mr. CRANSTON, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2323, a bill to amend title 38, United States Code, to revise the rates of dependency and indemnity compensation payable to surviving spouses of certain service-disabled veterans, to provide supplemental service disabled veterans' insurance for totally disabled veterans, and for other purposes.

S. 2372

At the request of Mr. CRANSTON, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2372, a bill to amend 1718 of title 38, United States Code, to provide that the compensation of veterans under certain rehabilitative services programs in State homes not be considered to be compensation for the purposes of calculating the pensions of such veterans.

S. 2389

At the request of Mr. BRADLEY, the names of the Senator from Iowa [Mr. GRASSLEY], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 2389, a bill to extend until January 1, 1999, the existing suspension of duty on Tamoxifen citrate.

S. 2484

At the request of Mr. KASTEN, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

S. 2560

At the request of Mr. SIMON, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2560, a bill to reclassify the cost of international peacekeeping activities from international affairs to national defense.

S. 2652

At the request of Mr. BIDEN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2652, a bill to provide enhanced penalties for commission of fraud in connection with the provision of or receipt of payment for health care services, and for other purposes.

S. 2656

At the request of Mr. FORD, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2656, a bill to amend the Petroleum Marketing Practices Act.

S. 2682

At the request of Mr. BUMPERS, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2682, a bill to direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes.

S. 2749

At the request of Mr. SEYMOUR, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2749, a bill to grant a right of use and occupancy of a certain tract of land in Yosemite National Park to George R. Lange and Lucille F. Lange, and for other purposes.

S. 2826

At the request of Mr. KENNEDY, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2826, a bill to reaffirm the obligation of the United States to refrain from the involuntary return of refugees outside the United States.

S. 2877

At the request of Mr. COATS, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 2877, a bill entitled the "Interstate Transportation on Municipal Waste Act of 1992."

S. 2899

At the request of Mr. KENNEDY, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2899, a bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes.

S. 2907

At the request of Mr. KERRY, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2907, a bill to reform the National Flood Insurance Program.

S. 2949

At the request of Mr. KENNEDY, the names of the Senator from Illinois [Mr. SIMON], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. WELLSTONE], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 2949, a bill to amend the Public Health Service Act to provide for the conduct of expanded research and the establishment of innovative programs and policies with respect to traumatic brain injury, and for other purposes.

S. 3001

At the request of Mr. DOMENICI, the names of the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 3001, a bill to amend the Food Stamp Act of 1977 to prevent a reduction in the adjusted cost of the thrifty food plan during fiscal year 1993, and for other purposes.

S. 3004

At the request of Mr. SANFORD, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 3004, a bill to provide for the liquidation or reliquidation of a certain entry of warp knitting machines as free of certain duties.

SENATE JOINT RESOLUTION 306

At the request of Mr. D'AMATO, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Joint Resolution 306, a joint resolution designating October 1992 as "Italian-American Heritage and Culture Month."

SENATE JOINT RESOLUTION 311

At the request of Mr. SEYMOUR, the names of the Senator from Florida [Mr. MACK], the Senator from Georgia [Mr. FOWLER], the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Texas [Mr. BENTSEN], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of Senate Joint Resolution 311, a joint resolution designating February 21, 1993, through February 27, 1993, as "American Wine Appreciation Week," and for other purposes.

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

SENATE CONCURRENT RESOLUTION 126

At the request of Mr. SHELBY, the names of the Senator from New York [Mr. MOYNIHAN], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of Senate Concurrent Resolution 126, a concurrent resolution expressing the sense of the Congress that equitable mental health care benefits must be included in any health care reform legislation passed by the Congress.

SENATE RESOLUTION 325

At the request of Mr. D'AMATO, the names of the Senator from Colorado [Mr. BROWN], the Senator from Hawaii [Mr. INOUYE], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Indiana [Mr. LUGAR], the Senator from Maryland [Ms. MIKULSKI], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Wyoming [Mr. WALLOP], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Resolution 325, a resolution expressing the sense of the Senate that the Government of the Yemen Arab Republic should lift its restrictions on Yemeni-Jews and allow them unlimited and complete emigration and travel.

SENATE RESOLUTION 326—RELATING TO THE ESTABLISHMENT OF A NATIONAL INSTITUTES FOR THE ENVIRONMENT

Mr. SANFORD submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 326.

Whereas the Earth and its inhabitants are threatened by unprecedented environmental degradation;

Whereas human health is dependent on the health of the environment;

Whereas the United States spends more than $115,000,000,000 annually on environmental protection but invests only a small fraction of that amount on environmental research;

Whereas a strong scientific and research community is essential for effective programs to protect the environment;

Whereas many efforts to protect the environment are reactive and therefore expensive and inefficient;

Whereas there is no overall coordinated effort by the Federal government to understand how the environment functions and how people affect, and are affected by, the environment;

Whereas the United States lacks solutions to many environmental problems and the experts to develop and implement solutions;

Whereas the United States lacks mechanisms for stable support of long-term environmental research;

Whereas the United States lacks mechanisms to establish priorities for comprehensive environmental research; and

Whereas incentives for public and private funding of basic and applied environmental research are virtually non-existent: Now, therefore, be it

Resolved, That it is the sense of the Senate that a National Institutes for the Environment should be established—

(1) to provide a coordinated, nationwide program for establishing priorities for comprehensive environmental research; and

(2) to support, through competitive awards, basic and applied environmental research and training that encompasses a wide variety of disciplines and is aimed at understanding, preventing, and solving environmental problems.

• Mr. SANFORD. Mr. President, we are all familiar with the wide range of environmental issues facing us today, from ozone depletion and loss of biological diversity to global warming and groundwater contamination, and these are only a few.

We also know that, for a variety of reasons, we are lacking effective analysis and solutions for many of these environmental problems.

I strongly believe that a new Federal research funding agency, to be called the National Institutes for the Environment, has great potential for addressing the environmental issues of the day. It is for that reason that I am here today to introduce a resolution expressing the sense of the Senate that a National Institutes for the Environment [NIE] should be established.

In contrast to the $115 billion that goes into fighting pollution in the United States each year, our Federal Government spends less than $3 billion a year on environmental research. The variety and scope of environmental matters facing us today demands that we invest more in this important area of concern.

Some people may be skeptical about the need for more research, but I believe that there are several inadequacies in our present system.

First of all, as we all know, controversy due to lack of agreed-upon scientific evidence results in political inaction. One side cries that the sky is falling, and the other side demands that we have more research; in the meantime, nothing gets done. This was the case for many years with the depletion of the ozone layer. We are now learning that the ozone is being depleted much faster than we previously thought. How many more cases of skin cancer will we see due to the inaction that resulted from the controversy that we had over the ozone depletion theories? And we still know very little about the effect of ozone loss on plants and marine species, many of which we depend on for food. Many of us wish we had conducted more ozone layer research earlier.

Global warming is another example of controversy and inaction. Many scientists believe that current global temperature trends suggest a human induced warming of the world's climate. Other people chalk up the rise in temperature to the natural and recurring variations in the Earth's climate. The dilemma arises again: Do we have enough research to know whether or not should we act? If so, what are the most cost-effective solutions?

Clearly, these example show that our present system is not meeting our environmental research needs. This is where the National Institutes for the Environment would help. The NIE will help sponsor the research which we so badly need. By authorizing and funding the NIE, we can move away from controversy and inaction and move toward timely research and sound solutions.

I realize that some people may worry that spending more on environmental research will just lead to more environmental regulations, and thus, increase the cost of business and increase the Federal bureaucracy. I do not believe it. It is the poorly conceived regulations, based on inadequate or faulty data, that sometimes prove unnecessarily expensive for Government, business, and consumers. The NIE, by sponsoring thorough research on such issues, would not only help us better analyze the problems, but also better formulate the solutions.

The contamination of our surface and ground water with pesticides is one example. If we had had more environmental research, we would have better regulated the use of pesticides. We would have understood the transport of pesticides into water and would have been developing better methods of pesticide application and more alternatives to chemical pesticides. Such research could have saved us lost crops and farmland and prevented costly contamination of drinking water and wild areas.

This is just one example where the NIE, by sponsoring more and better research, has great potential for helping our Nation find the best and least costly solutions to our environmental dilemmas. As we face other uncertainties on such matters as dioxin, pesticides, and hazardous waste disposal, which affect both environmental and public health, we must have the best research available so that the Government's decisions are the wisest and the least costly. The NIE will help us in that effort.

The NIE can save us money in other ways, by shifting the emphasis from responding to environmental problems to preventing environmental problems. We currently spend billions of dollars on cleanup of environmental problems, but only a little on research of their causes; money would be far better spent preventing these catastrophies in the first place. It is far better and less costly to nip a problem in the bud.

Let me give you one example. My state is one of many dealing with the

siting of a hazardous waste disposal facility. Calling it controversial is an understatement. As this siting process drags on, I can only wonder why we haven't done more to reduce the use of hazardous materials, rather than waste so much time, energy, and money on siting so many hazardous waste dumps. And this is just one example of where we could save more by researching and addressing environmental problems at the source.

One of the most important parts of the NIE proposal is the establishment of a National Library for the Environment that will help collect and distribute information on the environment. At the present time, we have no clearinghouse for information on the many environmental topics that concern us today. We need to collect information on the research that has been done and is being done by our Federal agencies, our State governments, industry, nongovernmental organizations, and our colleges and universities. By providing a central coordinator of information, linked through computer databases and accessible to anyone with a computer, we can help distribute valuable information to concerned groups across the United States so that the research can be put to use on the widest scale possible. This NIE Library will also coordinate research done through different agencies, and therefore, let us spend our research money more wisely.

One question which certainly arises from the discussion of a National Institutes for the Environment is: Why can't we just put more money into the existing Federal research agencies? It is true that we have several Federal Government agencies doing environmental research, including the National Science Foundation, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and others. Unfortuntely, most Government research is limited to regulatory and management needs and relatively little is directed at understanding the basics of environmental problems and their solutions or at broader issues. The money provided to these several agencies is well spent, but it is, nevertheless, an incomplete and inadequate system.

Rather than only putting more money into these agencies, we need research that would reach across and beyond specific agency needs and expand our research capabilities. And through the NIE's nonregulatory research, we could cut across various agencies and solve complex problems, like ecosystem management and resortation and pollution prevention and mitigation, which do not neatly fit within the purview of any one agency. A major function of the NIE would be not only to have agencies cooperating more effectively, but analyzing and evaluating current information so that those who need the information could more easily have it.

Given these many research needs, numerous scientific groups, environmental groups, private individuals, and legislators have given their support to the NIE concept. They believe, as I do, that the NIE has great potential to help us look at our problems and solve them in a thorough, effective, and scientific manner.

The NIE would use grant programs to sponsor nonregulatory and extramural environmental research. The NIE would not be a big Federal bureaucracy. It would not have its own research laboratories. It would provide grant money to the best scientists in every State of the Nation in order to ensure the highest quality research.

The NIE's research areas would address such topics as the relationship between humans and the environment, biological resources, ecosystem management and restoration, environmental change, sustainable resources and development, pollution prevention and mitigation, and environmental technology.

Through fiscal year 1991 appropriations and Federal Government grants, the National Academy of Sciences [NAS] is now conducting a study of the NIE concept. The NAS study should be finished early in 1993. Later in 1993, congressional legislation will be introduced to authorize and appropriate funds for the NIE.

And although this idea is a year or so away from authorization and funding, I believe that it is important to get the NIE concept moving in Congress now, and to hear praise and criticism, and to improve the blueprint for the NIE. This is an idea whose time has come, and the sooner we get this idea moving in Congress, the better off we all will be.

I invite my colleagues to join me in cosponsoring this resolution and in supporting the establishment of the National Institutes for the Environment.●

AMENDMENTS SUBMITTED

INTERSTATE TRANSPORTATION OF MUNICIPAL WASTES

BINGAMAN (AND OTHERS) AMENDMENT NO. 2740

Mr. BAUCUS for (Mr. BINGAMAN for himself, Mr. LEVIN, Mr. RIEGLE, Mr. DECONCINI, Mr. MCCAIN, and Mr. D'AMATO) proposed an amendment to the bill (S. 2877), the Interstate Transportation of Municipal Wastes Act of 1992, as follows:

At the appropriate place, insert the following new section:

SEC. . BORDER STUDY.

(a) DEFINITIONS.—As used in this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) MAQUILADORA.—The term "maquiladora" means an industry located in Mexico along the border between the United States and Mexico.

(3) SOLID WASTE.—The term "solid waste" has the meaning provided the term under section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)).

(b) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Administrator shall conduct a study of solid waste management issues associated with anticipated increased border use at such time as the North American Free-Trade Agreement may become effective. The Administrator shall also conduct a similar study, as soon as practicable after enactment of this Act, in terms of the scope, procedures, and objectives, outlined in sections (c), (d), (e), (f), and (h), focused on border traffic of solid waste resulting from the United States-Canada Free-Trade Agreement and the border region between the United States and Canada.

(c) CONTENTS OF STUDY.—The study under this section shall provide for the following:

(1) Planning for solid waste treatment, storage, and disposal capacity (including additional landfill capacity) that would be necessary to accommodate the generation of additional household, commercial, and industrial wastes by an increased population along the border.

(2) A study of the relative impact on border communities of a regional siting of solid waste storage and disposal facilities.

(3) Research concerning methods of tracking of the transportation of—

(A) materials from the United States to maquiladoras; and

(B) waste from maquiladoras to a final destination.

(4) A determination of the need for solid waste materials safety training for workers in Mexico and the United States within the 100-mile zone specified in the First Stage Implementation Plan Report for 1992–1994 of the Integrated Environmental Plan for the Mexico-United States Border, issued by the Administrator in February 1992.

(5) A review of the adequacy of existing emergency response networks in the border region, including the adequacy of training, equipment, and personnel.

(6) An analysis of solid waste management practices in the border region, including an examination of methods for promoting source reduction, recycling, and other alternatives to landfills.

(d) SOURCES OF INFORMATION.—In carrying out the study under this section, the Administrator shall, to the extent allowable by law, solicit, collect, and use the following information:

(1) A demographic profile of border lands based on census data prepared by the Bureau of the Census of the Department of Commerce and census data prepared by the Government of Mexico.

(2) Information from the United States Customs Service of the Department of the Treasury concerning solid waste that crosses the border between the United States and Mexico, and the method of transportation of the waste.

(3) Information concerning the type and volume of materials used in maquiladoras.

(4) Immigration data prepared by—

(A) the Immigration and Naturalization Service of the Department of Justice; and

(B) the Government of Mexico.

(5) Information relating to the infrastructure of border land, including an accounting of the number of landfills, wastewater treat-

ment systems, and solid waste treatment, storage, and disposal facilities.

(6) A listing of each site in the border region where solid waste is treated, stored, or disposed of.

(7) A profile of the industries in the region of the border between the United States and Mexico.

(e) CONSULTATION AND COOPERATION.—In carrying out this section, the Administrator shall consult with the following entities in reviewing study activities:

(1) States and political subdivisions of States in the region of the border between the United States and Mexico (including municipalities and counties).

(2) The heads of other Federal agencies (including the Secretary of the Interior, the Secretary of Housing, the Secretary of Health and Human Services, the Secretary of Transportation, and the Secretary of Commerce) and equivalent officials of the Government of Mexico.

(f) REPORT TO CONGRESS.—Upon completion of the study under this section, the Administrator shall, no later than two years from the date of enactment of this Act, submit a report that summarizes the findings of the study to the appropriate committees of Congress and proposes a method by which solid waste border traffic may be tracked, from source to destination, on an annual basis.

(g) Preparation of the study related to the United States-Canada border region shall not delay or otherwise affect completion of the study related to the United States-Mexico border region.

(h) AUTHORIZATION.—There are authorized to be appropriated to the Environmental Protection Agency such sums as may be necessary to carry out this section.

BAUCUS AMENDMENT NO. 2741

Mr. BAUCUS proposed an amendment to the bill (S. 2877), supra, as follows:

On page 4, line 7, strike "(date of introduction)" and insert "June 18, 1992".

On page 5, line 10, insert "annual" before "amount equal".

On page 5, line 22, strike "such landfills" and insert "each such landfill".

On page 5, line 23, insert "annual" before "volumes".

On page 6, line 2, strike "or" and insert "and".

On page 7, line 4, strike "section" and insert "paragraph".

On page 7, line 15, insert "from" before "a Governor".

On page 8, line 11, insert "as determined in accordance with subparagraph (C)" after "1992" and before the comma.

On page 8, line 13, insert "under subparagraph (C)" before "as having".

On page 10, line 11, strike "location" and insert "locational standards".

On page 10, line 12, insert "constructed" after "landfill cells".

On page 10, line 22, insert "the land or" after "over".

On page 11, line 11, strike ", glass, and rock" and insert "and glass".

On page 12, line 8, strike "the" before "property".

On page 12, line 11, insert "generated" after "solid waste".

On page 12, line 16, insert a comma after "composition".

On page 12, line 19, strike "such other" after "mixed with".

On page 13, line 6, strike "(date of introduction)" and insert "June 18, 1992".

On page 10, line 12, insert "on and" after "cells".

On page 12, line 4, strike "industry" and insert "industrial facility".

On page 2, line 26, strike "or 1992" and insert "or twice the volume of the first six months of 1992".

On page 5, line 13, strike "or 1992" and insert "or twice the volume of the first six months of 1992".

On page 7, line 9, after "and", insert "the first six months of".

On page 7, strike line 22 and insert "and the first six months of calendar year 1992, and".

On page 8, line 11, after "and" insert "the first six months of".

On page 2, strike lines 12 through 14 and insert "ment; and an affected local solid waste planning unit, if such local solid waste planning unit exists under state law, a Governor may—".

CONRAD (AND OTHERS) AMENDMENT NO. 2742

Mr. CONRAD (for himself, Mr. DASCHLE, Mr. REID, Mr. RIEGLE, and Mr. METZENBAUM) proposed an amendment to the bill S. 2877, supra, as follows:

On page 10, delete lines 18–23 and insert in lieu thereof:

"(1) The term 'affected local government' means the elected officials of either the city, town, borough, county, or parish in which the facility is located. Within 90 days of enactment of this Act, the Governor shall designate which entity listed above shall serve as the 'affected local government' for actions taken under this Act after July 23, 1992. No such designation shall affect host agreements concluded prior to July 23, 1992. If the Governor fails to make such designation, the affected local government shall be the city, town, borough, county, parish, or other public body created by or pursuant to State law with primary jurisdiction over the land or the use of the land on which the facility is located.".

CONRAD (AND OTHERS) AMENDMENT NO. 2743

Mr. CONRAD (for himself, Mr. DASCHLE, and Mr. METZENBAUM) proposed an amendment to the bill S. 2877, supra, as follows:

At an appropriate place in the bill, insert the following:

SEC. . (a) Not later than January 1, 1993, the United States General Accounting Office shall conduct a study of the interstate transportation of nonhazardous industrial manufacturing wastes, including waste generated from construction and demolition operations. Such study shall identify the volumes and general types of nonhazardous industrial manufacturing wastes generated in each State, the place of ultimate disposal of such wastes, and the hazards posed by the transportation of such wastes. The General Accounting Office shall also identify, to the extent possible, opportunities available to States to reduce the interstate transport of industrial nonhazardous manufacturing waste.

(b) For purposes of this subsection, the term "industrial nonhazardous manufacturing waste" shall not include the following waste categories:

(1) fly ash waste, bottom ash waste, slag waste, and flue gas emissions control waste generated primarily from the combustion of coal or other fossil fuels;

(2) solid waste from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from the mining of uranium ore;

(3) cement kiln dust waste;

(4) drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil or natural gas or geothermal energy, and

(5) solid waste regulated under Subtitle C of the Resource Conservation and Recovery Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 23, 1992, at 9 a.m., in executive session, to mark up a National Defense Authorization Act for Fiscal Year 1993, and other pending legislation referred to the Committee on Armed Services.

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

SUBCOMMTTEE ON CHILDREN, FAMILY, DRUGS AND ALCOHOLISM

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Children, Family, Drugs and Alcoholism of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, July 23, 1992, at 9:30 a.m., for a hearing on "Children of War: Violence and America's Youth".

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation and the National Ocean Policy Study, be authorized to meet during the session of the Senate on July 23, 1992, at 9:30 a.m. on Marine mammal legislation.

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

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 23, 1992, at 10 a.m. to hold a hearing on U.S. refugee programs for 1993.

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

COMMTTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Thursday, July 23, 1992, at 10:30 a.m. to conduct a hearing on the state of the U.S. economy and America's global competitive position.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 23, at 10 a.m., to hold a hearing on S. 2064, the Nuclear Testing Moratorium Act and other nuclear testing issues.

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

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, July 23, at 2 p.m., in executive session, to mark up a National Defense Authorization Act for Fiscal Year 1993, and other pending legislation referred to the Committee on Armed Services.

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

SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate Select Committee on POW/MIA Affairs be authorized to meet on Thursday, July 23, at 4 p.m., in room 385 of the Senate Russell Office Building for an open meeting for further discussion on declassification of POW/MIA documents.

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

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Thursday, July 23, 1992, at 9:30 a.m., to hold a joint hearing with the Committee on House Administration, U.S. House of Representatives. The committee will receive testimony on S. 2813, the "GPO Gateway to Government Act of 1992" and H.R. 2772, the "GPO Wide Information Network for Data Online Act of 1991."

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

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on July 23, 1992, beginning at 9:30 a.m., in room 485 Russell Senate Office Building, on S. 2833, the Crow Settlement Act.

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

ADDITIONAL STATEMENTS

TRIBUTE TO FRANKFORT

• Mr. MCCONNELL. Mr. President, I rise today to recognize the city of Frankfort in Franklin County.

Kentucky's capital city lies in a picturesque valley, marked by wooded bluffs overlooking the curving path of the Kentucky River. It is on the banks of this river, which rolls right through the center of the city, where one finds more than just laws being made.

High above the river on a prominent bluff is the historic Frankfort Cemetery, the final resting place for many of Kentucky's favorites sons. Sixteen Governors are buried there, as are Vice President Richard M. Johnson and Daniel Boone.

Surprisingly, only half of the people who work in Frankfort do so for the government. An underwear plant, automotive parts factories, and a distillery account for many of the nongovernmental jobs in the city.

Frankfort is proud to have Kentucky State University. The university has the lowest student-to-faculty ratio of any of the State's public universities and is currently starting on a $11.3 million physical education facility this summer.

Since becoming Kentucky's capital in 1792, all eyes focus on the city when the lawmakers assemble in Frankfort for their legislative sessions.

Winters in Frankfort are never dull even in the off years as the city plays host to one of Kentucky's favorite pastimes when it hosts the girl's State basketball tournament.

Although Frankfort is one of the smaller State capitals, it is a place where the charm of the historic downtown has not been overwhelmed by cold, bureaucratic edifices. The good people of Frankfort have created a city that all Kentuckians can be proud to call their capital.

Mr. President, I would like the following article from the Louisville Courier-Journal to be submitted into the RECORD.

The article follows:

THE PUBLIC TROUGH ISN'T ALL THAT FEEDS CAPITAL'S ECONOMY

(By C. Ray Hall)

Here is a perhaps astonishing fact about Frankfort: At any given time, more people in the state capital are making underwear than are making laws. This is not necessarily a bad thing, since, in the short term at least, life without laws is more imaginable than life without underwear.

Some savvy merchants might still save their ad budgets for the middle and the end of the month, timed to government paydays. But about half the people who work in Frankfort—like the 1,041 employees at Fruit of the Loom—make do without a government paycheck. They make an array of essentials from bourbon to concrete to car wheels to candy laced with bourbon.

Frankfort also makes history—a kind that's often as bittersweet as the boxwood fragrance waiting around Liberty Hall, the two-century-old home of Kentucky's first senator, John Brown. It's said to be haunted by a benign ghost called "The Gray Lady."

LIving in a town as steeped in history as Frankfort can be a consolation, as if a benign ghost were looking over your shoulder. You come to realize: Whatever happens has happened before, usually; and it was probably worse.

The 1978 flood was bad, but the one in 1937 was worse.

When FBI agents descended on the Capitol a few months ago in search of graft, they found it. But, graftwise, the bar was set very high a century ago by "Honest" Dick Tate, the state treasurer who disappeared, along with nearly $250,000. (First Methodist Church pastor William R. Jennings alluded to recurring scandals a few Sundays ago when he was preaching about Huck Finn's prayer problem. Jennings advised his flock to be thankful for what they had, instead of asking for more—advice a century too late for both Huck and Honest Dick.)

People who chafed at the presence of an empire-building governor named Wilkinson over the last four years had only to think of the empire builder who founded the town in 1786. Gen. James Wilkinson, who named the principal street for himself, once schemed to break off Kentucky from Virginia and align it with Spain.

One drama they don't play out any more: efforts to wrest the capital away from Frankfort that persisted for more than 100 years. Whenever Louisville or Lexington challenged Frankfort, the little town on the Kentucky River managed to keep the capital by finding funds at home and friends elsewhere.

"We were always able to get strength from out in the rural counties to keep it in Frankfort," says former mayor Frank Sower, the 81-year-old great, great grandson of one of the state's first two senators. Sower often goes up to the somewhat awe-inspiring Frankfort Cemetery to tend the begonias in the family plot. Up there in the constant breeze, near Daniel Boone's grave, you can see a tableau unlikely to be duplicated in many states: Stretched out below is the Capitol and, across the river, a wide pasture specked with grazing cattle. Frankfort looks like the capital of Ruritania.

So it is not surprising that it's a place where time seems to pass slowly. For example, when people say "the new Capitol," they mean the one that's only 82 years old. The famous floral clock behind the (new) Capitol might strike some as a sardonic symbol of state government: a functional ornament that suggests constant, smooth movement. Instead, the huge hands do not move smoothly: For 59 seconds every minute, they are still; then they jerk forward.

Frankfort is one of the smallest state capitals, so small that signs on the city buses simply say "East," "West" and so on.

As a little town with big impact, Frankfort is, on the whole, unlike any other place in the state. But it does share similarities with other Kentucky towns. Like Maysville, it is almost preciously quaint, even down to the brick sidewalks and the eclectic array of steeples, the most ornate of which sits atop the library named for artist Paul Sawyler; like mountain towns, it feels a bit claustrophobic in the middle; like Midway, it has a main street split in half by a railroad track.

Like Louisville, Frankfort is a river town where it's hard for the casual visitor to engage the river. It had a tourist boat, called the Shawnee Chief, that came to a bad end. "It took a trip over the dam last summer," notes river enthusiast Rick Isaacs. "The boat got loose in the middle of the night with no one on her."

Like Louisville, Frankfort has had its wrangles over school desegregation; highly publicized flaps over country clubs' snubs of minorities; episodes of urban renewal that fell hardest on black neighborhoods, resulting in cold, contemporary architecture that rises up like a bully over the gracious old town.

Like Bowling Green and Lexington, it has a state university that is trying to lay to rest controversies over presidents and purse strings. (Frankfort's episode is settled, apparently, with the installation of Mary Smith as president of Kentucky State University. It is the state's historically black college, but enrollment is 52 percent white, a condition that has prevailed since the late 1970s. This whitening of K-State also has been accompanied by a greening: a 1980s building boom that will continue this summer when construction starts on an $11.3 million physical-education facility.)

Like a lot of places in Kentucky, Franklin County is heavily Democratic. Republicans are outnumbered 23,294 to 2,131, a situation echoed somewhat awkwardly in the halls of the Old Capitol Annex. A gallery of governors' portraits features a wall of proper-sized Democrats surrounding a decidedly down-sized painting of Louie Nunn, the only Republican governor in the last 44 years. "Louie Nunn was good to Frankfort," says city clerk Ann Hoover, offering the ever-present olive branch. That's another thing about Frankfort: People are nice to strangers, including Republicans. You never know when you'll be working for, or with, them.

Like Lexington, Frankfort imbues many of its citizens with a spirit that they live in a chosen place. Clothing salesman Sonny Yates says: "I wouldn't move to Louisville if you paid me. . . . And I wouldn't move to Lexington if you gave me Spendthrift Farm."

But like other small towns in Kentucky, it betrays at least a trace of insecurity. At a recent tourism forum, a crafts-shop merchant, Rene Siria said, "I've . . . heard people say if it didn't come from Lexington or Louisville, it's not any good. . . . Is there something we can do to cheer up our own people?"

Such disparate urges tend to make the place introspective. Maybe a little too introspective sometimes. According to local mythology, Frankfort is the divorce capital of Kentucky. In truth, that distinction belongs to Logan County, with a divorce rate 2½ times that of Franklin County.

Unlike most places in Kentucky, Frankfort has a reasonably shock-proof economy. "We used to say having the capital here made it a Depression-proof place," says Sower. "Even in the 1929 Depression, you could make a living here," Gershman says. And a new businessman, David Stephenson, who as a Lexington banker foreclosed on failed businesses for 12 years, recently showed his faith in Frankfort's economy by opening a downtown restaurant with an upscale image and a downscale name: Bullfrogs. Explaining the inspiration for the name, he jokes, "Drunk."

Even with an army of stone-sober consultants, you'd be hard-pressed to think of a better name for a place specializing in steaks and frog legs.

Stephenson finds Frankfort "a tight community, like most small towns. Everybody knows everybody's business."

As the seat of state government, it is a town with a peculiar, tenuous social contract. "Every four years," says Irv Gershman, "we see the heirarchy come and go. We can't get attached to them. . . . A lot of people don't like to get too attached to them because they hate to lose their friends after four years."

He continues: "There is a definite difference in the politicians and the people who live in Frankfort. . . . You must understand, the legislators being in town only helps the restaurants, bars and hotels."

The most perceptible impact on Frankfort is this: When the legislators are in town, the place has a discernible night life. (This is still Kentucky, though, and the thing that brings motel-bursting numbers of people to town is not the legislature but the Girls' State Basketball Tournament.)

Community education director Terry Foster says: "When you move here, you think 'state government, state government, state government.' But so many people who work for state government have no interest in Frankfort at all, except as a place to work. They come in here and they use us and they go out."

And he doesn't just mean they get out after four years. He means they get out after 4 o'clock. State government employs 35,000 people 12,400 of them work in Frankfort; but only about 6,800 of those people actually work and live in Franklin County.

Frankfort bustles in the daylight, at least until 4:30, when, as the locals say, "the state lets off." Then it's a quiet and peaceful place again. Too quiet for some.

"A lot of friends my age (twenty-something) have chosen to live in Lexington or Louisville and commute," says Amy Carman, spokeswoman for the Kentucky Historical Society.

The most famous commuters, of course, are the 138 lawmakers who descend on Frankfort every other winter. Their presence doesn't always redound to Frankfort's glory, or even its gain. Some of them doubtless size up Frankfort against their hometowns, and figure the capital has what it needs.

"The perception," says Mayor Huston Wells, "is that Frankfort gets everything it wants. Quite the contrary. We have to beg and plead harder than any other community, because Frankfort is more or less taken for granted. Not just taken for granted, but overlooked as having needs. . . ." Frank Sower, the former mayor, takes the long view, as might be expected of a history buff, "I can't say there's any jealousy of Frankfort," he says. "When Frankfort improves, the people of Kentucky should be proud of their capital."

Population (1990); Frankfort, 25,965; Franklin County, 43,781

Per capita income (1989): Franklin County, $15,649, or $1,826 above state average.

Jobs (1990): State and local government, 14,371; wholesale/retail trade, 3,925; manufacturing, 3,912; services, 3,268; contract construction, 929.

Big employers: Fruit of the Loom, 1,041 employees; Topy (auto wheels), 515; Allied/Bendix (air brake components), 388; Jim Beam Brands, 325; Frankfort Plastics, 300.

Education: Kentucky State University, 2,534 students; Franklin County Schools, 8,222; Frankfort Independent Schools, 833; Good Shepherd School, 288; Capital Day School, 174; Franklin County Area Vocational School, 215.

Transportation: Air—Capital City Airport (one paved 5,000-foot runway); nearest airport with regularly scheduled commercial service, Bluegrass Airport, Lexington, 24 miles, Rail—CSX Transportation, Truck—44 lines serve Frankfort.

Media: Newspaper—Frankfort State Journal, daily, Radio—WFKY-AM/WKYW-FM (adult contemporary); WKED-AM (country), Television—Cable 10 covers local public affairs; 39 cable channels, including network outlets from Louisville, Lexington and Danville.

Topography: Bisected by the Kentucky River's S-shaped path, Frankfort lies in a picturesque valley marked by steep, wooded hillsides, exposed limestone cliffs and rolling farmland.

FAMOUS FACTS AND FIGURES

Frankfort's "Corner in Celebrities," a downtown section along Wapping Street, was home to some 40 statesman and other notables; governors, U.S. senators, Cabinet officers and Supreme Court Justices. Bibb lettuce, of all things, was invented by John Bibb in his back yard. Another resident was George Vest, who served in the U.S. Senate 25 years, but is best remembered for uttering the phrase "Dog is man's best friend" during the closing arguments of an 1870 trial over the killing of a dog.

Frankfort became Kentucky's capital in 1792. Frankfort's bid to become the capital was helped immensely by its offer of $3,000 (plus $140 worth of locks and hinges) to the new state. One of the selectors who voted for Frankfort was Robert Todd, who forsook his hometown, Lexington, Todd eventually became better known as the father-in-law of Abraham Lincoln.

When the Capitol burned in 1813, Frankfort guaranteed $19,600 to rebuild—and therefore keep—the capital. The only other bid was Woodford County's $550, in 1824, fire gutted the new capitol, and a third was built. It still stands and is known as the Old Capitol. The last efforts to wrest the capital away from Frankfort came in 1890 and 1904 from Louisville and Lexington.

With floods and fires, Frankfort has lived through many turbulent times, but none dicier than January 1990. That's when William Goebel, the Democratic candidate who claimed victory in a governor's election, was shot on the lawn of the Old Capitol. He died four days later, after having been sworn into office. But the controversy did not die. Democrats and Republicans both claimed to have the legitimate governor, Frankfort resembled an armed camp, and Kentucky teetered on the edge of civil war.

Daniel Boone, who died in Missouri in 1820, was brought back to Kentucky and reburied in the Frankfort Cemetery in 1846 after lying in state more than six weeks. The cemetery overlooking the Kentucky River is the resting place for at least 20,000 others (and perhaps twice that many, in unmarked graves). Sixteen governors are buried there, as are Vice President Richard M. Johnson and artist Paul Sawyler.

Founded in 1786 by Gen. James Wilkinson, Frankfort took its name from Frank's Ford a Kentucky River ford named for Stephen Frank, a settler killed by Indians in 1780.

With one professor for every 13 students, Kentucky State University has the lowest student-to-faculty ratio of any of the state's public universities.

Kentucky's time and place in American history could be divined in the rotunda the Capitol, where there are five statues: Abraham Lincoln, Henry Clay, Jefferson Davis, Alben Barkley and Dr. Ephralm McDowell. Only one of them, Barkley, lived in the 20th century.

When Henry Clay was a state legislator, he was called a liar and a poltroon by Humphrey Marshall before their fellow lawmakers, Clay challenged Marshall to a duel. They shot it out in Indiana, with Clay suffering a leg wound.

To see the only Kentucky house designed by Frank Lloyd Wright, go to 509 S. Shelby St. It was the home of a Presbyterian minister, Jesse K. Zeigler, who met Wright on a cruise.

When the old governor's mansion was being built, stonemason Thomas Metcalfe helped lay the foundation; Robert Letcher

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laid some of the brick. Later both lived there as governor (Metcalfe, 1828–32; Letcher, 1840–44).●

CORRIDOR G: ALMOST HEAVEN

● Mr. ROCKEFELLER. Mr. President, I rise today with pride as I share the enormous progress being made on the highway systems in my State of West Virginia.

As Senator from West Virginia and as Governor, I have been dedicated to the completion of the Appalachian Regional Commission corridor system. In West Virginia, the completion of corridor G would connect the coal and timber country to the vast trade market by providing safe, modern, and efficient road systems on which to travel. This connection will promote economic development, highway safety and much needed employment opportunities for southern West Virginia.

In 1989, I introduced precedent setting legislation resulting in the tapping of the highway trust fund surplus to fund the completion of the corridors. In 1991, the highway bill passed the Congress and was signed into law by the President. This legislation authorized the expenditure of $151 billion over a 6-year period, which included an $8 billion bonus from the trust fund surplus. These funds will be used to complete the corridors and many other vital transportation projects throughout the State, the Appalachian region and the Nation.

Earlier this month a segment of road, measuring only six-tenths of 1 mile, connecting the Tug Fork River Bridge and West Williamson was dedicated and opened to traffic. Although it may seem like a minuscule portion of construction to celebrate, for the residents of southern West Virginia it is a triumph over the craggy terrain of that area of our State. The immense rock wall that was removed created not only a physical but also a mental barrier for the people. It was an overwhelming obstacle to overcome in the effort to achieve economic parity for West Virginia.

At long last, the industries of southern West Virginia are no longer prisoners incarcerated by mountain barriers, but thriving enterprises in the global marketplace. It is truly a victory for the people of West Virginia to finally be moving toward economic equality with the rest of the Nation after years of victimization by the rugged terrain so prevalent throughout Appalachia.

No longer will barriers, such as the immense rock wall that barricaded road construction in Southern West Virginia, leave our roads half way to nowhere. Instead, West Virginia roads will be roads that lead to economic equality and employment opportunities for the State of West Virginia: this in turn will provide yet another strong, contributing link to the economic chain of existence of the United States.●

TRIBUTE TO FIREFIGHTER GEORGE MOTCHKOWITZ

● Mr. D'AMATO. Mr. President, very rarely is courage displayed as it was on March 3, 1992, when a brave and selfless man by the name of George Motchkowitz risked life and limb to do a job that is done everyday by the 2 million volunteer firefighters in the United States. The natural and complete professionalism that marked his actions on that fateful day should be lauded and I ask my colleagues, indeed, all Americans, to join me in celebrating the heroism that firefighters exhibit everyday.

Volunteer firefighters provide one of the most valuable services imaginable to this country and its people—that of saving lives; the lives of our families. Firefighters preserve the integrity of the safety in the communities they serve. Every year, volunteer firefighters are injured, and even die in the service of this country. The ability to act rationally and safely, under circumstances that would cause most people to panic, is second nature to these special individuals. Volunteer firefighting is one of the hardest jobs imaginable, and it is frequently rewarded only by the knowledge that the service they provide is vital to their community.

On March 3, 1992, a young man was walking in the fields near his school, the Great Neck North High School, when he fell into a well. The well was some 60 feet deep, and the youth incurred serious injuries to his neck and back. Fortunately for him, he was not walking alone. His brother and several friends were there to seek help. They ran back to the school and called for help. Those who quickly arrived on the scene were the Alert Fire Company and the Vigilant Fire Company of Great Neck, NY, and the Nassau County Police Department. The men and women of those brave squads acted with extreme valor to save the adolescent.

First Assistant Fire Chief George Motchkowitz of the Alert Fire Company volunteered to be lowered down to the young man. A true professional, George quickly recognized the nature of the boy's injuries, and braced him appropriately. Less than 1 hour after the accident, the youth was on his way to the hospital. Thanks to the amazing bravery of George Motchkowitz, and all the heroic rescuers in Great Neck that day, that young man was saved.

The everyday occurrences of fires, accidents, and natural disasters are made bearable only by the courageous actions of our volunteer firefighters and other emergency crews. The tragedy that almost occurred in Great Neck is not at all unique. Tragically, horrible things happen in our lives everyday. We need to be able to count on these citizens, whose loyalty to the safety of their community is undaunted by the greatest of disasters. For his heroic act at Great Neck I commend First Assistant Chief George Motchkowitz. I suggest that my colleagues, and all Americans, remember these unsung heroes, like George Motchkowitz, and consider the debt that each of us owes to those who give of themselves freely and gladly everyday for the safety and welfare of each of us.●

DEMOCRATIC HISPANIC TASK FORCE FIELD HEARING

● Mr. SIMON. Mr. President, last May in my home State of Illinois, I chaired a field hearing of the Senate Democratic Hispanic Task Force on Issues Facing the Hispanic Family—Education, Employment, and Health Care. I want to share with my colleagues in the Senate the recommendations and testimony of the witnesses at the hearing. Therefore, on Monday and Tuesday of this week I included a section of testimony presented at the hearing. I ask unanimous consent that a third section of testimony be included in the RECORD at this point.

The material follows:

TESTIMONY OF MARY GONZALEZ KOENIG, ASSISTANT TO THE MAYOR FOR EMPLOYMENT AND TRAINING, CHICAGO, BEFORE THE SENATE DEMOCRATIC HISPANIC TASK FORCE

Our Nation is just emerging from a prolonged recession, and national attention is focused on our economic future. Competitiveness and productivity of the workforce are of greater concern to policy makers and elected officials now than at any point in recent memory. Hispanics have much at stake. It is a time for choices and a time for action.

The marketplace for goods and services is shaped today by the global nature of competition. Technological changes have permitted employers to combine many jots into fewer jobs with broader responsibilities. The need for workers with more highly-developed skills has shifted labor demand away from unskilled, low value-added employment.

The education and skill requirements for employment have been elevated, as companies seek out workers who can respond to these complex demands. The kinds of blue collar jobs that were once available in abundance are largely gone and won't return again.

America's human capital is the element that will drive its standard of living. That is why the ability to access high-quality occupational training is the critical workforce issue facing the Hispanic population.

Hispanics currently have the lowest level of educational attainment of any major population group. Nationally, only about half of Hispanic adults are high school graduates; less than one in 10 graduates from college.

While Hispanics as a group are not highly educated, they participate heavily in the labor force. Hispanic employment in Chicago increased by a stunning 66 percent since 1983. Nearly 7 of 10 Hispanic city residents were working or actively seeking work, a proportion significantly higher than for the whole population citywide.

What is the result of this combination of factors?

Hispanics remain clustered in a narrow segment of the job market which is more likely to be affected by both sudden dislocations and the long-term trend of fewer factory jobs. Over 40 percent of Hispanic workers are employed in industrial sectors like manufacturing and wholesale trade, with higher than average unemployment rates and lower than average projections for employment growth, a proportion far larger than other race or ethnic groups.

Furthermore, Hispanics are conspicuously absent from occupational categories like managers and professional and technical workers, which are characterized by low unemployment and high growth potential. Only about 10 percent of Hispanics worked in these categories compared to about 20 of blacks and 30 whites. Hispanics are not yet well positioned to prosper in the high performance work organizations that will lead the technological advance of 21st century America.

What should we do about it? Let me suggest a general direction. I returned recently from a 2-week study tour of the education and job training systems of Germany, Denmark, and Sweden. Organized by the National Council of La Raza [NCLR], the largest national Hispanic organization, the tour was funded by the German Marshall Fund of the United States and the Ford Foundation.

Those nations have made a commitment to work based education and training programs that focus on individual human resource development. Such a commitment is imperative for this country and is in the particular interest of Hispanics—so long as unique cultural differences of diverse groups are recognized, and equal access to training and advancement is assured.

It was clear to us on the study team that U.S. policies and practices guiding job preparation need major restructuring, and—while the American solution must reflect our Nation's unique history, culture, and institutional systems—much can be learned for the European experience.

The European education and training systems we reviewed reflected strategic national directions. They had a legislative base and a taxing structure which supported a holistic training effort. That structure was characterized by genuine, ongoing, institutionalized collaboration among the key stakeholders in employment and training: government, business and industry, and unions, from the national to the local level. We have experimented with public-private partnerships in this country, and have established them in national programs like the Job Training Partnership Act. This concept should be expanded significantly.

The education and training systems we visited reflect a recognition of the need for lifelong learning, with opportunities for upgrading skills at various stages in the individual's working life. There is a growing emphasis on developing skills relevant to a family of occupations rather than one single job, as a means of developing a workforce adaptable to economic and technological changes.

Skill training must be affordable for young people and their families. The European countries already provide meaningful training wages, so even those from poor families can remain in long-term training. This makes skill training accessible to everyone—not just those who can afford to be without wages for a period which can last more than 3 years.

Hispanic workers now have earnings far below those of other groups. Will we remain a people of low wages or become a people of high skills? Access to the right kind of workforce training is the critical issue.

TESTIMONY OF PEDRO A. GALVA BEFORE THE SENATE DEMOCRATIC HISPANIC TASK FORCE

Good Morning, Senator Paul Simon, distinguished committee members, panel and visitors. Thank you for the privilege of testifying before this committee and to present ideas regarding the development of the Hispanic Community in the United States and the needs of this particular community in the overall development of our nation.

Hispanics represent a major force both politically and economically in the U.S. Numbers are growing and expected to continue to grow over a long period of time. We are supposed to become the number one minority by the year 2020. However, hasten to add that numbers do not translate into political power and economic advantages unless we can grow in level of empowerment, education and training. There is always a major lag in numbers and political and economic fruition. Although we have made major strides in the last decade, we are still far behind in the fulfillment of major goals in the areas of political, economic and educational achievement. I intend to concentrate my remarks on the effect of education and training as the foundation of the development of any community be that one large or small in the context of the larger society and what the Federal Government can or cannot do to enhance this educational empowerment that is so critical to the economic development of our community in this country.

As you well know, education and training is something that "no one can take away" from us. It cannot be stolen, denied, forbidden, postponed. It is for this reason that I propose that Employment and Training and education are the most critical elements in the development of any group be it minority, majority or otherwise. In particular I want to discuss the importance of employment and training to the economic development of our community.

First a few words about The College of Office Technology. We started offering employment and training services at the transition from CETA to JTPA back in 1982–83. Then we were known as Assurance Corporation Technical Institute (ACTI). We grew from training 60 participants per year to now training 360.

We offer a very versatile program providing a choice of curriculum and practical job training skills needed in today's automated office. Participants who successfully graduate from our program carry with them entry level skills in the following areas: Typing, word processing, data entry, accounting, calculating as well as remedial education in English and basic mathematics. All this is accomplished in a period of 16–20 weeks of full time training, seven hours per day, five days a week. Our program is a very intensive intervention and one in which the participant cannot be allowed to miss too many days of classes, if they do, they have to make up hours missed during evening hours. In a fast pace curriculum offering like this one, students who do not have the commitment and have not made arrangements necessary to concentrate their efforts in the training do not and cannot succeed.

With the single exception of 1982–83, our first year of operation, we have achieved placement goals between 79 and 89 percent for all of our programs. Over 70% of those placements have been training related and have been documented with letters of employment from the employer.

It has been our philosophy during those years to do exactly as the legislation calls for in its title. Comprehensive Employment Training Act meant that people must be trained for jobs in the private and public sector of the economy. When CETA was delivering no better than 36% placement rate nationwide, the agency that I worked for (SER-Jobs for Progress, Inc.) was consistently placing people on jobs at the rate of 75% or better. We concentrated our efforts in providing the best training possible with an eye on preparing the person for real and existing jobs in the economy at that time. It worked because we ran a no-non-sense program designed to prepare people that were ready to be trained and ready to enter the workforce after the training. Once you get that initial element, the rest is easy.

Story of Maria Perez, on public aid, became pregnant during the training program, goes on to complete the training and get job at the University of Illinois, finishes a bachelor of arts and become an insurance underwriter for a major insurance company. Angelina Becerra, cannot take the GED test because she is under 18 and not a year out of high school, ask for a second chance (she is going to die in six months), completes the program, gets hired by Standard Oil in downtown Chicago, "I am still waiting for her die". Jose Zaragoza, GED participant also, not interested in class, does not pass the GED Test but completes the program, get a training opportunity at his father's union carpentry shop, completes it and makes more money than the teacher was making at that time.

There are many more stories like the ones above. I can assure you that these programs work. I have seen them work every day of my life for the last 17 years.

What are the most critical issues facing the Hispanic community in this country? I believe that employment and training and public education are at the forefront of it.

There is nothing more critical and important to any young group of immigrants than to be able to get the education and/or training they need to meaningfully enter the workforce.

In years gone by, it was relatively easy. Agricultural and industrial societies allowed entrance into the middle class through hard work, very little education was needed. It has changed today and the only way of entering the middle class is through education and/or training.

JOB TRAINING PARTNERSHIP ACT [JTPA]

This is the only piece of legislation that specifically deals with transitioning people from unemployment and lack of job skills to the obtainment of those skills needed to enter the workforce.

JTPA has done an excellent job of providing both young and adult Hispanics with the skills necessary to be able to compete for jobs in the labor market. In 1982–83 only about 14 percent of the people served in the city of Chicago were of Hispanic origin, today this rate is between 27 and 28 percent. What is even more critical is that placement rates have been consistently higher for the Job Training Partnership Act [JTPA] than it was for its predecessor, The Comprehensive Employment and Training Act [CETA]. For the City of Chicago this rate has been between 60 and 70 percent over the last five years.

Hispanics need the services that JTPA offers. It is the only vehicle that we have, aside from the educational system, for bridging the gap between school and the world of work.

JTPA, as it undergoes the scrutiny of the Senate and House Conference Committee, should not be allowed to become the panacea for all the problems facing the unemployed. The beauty of JTPA, as it was initially conceived, was that it would serve those that were willing and ready to be trained for jobs. This type of training requires a concentrated effort not only on the part of educational agencies but more critically from the participants.

At present, the amount of paperwork, guidelines, mandates that service providers and participants must be subjected to is threatening to make of JTPA an ineffective tool for the delivery of effective employment and training services. This must not be allowed to happen.

The solution to problems being experienced by Hispanics and other minorities cannot be resolved by government hand-outs or even public service employment programs or the overregulation of these programs. The solution lies with creating more opportunities through JTPA or similar legislation in conjunction with the private sector.

JTPA may have minor problems of abuse typical of government programs. I can assure you that whatever problems it may have are not going to be cured by adding more regulations and more paperwork. They can best be minimized or cured altogether by increasing program. monitoring at all levels, Service Delivery Areas, State Government, Department of Labor: drop-in unannounced and ask to see participants records, train monitors well so that they know what to look for and how to evaluate program operation and whether legislative and regulatory mandates are being followed by service providers and other players in the system. This methodology will go a lot further in stamping out abuse in government programs than mountains of regulations and its accompanying cohort of paperwork.

One major weakness in the JTPA system is that *Recent immigrants*, including Hispanics, are not faring very well getting the services they need under JTPA, reasons are as follows:

(a) recent immigrants cannot afford to go to school full time because they have family commitments either here or back in their home countries.

(b) They need the support while in training existing under previous legislation but not in JTPA.

(c) Economic and job picture have changed in this country so that the level of education needed to gain meaningful employment has gone up consistently. It demands more skills today to obtain the same job than it did ten years ago.

What can be done to correct these problems? (a) liberalize eligibility mandates so that programs can be more flexible in its admissions procedures, (b) do not take the focus of JTPA away from jobs but lower the percentage of placement outcomes that this program must have in order to be successful. Today the only positive outcome for an adult is a job placement, there should be other outcomes that are considered positive terminations, (c) increase supportive services so that adults can participate without jeopardizing "bread and butter" on their table. I do not recommend a throw-back to the full allowance system but a little more liberal than it is at the present time.

I encourage you to expand the Job Training Partnership Act so that more people will have that second chance to break the cycle of dependency on government programs. JTPA has been criticized for not doing enough for the people most in need, namely of creaming, it is my belief that this is an unfair and unfounded criticism and this is why: (a) more than 40% of the people in the JTPA system are public aid recipients or receiving other types of government support (this was less than 15% under CETA), (b) It is not the goal of JTPA to create jobs, it is, in my opinion, to prepare people without skills and give them a level playing field to compete for jobs in the private sector, in this scenario, it is the employer that dictates the people they will hire and service providers must provide them with people with the skills employers require, (c) some of the so called "most in need" have other barriers to employment that are very difficult to resolve and must be intervened before a serious job training program starts (ex Offenders, substance abusers, homeless, etc.). If job training intervention is started while those problems are unresolved, there is a 70 to 90 percent chance of failure.

Finally, I want to leave you with the thought that effective employment and training programs such as JTPA are an investment in our future and should and must be expanded. It has been suggested by some experts that if we allow our present educational system to continue to deteriorate, do not expand successful interventions (such as JTPA) for those that the public school system has failed or is failing then, in not too distant a future, half of the population will have to work to care for the other half in public aid, social security, prison population, etc. this is a sobering thought and one that cries out for a larger and better system of employment and training in this country, as one of the solutions to this vexing and potentially ominous problem.

Thank you very much for your patience and God bless you.

ADDITIONAL TESTIMONY

The educational system

Education is a very critical issue facing our community and one in which the battle is not on the winning side. About 50% of Hispanics in this country do not stay long enough in our public school system to graduate from high school. What is even more sad, those who graduate are coming out without the basic educational skills to proceed to higher education or enter the job market. Clemente, Wells high schools in Chicago are typical example of high drop-out rates that predominates in the Hispanic community and that schools are facing. The Federal Government has a role as a catalyst for change in our system of public education. What is needed is not a set of new regulations and more paperwork to satisfy yet another set of rules imposed on our system but rather leadership from elected and non-elected officials to prod the system on to reform itself. For the future educational and economic health of our children, we beg for your leadership Senator Simon, other elected officials and community.

The U.S. is the only industrialized nation that does not have a coherent policy for moving its young people from school to the workforce. It is not for a lack of programs or expenditure in education and employment and training. I used the word coherent because that is what it lacks.

It is a quilt of programs fitting no pattern, coordination and therefore does not accomplish the results desired. The United States spends, per capita, more on education and training than any other industrialized nation, anywhere from $300 to $400 billion dollars is spent in the U.S. in public and private education.

The programs are there: Vocational Education Act, The Job Training Partnership Act, Title IV, Financial Aid programs, the private and public system of education, etc.

The reason that we do not get the results from our educational system as other industrialized nations are getting is due to the fact that we have imposed on our public school system the responsibility for dealing with the problems that we as a society, are afraid to face: racial integration (busing), hunger, disintegration of morality (teen pregnancy), disintegration of the home (divorce). A host of entities that have been created to live off our system of education. The farthest from the mind of some educators today is that the system was created to educate children (as the most important element of education) and not to provide jobs for teachers, administrators and others.

Until we change that equation, the system for transferring people from school and training programs to jobs is going to continue to be a haphazardous one.

Again, for the future of our children we must all get involved in creating a better system of public education for our sons and daughters. We cannot delegate this responsibility on the Federal Government alone, we must all get involved at the local level to do our part. I submit to you that providing a working employment and training and educational system for adults, youths and our children, is the most critical issue facing the Hispanic community in this country.

Thank you for your patience and God bless you.

TESTIMONY OF ADELA CEPEDA, ABACUS FINANCIAL GROUP BEFORE THE SENATE DEMOCRATIC TASK FORCE

Good morning Senator Simon. My name is Adela Cepeda. I own an investment management firm, Abacus Financial Group, based here in Chicago. I am also a board member of the Latino Institute, a research and advocacy group concerned with the interests of Latinos in Chicago and the state of Illinois. As part of its research effort in the area of economic development, the Latino Institute surveyed 136 Chicago Latino business owners in 1991 in order to develop a comprehensive data base on the status of Latino owned businesses. I will quote from the preliminary results of that survey in the course of my statement.

The establishment and growth of Latino-owned and operated businesses is critical to the development needs of the whole community: it stabilizes Latino neighborhoods, it nurtures a Latino professional class and major Latino institutions as well.

In order for Latino businesses to exist, there must be access to financial capital. Institutional roadblocks to securing business financing severely limit all small business development, but particularly inhibit growth in the Latino business community. The Federal government can remove these roadblocks and act as a stimulant to growth instead of remaining a deterrent through better distribution of existing pools of Federal dollars. The first level of capital necessary for the creation of a new business, called "venture" or "seed" capital, is virtually unavailable to Latino entrepreneurs. Because we are such a poor community, it is often impossible to raise this initial capital from informal sources. Institutions that make venture capital investments often look for businesses of a certain size that preclude many of us from accessing this source.

This barrier to capital remains for Latinos despite the fact that hundreds of millions of

dollars earmarked for minority business entrepreneurial development are channeled through Minority Enterprise Small Business Investment Corporations, or "MSBIC's". More dollars, and greater access to financing for Latino businesses is imperative.

The next level of capital for small businesses is debt financing, where again billions of dollars are devoted by the Federal government for Small Business Administration, or "SBA", loans. The Latino Institute survey found that in spite of the existence of the MSBIC and SBA loan programs, 52% of the Latino business owner respondents found the Federal government or private lenders not to be helpful for their credit needs. Less than 1% found the Federal government to be a source of any business assistance whatsoever. This is consistent with how SBA loans are distributed. Of $4.9 billion SBA loans made in 1991, only 4.0% were made to Hispanic firms. Clearly, these very important sources of capital, are not reaching the Latino community. In a developing business sector, such as ours, Federal dollars are critical building blocks to successful emerging business enterprises.

As we all know, the Federal government guarantees bank deposits, therefore, indirectly subsidizing banks. These same banks nevertheless severely limit the number of mortgage loans made to Latinos. If this is the pattern with home loans, which are fully collateralized, what can we expect from banks in the area of business loans to emerging Latino corporations? The Federal government must be more aggressive in stimulating area banks to make commercial loans in the Latino community.

Nevertheless, with personal funds and the help of family members and local chambers of commerce, our entrepreneurial urges are strong and thriving, in spite of the barriers. In Illinois the Institute identified an 80% increase in the number of Hispanic-owned businesses to 9,636 firms in 1987 from 5,218 in 1982. But how can the Federal government help these firms stay in business, particularly in the early years when short track records and small size often preclude their competition on a level playing field?

Senators, there are some very real ways to support our small businesses. In 1990 the SBA set aside under its 8(a) program $3.8 billion nationally in Federal contracts for minority owned firms. Crain's Chicago Business reported that only 1.2% of this amount went to Illinois firms. The Resolution Trust Corporation, "RTC", charged with the job of repairing insolvent thrift institutions, awarded $1.8 billion in contracts since its inception in 1989—yet only 2.1% of these dollars went to Latino firms. We need to capture a more equitable share for Illinois and for the Latino community.

Finally, once we have managed to build a stable business, the rules are often changed. For example, the Department of Transportation, "DOT", has recently changed its definition of what constitutes a disadvantaged business enterprise. Firms with revenues exceeding $15 million no longer meet this definition—regardless of industry considerations. Many building contractors spend a significant portion of their revenues in cost of goods, such that $15 million in revenues is not a significant size by industry standards. Yet, they now stand to lose an important revenue source from DOT. The capricious application of set aside rules stand to hurt the same firms identified as needing assistance to enter competitive industries. More than anything, a serious, disciplined approach to set asides needs to be applied throughout the various federal agencies.

Thank you very much.

LATINO INSTITUTE, CHICAGO, IL

A 1991 Latino Institute survey of 136 Chicago Latino businesspersons revealed the following:

Where do Latino Businesspersons Go for Help?

Survey respondents were more likely to seek business assistance from family members, friends and other business people than from governmental agencies.

Survey respondents were more likely to contact a Latino chamber of commerce for assistance than a non-Latino chamber of commerce.

66.7% of respondents who contacted a Latino chamber of commerce found it "helpful" or "very helpful"; only 37.1% of respondents who contacted the U.S. Small Business Administration found it "helpful" or "very helpful."

How Latino Businesspersons Rate Infrastructure/Business Environment?

A majority of survey respondents found the following conditions to be "Excellent" or "Good": Auto Traffic Flow; Adequacy of Roadways; Public Transportation; Availability of Public Utilities; Adequacy of Fire Protection; and Market Access.

45.6% of respondents rated the availability of government assistance as "Poor" or "Very Poor"

How Latino Businesspersons Rate Obstacles to Better Business?

39.0% of respondents rate obtaining working capital as a "Major Problem"

36.8% of respondents rate parking as a "Major Problem"

41.9% of respondents rate crime as a "Major Problem"

A majority of respondents rate the following as "No Problem" or "Minor Problem": Zoning Restrictions; Traffic; and Machinery/Equipment.

Sources of Credit for Latino Businesses?

Half of surveyed businesses (52.2%) have not found the federal government or private lenders to be helpful for their credit needs.

Less than one percent (0.7%) of respondents cited the federal government as "most helpful" in acquiring credit.•

BRAIN INJURY REHABILITATION QUALITY ACT OF 1992—S. 3002

• Mr. CONRAD. Mr. President, I am pleased to be an original cosponsor of legislation intended to improve the lives of brain-injured Americans and their families, the Brain Injury Rehabilitation Quality Act of 1992. My interest and concern in this area has resulted from several cases brought to my attention by my constituents in North Dakota.

One specific case involves a Williston, ND, family whose son was the final victim of the well-publicized California "night stalker" slayings in 1985. This individual, a victim of senseless violent crime, was then further victimized by an unscrupulous rehabilitation facility. A second case describes a Glenfield, ND, family's state of turmoil as services that would provide their brain-injured son the chance to develop to his fullest potential are denied or dismissed as someone else's responsibility.

North Dakotans suffering from traumatic brain injury [TBI] and their families have told me of their frustration with patients slipping through the cracks between various Government agencies and private care providers. This occurs because there is no coordination of care or management of treatment and rehabilitation services. In addition, there is a lack of demonstrated, effective treatments for individuals with TBI, and there have been specific cases of waste, fraud, and even abuse in the head injury rehabilitation industry.

The Brain Injury Rehabilitation Quality Act of 1992 will assist the 2 million Americans who suffer traumatic brain injuries each year from various sources including automobile, motorcycle, and bicycle accidents, recreational accidents, assaults, and other tragic incidents. Approximately 500,000 of these victims will survive requiring expensive hospitalization. The cost of providing medical services for individuals who suffer traumatic brain injuries is estimated to be $25 billion a year.

Our bill allows for optional Medicaid coverage of case-management services for individuals with TBI. Case managers would assess, plan, and coordinate a broad range of services while making sure that the best value and highest quality care is achieved. In addition, the bill provides for marketing standards to protect consumers against the rising tide of waste, fraud, and abuse in the field of rehabilitation services. Finally, the bill establishes a national TBI registry and requires the agency for health care policy and research to conduct a study of the effectiveness of the treatment brain-injured patients receive.

The initiatives in the Brain Injury Rehabilitation Quality Act of 1992 would lead to the development of a more consistent, effective set of guidelines for head injury treatments and rehabilitation services. I am proud to be an original cosponsor of this important legislation.•

CAPTIVE NATIONS WEEK

• Mr. SIMON. Mr. President, this week commemorates the 33d anniversary of Captive Nations Week. Since 1959, we have used the third week of July to remind Americans of those people throughout the world who are not free in their own countries.

This anniversary is particularly meaningful. Last year at this time, there were still 15 different republics in Europe and Central Asia that were forced to pay allegiance to the Communist government in Moscow. Through the brave work of people like Boris Yeltsin and Mikhail Gorbachev, the citizens of the former Soviet Union have been set free and allowed to pursue their own vision of democracy. As

we celebrate these triumphs, we also need to be supportive to these new democracies to ensure what former President Richard Nixon recently called the "victory of freedom."

Despite this year of unprecedented freedom for captive nations, we still need to remember those countries that continue to deny basic freedoms to their citizens. The Communist governments of China, Cuba, and North Korea provide the most egregious examples.

Since 1949, the People's Republic of China has not allowed over 1 billion people the most elementary freedoms that are taken for granted in most of the rest of the world. The freedom of expression, religion, and, as we all saw in Tiananmen Square in June 1989, even the basic freedom of assembly is brutally denied to Chinese citizens. In addition, the Chinese Government is trying to systematically destroy the formerly autonomous region of Tibet and the other minority groups who live along the fringes of the PRC. The unique culture, language, and religion of Tibetans may be extinguished if the Chinese Government continues its repressive tactics in this captive nation.

Only 90 miles south of the United States, Fidel Castro keeps Cubans captive in his cult of socialism. Without the generous Soviet subsidies, Cubans are now forced to live under even more austere conditions. Mr. Castro ought to allow his citizens to participate in a democratic process.

In North Korea, as Kim Il Sung prepares to pass his dictatorship along to his son, this Communist government continues to play a dangerous shell game with nuclear weapons. The peninsula of Korea and its citizens remain unnaturally divided because of the anachronistic views of a few people in Pyongyang.

We also need keep our attention on those people oppressed in countries we do not necessary consider captive. Haitians, Kuwaitis, Christians in the south of Sudan, the people of Kosova in Serbia, the Karens and the Rohingya Muslims in Burma, conservative Muslims in North Africa, the Baha'is in Iran, the Kurds in Iraq and black South Africans are all people who face hostile governments.

As we commemorate this extraordinary year in which the Soviet empire folded, let us remember that more than one in five people on this planet remain unfree. Let us do what we can in this body and in this country to bring about a peaceful end to the problem of captive nations.●

THE F/A-18E/F

● Mr. D'AMATO. Mr. President, $194 billion. That is what this country just committed to with the signing of a letter contract for the F/A-18E/F; $194 billion. And that Navy estimate, which came under punishing criticism by the DOD IG for both its assumptions and omissions, will certainly go up.

What do we get for $194 billion? One thing we do not get is an F/A-18 that brings to bear any more capabilities than F/A-18's currently serving with the fleet. To minimize cost and risk, the F/A-18E/F will have avionics no different than night attack F/A-18C/Ds. That means the same sensors, the same weapons, the same all-weather limitations. What we get for $194 billion is an F/A-18E/F that flies a few more miles and carries a few more pounds than those in production now.

Only DOD would force the American taxpayer to pay so much for so little.

We still do not have the required cost and operational effectiveness analysis for the F/A-18E/F. None of the cost data challenged by the Pentagon Inspector General has been corrected or independently validated. It is unclear whether the requirements established by the Under Secretary of Defense (Acquisition) for entry into Engineering and Manufacturing Development: "submission of a fully funded F/A-18E/F program * * * in the Navy Program Objectives Memorandum" and submission of "initial data [from] the comprehensive A-X COEA," were met. The F/A-18E/F juggernaut just keeps rolling along.●

THE LOS ANGELES VELOWAY

● Mr. CRANSTON. Mr. President, I rise today to bring to the attention of the Senate an innovative project in my State that seeks to create an efficient and environmentally beneficial transportation option.

It is called the veloway and it represents the kind of creative thinking we need in the future if we are to reduce successfully our traffic congestion and improve our air quality without compromising our economy or competitiveness.

The veloway is a bicycle route that would provide bike commuters in west Los Angeles with a safe and efficient route for their transportation needs. The elevated veloway would allow bicyclists to travel from Brentwood and west Los Angeles over the traffic-clogged 405 freeway to the UCLA campus and Westwood. It would serve 10,000 bicyclists in the communities of Santa Monica, Westwood, and Brentwood.

Without this route, riders must share streets with heavy, high speed traffic which discourages many people from riding their bikes. Offering a safer alternative route would increase bike ridership and benefit the community by reducing traffic congestion and reducing air pollution.

Los Angeles has long sought and has been supportive of transportation alternatives that are pollution free and reduce gridlock. Private, local, and State funds have been pledged to the veloway. It has the support of city officials, council members, and administrators from the neighboring UCLA campus.

I commend such attempts to solve complex transportation problems. Mr. President, this body has devoted a great deal of its time and effort to the issue of transportation efficiency. We know that a more efficient infrastructure benefits the economy, reduces air pollution, and saves energy. Congress has passed transportation legislation, clean air legislation, and energy legislation that encourages the development of these kinds of innovative and alternative transportation options.

But, unfortunately, Mr. President, the veloway will remain just a good idea; it will not become a reality. As beneficial as this project is to Los Angeles, it is being held back by the inflexibility and shortsightedness of the Department of Veterans Affairs.

The proposed route must cross the VA Medical Center property in order to avoid the heavily congested city streets. The proponents of the veloway have negotiated with the VA for several years. They have addressed concerns about the safety of the VA patients and about the impact of traffic on the property. The proponents changed the route several times trying to reach some kind of agreement with VA officials and agreed to accept any route the VA suggested.

All this has been to no avail. The VA has categorically denied any use of its property for the veloway. Rather than cooperate with the community to help solve its transportation problems, the VA rejected the request without an explanation.

This kind of project is important to Los Angeles. I believe the VA should work with the community to help it reach its goals of reducing traffic congestion and providing a cleaner transportation alternative. I hope the VA will reexamine the merits of this project and reconsider its decision.●

FEDERAL GRANTS FOR STATE AND LOCAL "GI BILL" FOR CHILDREN ACT

● Mr. DANFORTH. Mr. President, yesterday I introduced legislation with Senators HATCH, KASTEN, BROWN, COCHRAN, THURMOND, D'AMATO, SMITH, and PACKWOOD to encourage, assist and evaluate educational choice programs. I ask unanimous consent that the text of that legislation, Federal Grants for State and Local "GI Bills" for Children Act, S. 3010, be printed in the RECORD at this time.

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

S. 3010

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Grants for State and Local 'GI Bills' for Children Act".

SEC. 2. PURPOSE.

The purposes of this Act are—

(1) to assist and encourage States and localities to—

(A) provide children from middle- and low-income families with more of the same choices regarding all elementary and secondary schools and other academic programs that children from wealthier families already have;

(B) improve schools and other academic programs by providing middle- and low-income parents with increased consumer power and dollars to choose the schools and programs that such parents determine best fit the needs of their children;

(C) more fully engage middle- and low-income parents in their children's schooling; and

(D) through families, provide new dollars at the school site that teachers and principals may use to help all children achieve the high educational standards called for by the National Education Goals;

(2) to encourage the creation and use of supplementary academic programs during and after regular school hours, on weekends, and during school vacation periods, for children of middle- and low-income families; and

(3) to demonstrate, through a competitive discretionary grant program, the effects of State and local programs that provide middle- and low-income families with more of the same choices regarding all schools, including public, private, or religious schools, that wealthier families have.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—For the purpose of carrying out this Act, there are authorized to be appropriated $500,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 2000.

(b) RESERVATION.—From the sums appropriated pursuant to the authority of subsection (a) for any fiscal year, the Secretary may reserve not more than $2,000,000 to carry out the national evaluation described in section 13.

SEC. 4. PROGRAM AUTHORIZED.

The Secretary is authorized to make grants, on a competitive basis, to States and localities to enable such States and localities to carry out educational choice programs in accordance with the provisions of this Act.

SEC. 5. STATE OR LOCALITY ELIGIBILITY.

A State or locality is eligible for a grant under this Act if such State or locality—

(1) has taken significant steps to provide a choice of schools to families with school children residing in the program area described in the application submitted under section 8, including families that are not eligible for scholarships under this Act;

(2) during the year for which a grant under this Act is sought, will, if awarded such a grant, provide scholarships to parents of eligible children that may be redeemed for elementary or secondary education for their children at a broad variety of public and private elementary and secondary schools, including religious schools, if any, serving that area; and

(3) permits all lawfully operating public and private elementary and secondary schools, including religious schools, if any, serving that area, to participate in its program assisted under this Act if such schools so choose.

SEC. 6. SCHOLARSHIPS.

(a) IN GENERAL.—Each grantee receiving funds under this Act shall use such funds to provide scholarships to the parents of eligible children described in section 7.

(b) AMOUNT.—The amount of each scholarship under this Act shall be the sum of—

(1) $1,000; and

(2) an additional amount, if any, of State, local, or nongovernmental funds.

(c) SPECIAL RULE.—Notwithstanding any other provision of law, the amount of scholarship assistance received under this Act shall not be deemed income of the parents for Federal income tax purposes or for determining eligibility for any other Federal assistance.

SEC. 7. ELIGIBLE CHILDREN.

(a) IN GENERAL.—Each grantee receiving funds under this Act shall provide a scholarship—

(1) to the parents of children who—

(A) reside in the program area described in the application submitted under section 8;

(B) will attend a public or private elementary or secondary school that is participating in a program assisted under this Act; and

(C) are from a middle-income or low-income family, as determined by the grantee in accordance with regulations prescribed by the Secretary, except that the maximum family income for eligibility may not exceed the State or national median family income (adjusted for family size), whichever is higher, as determined by the Secretary, in consultation with the Bureau of the Census, on the basis of the most recent satisfactory data available; and

(2) in each year of the grantee's program to each child to whom the grantee provided a scholarship in the previous year of the program, unless—

(A) the child no longer resides in the program area;

(B) the child no longer attends school; or

(C) notwithstanding paragraph (1)(C), the child's family income exceeds, by 20 percent or more, the maximum family income of families who received scholarships from the grantee in the preceding year.

(b) SPECIAL RULE.—If the amount of the grant under this Act is not sufficient to provide a scholarship to each eligible child in the program area who is from a family with an income level described in this section, then the grantee shall provide scholarships to parents of children in such area who are from the lowest income families.

SEC. 8. APPLICATIONS.

(a) IN GENERAL.—Each State or locality that wishes to receive a grant under this Act shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

(b) CONTENTS.—Each such application shall contain—

(1) a description of the program area to be served;

(2) an economic profile of children residing in the program area, in terms of family income and poverty status;

(3) the family income range of children who will be eligible to participate in the proposed program, consistent with section 7, and a description of the applicant's method for identifying children who fall within that range;

(4) an estimate of the number of children, within the income range specified in paragraph (3), who will be eligible to receive scholarships under the program;

(5) information demonstrating that the applicant's proposed program complies with the eligibility requirements of section 5 and with the other requirements of this Act;

(6) a description of the procedures the applicant has used, including timely and meaningful consultation with private school officials, to encourage public and private elementary and secondary schools to participate in the program and to ensure maximum educational choices for the parents of eligible children and for other children residing in the program area;

(7) an identification of the public, private, or religious elementary and secondary schools that are eligible and have chosen to participate in the program;

(8) a description of how the applicant will inform children and their parents of the program and of the choices available to such parents and children under the program, including the availability of supplementary academic services described in section 11(2);

(9) a description of the procedures to be used to provide scholarships to parents and to enable parents to redeem those scholarships, such as the issuance of checks payable to both parents and schools;

(10) a description of—

(A) the procedures by which a school will make a pro rata refund to the grantee of the scholarship for any participating eligible child who, before completing 50 percent of the school attendance period for which the scholarship was issued—

(i) is released or expelled from the school; or

(ii) withdraws from the school for any reason; or

(B) another refund policy that addresses special circumstances the applicant can reasonably anticipate and that the applicant demonstrates, to the Secretary's satisfaction, adequately protects participating eligible children, in accordance with the purposes of this Act;

(11) a description of procedures the applicant will use to—

(A) determine a child's continuing eligibility to participate in the program; and

(B) bring new children into the program;

(12) an assurance that the applicant will cooperate in carrying out the national evaluation described in section 13;

(13) an assurance that the applicant will maintain such records relating to the program as the Secretary may require and will comply with the Secretary's reasonable requests for information about the program;

(14) a description of State and local funds (including tax benefits) and nongovernmental funds, if any, that will be available to supplement scholarship funds provided under this Act; and

(15) such other assurances and information as the Secretary may require.

(c) UPDATING.—Each such application shall be updated annually as the Secretary may determine necessary to reflect revised conditions.

SEC. 9. APPROVAL OF PROGRAMS.

(a) PROGRAM SELECTION.—

(1) IN GENERAL.—From applications received under this Act in each fiscal year, the Secretary shall approve applications for educational choice programs on the basis of—

(A) the number and variety of educational choices that are available under the program to families of eligible children;

(B) the extent to which educational choices among public, private, and religious schools are available to all families in the program area, including families that are not eligible for scholarships under this Act;

(C) the proportion of children who will participate in the program who are from low-income families;

(D) the applicant's financial support of the program, such as the amount of State, local,

and nongovernmental funds that will be provided to supplement Federal funds, including not only direct expenditures for scholarships, but also other economic incentives provided to families participating in the program, such as tax relief programs; and

(E) other criteria established by the Secretary.

(2) SPECIAL RULE.—In considering the factors described in paragraph (1)(D), the Secretary may take into account differences in local conditions.

(b) GRANT DISTRIBUTION.—The Secretary shall ensure that to the extent feasible grants under this Act are awarded for programs in urban and rural areas and in different areas of the Nation.

SEC. 10. AMOUNT AND DURATION OF GRANTS.

(a) AMOUNT.—The Secretary shall award grants annually taking into account the availability of appropriations, the number and quality of applications, and other factors related to the purposes of this Act the Secretary determines are appropriate.

(b) DURATION AND RENEWAL.—Each grant awarded under this Act may be awarded for a period of not more than 4 years, and may be renewed for an additional 4-year period.

SEC. 11. USE OF SCHOLARSHIP FUNDS.

The Federal portion of any scholarship awarded under this Act shall be used in the following sequence:

(1) FIRST.—First, for—

(A) the payment of tuition and fees at the school selected by the parents of the child for whom the scholarship was provided; and

(B) the reasonable costs of the child's transportation to the school, if—

(i) the school is not the school to which the child would be assigned in the absence of a program assisted under this Act; and

(ii) the parents of an eligible child choose to use the scholarship funds for that purpose.

(2) SECOND.—Second, if the parents so choose, to obtain supplementary academic services for the child, at a cost of not more than $500, from any provider chosen by the parents that the grantee, in accordance with regulations prescribed by the Secretary, determines is capable of providing such services and has an appropriate refund policy.

(3) THIRD.—Third—

(A) if the child attends a public school, for use by such school to enable such school to conduct educational programs that help students at such school achieve high levels of academic excellence; or

(B) if the child attends a private school, any remaining funds shall be made available to the grantee to enable the grantee to award additional scholarships under this Act in that year or the succeeding year of the grantee's program.

SEC. 12. EFFECT ON OTHER PROGRAMS.

(a) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Notwithstanding any other provision of law, a local educational agency that, in the absence of an educational choice program that is funded under this Act, would provide services to a participating child under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, shall provide such services to such child.

(b) INDIVIDUALS WITH DISABILITY EDUCATION ACT.—Nothing in this Act shall be construed to affect the applicability or requirements of part B of the Individuals with Disabilities Education Act.

(c) SPECIAL RULES.—

(1) ASSISTANCE TO FAMILIES NOT INSTITUTIONS.—Scholarships under this Act are aid to families, not institutions. A parent's expenditure of scholarship funds at a school or for supplementary academic services shall not be construed to be Federal financial aid or assistance to that school or to the provider of those supplementary academic services.

(2) ANTIDISCRIMINATION PROVISIONS.—

(A) IN GENERAL.—Notwithstanding the provisions of paragraph (1), in order to receive scholarship funds under this Act a school or provider of academic services shall comply with the antidiscrimination provisions of section 601 of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), section 901 of title IX of the Education Amendments of 1972 (20 U.S.C. 1681), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(B) IMPLEMENTING REGULATIONS REQUIRED.—The Secretary shall promulgate regulations to implement the provisions of this paragraph, taking into account the purposes of this Act and the nature, variety, and missions of schools and providers that may participate in providing services to children under this Act.

(d) CONSIDERATION OF FEDERAL FUNDS PROHIBITED.—No Federal, State, or local agency may, in any fiscal year, take into account Federal funds provided to a grantee or to the parents of any child under this Act in determining whether to provide any other funds from Federal, State, or local resources, or in determining the amount of such assistance, to such grantee or to the school attended by such child.

(e) STATE LAW.—Nothing in this Act shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by religious or other private institutions, except that no provision of a State constitution or State law shall be construed or applied to prohibit any grantee from paying the administrative costs of a program under this Act or providing any Federal funds received under this Act to parents for use at a religious or other private institution.

(f) SECRETARY.—Nothing in this Act shall be construed to authorize the Secretary to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school participating in a program assisted under this Act.

SEC. 13. NATIONAL EVALUATION.

From funds reserved under section 3(b), the Secretary shall conduct a national evaluation of the activities assisted under this Act. Such evaluation shall, at a minimum—

(1) assess the implementation of programs assisted under this Act and such programs' effect on participants, schools, and communities in the program area, including parental involvement in, and satisfaction with, the program and their children's education;

(2) compare educational achievement of participating children with the achievement of similar nonparticipating children before, during, and after the program; and

(3) compare—

(A) the educational achievement of children who use scholarships provided under this Act to attend schools other than the schools such children would attend in the absence of the program; with

(B) the educational achievement of children who attend the schools such children would attend in the absence of the program.

SEC. 14. ENFORCEMENT.

(a) REGULATIONS.—The Secretary shall promulgate regulations to enforce the provisions of this Act.

(b) PRIVATE CAUSE OF ACTION PROHIBITED.—No provision or requirement of this Act shall be enforced through a private cause of action.

SEC. 15. DEFINITIONS.

For the purpose of this Act—

(1) the terms "elementary school", "local educational agency", "parent", "secondary school", and "State educational agency" have the same meanings given to such terms in section 1471 of the Elementary and Secondary Education Act of 1965;

(2) the term "locality" means—

(A) a unit of general purpose local government, such as a city, township, or village; or

(B) a local educational agency;

(3) the term "Secretary" means the Secretary of Education; and

(4) the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 16. EFFECTIVE DATE.

The provisions of this Act shall take effect on the date of enactment of this Act.●

THE PROGRAM FOR TOMORROW

Mr. DOLE. Mr. President, if the majority leader will yield, I wonder if the majority leader has any idea what the program may be for tomorrow.

PROGRAM

Mr. MITCHELL. Mr. President, I thank the distinguished Republican leader for his inquiry.

It has been my expectation that the Senate would consider the energy bill tomorrow. As we know, cloture was not invoked on the motion to proceed to that bill.

Following that vote, the chairman and ranking member of the Energy Committee engaged in a colloquy regarding the discussions on the one issue which is the basis upon which cloture was not invoked.

I am advised that the participants have now returned to the meeting in which they were engaged. If those negotiations produce a result, it is my hope that we will be able to get consent to proceed to that bill tomorrow.

In any event, we will not know that until the morning. It is my suggestion that we now recess until tomorrow nothing, at which time I expect we will both receive a report on the status of those discussions.

Mr. DOLE. Will there be a period for morning business tomorrow morning?

Mr. MITCHELL. Yes, I anticipate there will be.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RECESS UNTIL 10 A.M. TOMORROW

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate

now stand in recess until 10 o'clock tomorrow morning; and that at 10 a.m. tomorrow, there be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

There being no objection, the Senate, at 8:19 p.m., recessed until Friday, July 24, 1992, at 10 a.m.